



**Rev.Applc.(MD).No. 140 of 2022**

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **09.12.2022**

CORAM

THE HONOURABLE **MR. JUSTICE C.V.KARTHIKEYAN**

**Rev.Applc (MD).No. 140 of 2022**

**IN**

**S.A.(MD).No. 552 of 2012**

1. Sirumani (Deceased)
  2. Ravi
  3. Elisa (Deceased)
  4. Savariammal
  5. Maria Jeyanthi
  6. Jeya Chitra Mary
  7. Shesu Raj
  8. Shebasteen Savari Doss
  9. Arockiyadas
  10. Victoriya Queen Mary
- ... 2<sup>nd</sup> Petitioner/2<sup>nd</sup> Appellant/3<sup>rd</sup> Appellants
- ... Petitioners 4 to 8/4<sup>th</sup> to 8<sup>th</sup> Appellants



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11. Joseph Vijayaraj

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... Petitioners 9 to 11/Proposed Appellants/  
(Legal heirs of deceased 3<sup>rd</sup> Appellant)

**Vs**

Savariammal (died)

1. Chinnaraj (died)

2. Rathinameri

3. Chinnammal

4. Chinna Durai

5. Arockinathan

6. Sepastian

... Respondents /Respondents

**Prayer:** Review Application filed under Order 47 Rules 1 & 2 r/w Section 114 CPC seeking to Review Petition against the Judgment in S.A. (MD).No.552 of 2012 dated 11.10.2018.

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For Petitioners : Mr. G.Gomathi Shankar

For 1<sup>st</sup> Respondent : died

For RR 2 to 6 : Mr. H.Lakshmi Shankar



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**ORDER**

The Review Application has been filed seeking re-visitation of the Judgment dated 11.10.2018 in S.A.(MD).No. 552 of 2012 which was dismissed on admission holding that no substantial question of law arises meriting admission of the Second Appeal.

2. The defendants were the appellants before the Court in the Second Appeal.

3. The suit in O.S.No. 75 of 1995 had been filed seeking a Judgment and Decree of permanent injunction restraining the defendants from interfering with possession.

4. The learned Principal District Munsif, Dindigul, by Judgment dated 17.09.2001 had decreed the suit. It was specifically found that the plaintiffs were in possession. In the Judgment, the documents produced by the plaintiffs were examined.



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5. That finding was challenged in Appeal in A.S.No. 446 of 2004 before the Additional Sub Court at Dindigul. The learned Additional Sub Judge on consideration of the documentary and oral evidence presented had thought it fit to confirm the Judgment of the trial Court and therefore, dismissed the Appeal suit by Judgment dated 11.04.2022.

6. The Second Appeal had been filed by the defendants against the said concurrent findings on facts. The Second Appeal as stated had not been admitted. When it came up for admission, by Judgment dated 11.10.2018 which is now sought to be reviewed, it was held that no substantial question of law arises and therefore, the Second Appeal was dismissed.

7. In the grounds seeking review, apart from various other grounds raised, it had been primarily stated that the junior counsel for the appellants alone had appeared and was handicapped in presenting the case properly. It was therefore urged that opportunity must be granted to the appellants to once again urge the admission of the Second Appeal and that the grounds raised in the Second Appeal must be heard on merits.

8. This Court had directed notice in the Review Application and Mr. H.Lakshmi Shankar had entered appearance on behalf of the respondents 2



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to 6.

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9. It was pointed out by H.Lakshmi Shankar that the Second Appeal had not been admitted and therefore, even if the Review is considered favourably, the matter should be listed for admission and the appellants should make out a case seeking admission of the Second Appeal.

10. On the narrow ground that necessary opportunity must be afforded to all parties and if the learned counsel, who appeared was handicapped in any manner, that should not reflect on the parties to the litigation who have agitated atleast in this case from the year 1995, I would allow the Review Application to revisit the Judgment dated 11.10.2018 and set aside the same.

11. This Review Application stands allowed.

12. The Second Appeal (MD).No. 552 of 2012 may be posted before the appropriate Court holding portfolio for Second Appeal of the year 2012 before the Madurai Bench of Madras High Court under the caption 'for admission' after obtaining necessary orders from the Hon'ble Administrative Judge.



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**C.V.KARTHIKEYAN, J.**

**vsg**

**13.** When the matter is listed, the names of both the learned counsels, namely, Mr.G.Gomathi Sankar, who appears on behalf of the appellants and Mr. H.Lakshmi Shankar, who appears on behalf of the respondents 2 to 6 may be printed in the cause list.

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Index :Yes/No

Internet:Yes/No

vsg

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