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Rev.Aplc.(MD) No.63 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

Rev.Aplc.(MD) No.63 of 2024

S.Sasikala

... Review Petitioner

Vs.

1.Minor Namrutha

represented by her mother Guardian B.Amutha

2.P.V.Manoharan

3.Velusamy (died)

4.N.Mahalingam

5.K.Dharmalingam

6.Nallusamy (died)

7.Kanagasundaram

8.Saravanan

9.Perumal

10.SelambanaGounder

11.P.Meenakshi

... Respondents

*[R11 brought on record as legal heir of deceased
3rd respondent by order dated 27.09.2024 made in
C.M.P.(MD) Nos.12053, 12056 & 12058 of 2024
in Rev.Aplc.(MD) No.63 of 2024]*

Prayer : Review Application filed under Order 47 Rules 1 & 2 read with Section 114 of Code of Civil Procedure to review the judgment and decree dated 19.09.2018, in S.A.No.406 of 2013 on the file of this Court.



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for Mr.N.Satheeshkumar

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For R1	:	Mr.Raghuvaran Gopalan
For R2	:	Mr.Sam Jayaraj Houston
For R4	:	Mr.S.Karthick Ramkumar
R3	:	Died
For R11	:	Mr.K.Suresh

ORDER

This Review Application is filed to review the judgment and decree dated 19.09.2018 in S.A.No.406 of 2019.

2.Brief facts that are necessary for the disposal of the Review Application are as follows :

The 1st respondent in the review application filed a suit in O.S.No. 826 of 2005 on the file of the District Munsif Court, Karur, for declaration that the partition deed dated 03.12.2004 between the defendants 1 and 2 is void and for grant of decree for partition of the suit properties into four equal shares and to allot one such share to the plaintiff and for separate possession. The trial Court dismissed the suit. On appeal, the decree of the trial Court was partly modified by the Additional Subordinate Court, Karur, in A.S.No. 50 of 2011, in respect of suit Item No.1 alone, and the decree was affirmed



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insofar as Suit Items 2 to 11 are concerned. Aggrieved by the same, the plaintiff preferred a Second Appeal in S.A.No.406 of 2013 before this Court. The Second Appeal was allowed by holding that the partition deed dated 03.12.2004 is void and not binding on the plaintiff. Subsequently, this Court granted a decree for partition.

3.Now, the above Review Application is filed by the 3rd respondent in the Second Appeal, who is the 3rd defendant in the suit, on the ground that the 3rd respondent, who is none other than the daughter of P.Velusamy/2nd defendant, is also entitled to a share. It is now admitted that P.Velusamy, the 2nd defendant, died during pendency of the proceedings and hence, the 11th respondent, the wife of 2nd defendant, has now been brought on record as the legal heir of P.Velusamy. The relationship is not in dispute. P.Velusamy, the 2nd defendant, is the father of the 1st defendant by name P.V.Manoharan and the 3rd defendant by name Sasikala. The plaintiff is the daughter of 1st defendant P.V.Manoharan. Since this Court has held that the partition deed dated 03.12.2004 is void, consequently, the 3rd defendant, who is none else than the daughter of P.Velusamy, is also entitled to a share in the property as that of 1st defendant and 2nd defendant. Therefore, this Review Application is filed as a consequence of the judgment and decree of this Court in the Second Appeal.



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4.This Review Application is not opposed by the respondents.

Having regard to the right of the 3rd defendant as recognised in law, i.e., provisions of Hindu Succession (Amendment) Act, 2005, this Court finds that the 3rd defendant/review applicant is also entitled to 1/3rd share in the property.

5.Since the 2nd defendant/father namely P.Velusamy is no more, the 1/3rd share of the father P.Velusamy will devolve on 1st defendant, 3rd defendant and 11th respondent herein, the wife of the 2nd defendant. As a result, this Review Application is allowed and the review applicant/3rd defendant is entitled to 4/9th share; the 11th respondent is entitled to 1/9th share; the 1st defendant is entitled to 5/18th share; and the plaintiff is entitled to 1/6th share. Except the above modification with regard to the share of the parties, the judgment and decree in the Second Appeal will hold good with regard to findings in all other aspects. No costs.

26.09.2024

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Internet : Yes

Index : Yes / No

To

1.The Additional Subordinate Judge,

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



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2.The Additional District Munsif,
Karur.

S.S. SUNDAR, J.

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