



Review Application No.64 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 28.03.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Review Application No.64 of 2024

and

C.M.P.No.7429 of 2024

- 1.N.Subramaniam (Died)
- 2.Jayaraman
- 3.Sakthivel
- 4.Pachammal
- 5.Gunasekaran
- 6.Gunasundari
- 7.Senthamizhselvan
- 8.Amsalakshmi
- 9.S.Karthikeyan
- 10.S.Chandrakala
- 11.S.Mimal Kodi
- 12.S.Vijayamoorthy

... Applicants

[R.1 died, R.4 to R.12 brought on record as legal heirs of the deceased R.1 vide Court order dated 13.09.2022 made in C.M.P.No.13929 of 2022 in S.A.No.869 of 2001.

Vs.

- 1.Krishnan (died)



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2.K.Palani (died)

3.Rajakumari

4. Vanasundari

5.Vijayakumari

6.Vijayalakshmi

7.Vijaya

8.Vijishwari

9.Anjulakshmi

10.Aboorvasundari

11.Dhavabalan

... Respondents

[R.2 died, Respondent 4 to 11 are brought on record as LR's of the deceased R.2 vide Court order dated 18.01.2024 made in CMP.No.28414, 28453 and 28456 of 2023 in Rev.Appl.Sr.No.77559 of 2023 (PTAJ)]

Prayer:- Review Application is filed under Order 47 Rule 1 R/w Section 114 of CPC 100 of C.P.C to review the order dated 23.01.2023 made in SA.No.869 of 2001.



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For Applicants : M/s.T.N.Rajagopalan for
M/s.G.Aurmugaraja

ORDER

The above application is filed for reviewing the order passed by this Court in SA.No.869 of 2001.

2. The grounds of review are (i) that the plaintiff cannot claim a declaration of title by adverse possession and (ii) Patta No.1876 stands in the name of Vadivel and thereafter in the name of the plaintiff which fact is wrong since the said Patta and the A Register continues to remain in the name of the 1st and the 2nd defendants. These are the two factors on which the review is sought for.

3. In the Judgment reported in ***AIR 2019 8 SCC 729 – Ravinder Kaur Grewal vs Manjit Kaur***, the Hon'ble Supreme Court has held that the plea of adverse possession cannot only be used as a shield by a defendant but can also be used as a sword by the plaintiff. The



Hon'ble Supreme Court in Para 62 of the Judgement held as follows:-

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"We hold that a person in possession cannot be ousted by another person except by due procedure of law and once 12 years' period of adverse possession is over, even owner's right to eject him is lost and the possessory owner acquires right, title and interest possessed by the outgoing person/owner as the case may be against whom he has prescribed. In our opinion, consequence is that once the right, title or interest is acquired it can be used as a sword by the plaintiff as well as a shield by the defendant within ken of Article 65 of the Act and any person who has perfected title by way of adverse possession, can file a suit for restoration of possession in case of dispossession. In case of dispossession by another person by taking law in his hand a possessory suit can



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be maintained under Article 64, even before the ripening of title by way of adverse possession. By perfection of title on extinguishment of the owner's title, a person cannot be remediless. In case he has been dispossessed by the owner after having lost the right by adverse possession, he can be evicted by the plaintiff by taking the plea of adverse possession. Similarly, any other person who might have dispossessed the plaintiff having perfected title by way of adverse possession can also be evicted until and unless such other person has perfected title against such a plaintiff by adverse possession. Similarly, under other articles also in case of infringement of any of his rights, a plaintiff who has perfected the title by adverse possession, can sue and maintain a suit."

Therefore, the first ground of review in the light of the above



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judgement cannot be entertained.

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4. The review petitioner has filed 3 documents to show that the patta continues to remain in the name of defendants 1 and 2. However, none of these documents were marked before the Courts below or before this Court when the Second Appeal was argued. Therefore, this argument is also rejected.

5. Since the Review Petitioners have not been able to make out an error apparent on the face of the record or that they had come across a new point, the Review Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
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