



REV.APLC(MD) No.158 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2022

CORAM

THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN

REV.APLC(MD) No.158 of 2022

Chellam

... Petitioner

Vs

Lakshmi (Died)

1.Karuppayee

2.Valli

3.Sigappi

4.Arumugam

5.Chinnakkannu

6.Ravikumar

7.Shanmugavalli

8.Valli

9.Pooranam

10.Selvam @ Veeraiah (ied)

11.M.Mariammbalam

12.M.Muthaiah

13.M.Senthilkumar

14.D.Lakshmi

15.Rakkammal alias Rasi

16.Yogapriya (Minor)

17.Abirami (Minor)

.... Respondents

[Minors 16 & 17 are represented through their mother and natural guardian the respondent No.15]

[Respondents 15 to 17 are brought on record as LR's of the deceased 10th respondent vide Court order dated 05.09.2022 made in CMP(MD) No.9835 of 2021 in Rev.Aplc(MD) SR.No.19516 of 2021 in SA(MD) No.711 of 2020]



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Prayer : Review Application filed under Order 47 Rules 1 of CPC, praying to review the order passed by this Court in S.A.(MD) No.711 of 2020 dated 05.01.2021 and allow the revision petition.

For Applicant : Mr.M.Karthikeyavenkatachalapathy
For Respondents : Mr.R.Saravanan [RR1 to 4, R6 & R7]

ORDER

(Through Video Conferencing)

The applicant seeks review of the judgment in S.A.(MD) No.711 of 2020 dated 05.01.2021. The decision in the first appeal in A.S.No.115 of 2001 on the file of the Principal District Court, Sivagangai, turned on Section 23 of the Hindu Succession Act.

2. The review petitioner who is the son of Nachiappan (Jr) claimed that his father allotted the property to him orally. Since the suit was filed before the deletion of Section 23 of the Hindu Succession Act and the defence based on Section 23 was also taken. However, during the pendency of the proceedings, Section 23 of the Hindu Succession Act was deleted from the statute book thereby leaving only the question of oral transfer to be decided. The Appellate



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Court has concluded that the property is a self-acquired property of Nachiappan (Sr) and therefore, there is no question of oral allotment in favour of person who has no pre-existing right. I also affirmed the said conclusion on the ground that the date of death of Nachiappan was also not available.

3.M.Karthikeyavenkatachalapathy, learned counsel appearing for the petitioner would submit that it was open to a Hindu father to allot properties to his children.

4. The allotment can be made to a person who has pre-existing right and not to a person who has no right. Law recognizes oral partition and not oral transfer of immovable property for value of more than Rs.100/-, and therefore, I am unable to see any error on the face of the record and hence, the review application fails and it is accordingly dismissed. No costs.

30.11.2022

Index : Yes / No
Speaking order / Non-speaking order
ds



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R.SUBRAMANIAN. J.,

ds

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