



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction



Tuesday, the Tenth day of January Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

AND

The Hon`ble Mr.Justice C.SARAVANAN

CMP(MD). No.7461 of 2022
in AS(MD).No.4 of 2017

1. Shanthi

2. Geethalakshmi

... Petitioners/Appellants

Vs

1 Sakthivel

2 Shanmugam

3 Somasundaram

4 Annadurai

5 Vijaya

6 Malini

7 Geetha Vinuprakash

8 Mangayarkarai

9 Balachitra

10 Saravanan

11 Thilagavathi

12 Maheswari

13 Ambikadevi

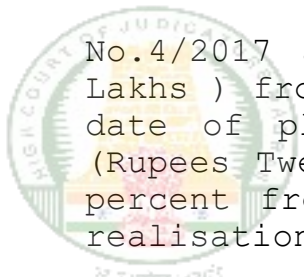
14 Kumaravel

... Respondents/Respondents

Prayer in CMP(MD). No.7461 of 2022:-

This Petition filed under Sction 152 of C.P.C., praying this Court, to amend the typographical mistake occurred between line No.22 to line No.27 of para No.28 of the judgment in A.S.(MD).

<https://www.mhc.tn.gov.in/judis>



No.4/2017 as recovery of a sum of Rs. 12,00,000/- (Rupees Twelve Lakhs) from Defendants 1 and 2 with interest at 12 percent from the date of plaint. Instead of recovery of a sum of Rs.12,00,000/- (Rupees Twelve Lakhs) from Defendants 1 and 2 with interest at 12 percent from the date of agreement under Ex.A26 till the date of realisation.

Prayer in AS(MD).No.4 of 2017:-

This Appeal filed under Section 41 r/w 96 of C.P.C., against the Judgment and Decree dated 24.11.2016, made in O.S.No. 16 of 2008 on the file of the I Additional District and Sessions (PCR) Court, Thanjavur.

ORDER:-

This Civil Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.K.Kumar, Advocate for the Petitioner and of Mr.S.Ashok Kumar, Advocate for the respondents 1 to 6, this Court made the following order:

[Order of the Court was made by **S.S. SUNDAR, J.**]

The appellants in A.S.(MD) No.4 of 2017 have filed this petition for modification of the judgment delivered on 14.10.2020 in the above appeal, as if there is a typographical mistake in the last paragraph of the judgment stating the defendants 1 and 2 are liable to pay interest @ 12% p.a. from the date of plaint, instead of from date of agreement under Ex.A26.

2.The judgment signed by us on 14.10.2020 clearly shows that the defendants 1 and 2 are liable to pay interest @ 12% p.a. from the plaint till the date of realisation. It is seen that earlier, at the request of the learned counsel for the petitioners/appellants, the case was listed under the caption "for being mentioned" on 06.10.2021. After hearing the submissions, this Court did not entertain the request by observing as follows :

"2.The request of the petitioner cannot be entertained by mere mentioning. The petitioner seeks substantial relief by mentioning a correction in the last paragraph of the judgment. It may be open to the petitioner to file a review. However, by bringing the matter under the caption "for being mentioned", it may not be proper to modify the order without issuing notice and without filing a review petition especially, having regard to the peculiar facts and circumstances of the case."

3.Despite this Court specifically observed that the order cannot be modified, indicating that it may be open to the petitioners to file an application for review, the petitioners have filed this petition for modification. Therefore, this petition is dismissed with cost of Rs.10,000/- (Rupees Ten thousand only) payable to the Tamil Nadu Legal Services Authority, within a period



of two weeks from the date of the order.



Sd/-

Assistant Registrar(CS-II)

// True Copy //

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/02/2023

Sub Assistant Registrar(CS)

To

The I Additional District and Sessions Judge,
PCR Court,
Thanjavur.

Copy to :

The Officer Incharge

The Tamil Nadu Legal Services Authority,
High Court Campus, Chennai - 600 104.

ORDER DATED : 10/01/2023

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ORDER

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CMP(MD). No.7461 of 2022 in AS
(MD).No.4 of 2017
Giving direction and etc.
as stated within.

KB(02.02.2023) 3P 3C