



Rev.Appl.No.206 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2025

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THE HONOURABLE MR.JUSTICE P.B. BALAJI

Rev.Appl.No.206 of 2025

& C.M.P.Nos.25478 of 2025

Mylathal

... Applicant/Appellant/
Appellant/Plaintiff

Vs.

Thirumoorthy (Died)

1. Duraisamy
2. Kamalathal

... Respondents/Respondents/
Respondents/Defendants 2 &3

Review Application filed under Order XLVII Rule 1 of Code of Civil Procedure, 1908 to review the judgment and decree dated 28.03.2024 in S.A.No.1302 of 2019 on the file of this Court and allow this review application.

For Petitioner : Mrs.C.Jayachitra
for Mr.K.Rahul

For Respondents : Mr.N.Manoharan

ORDER

Heard Ms.C.Jayachitra, learned counsel representing Mr.K.Rahul, counsel on record for review applicant and Mr.N.Manoharan, learned counsel for the respondents. The above review has been filed to review the judgment in S.A.No.1302 of 2019.



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2. The review applicant states that there is an error apparent on the face of record as this Court has given a finding that the settlement deed in Ex.A1 was not executed by deceased Thirumoorthy when he was of unsound mind at the relevant point of time, which is contrary to the evidence available on record. It is also the case of the review applicant that the decree in O.S.No.196 of 1986, which was passed *ex parte*, was obtained by playing fraud on the Court as well as the review petitioner.

3 . Mr.N Manoharan, learned counsel for the respondent would contend that there is no error apparent on the face of record and there is no merit in the review petition. He also relied on the decision of the Hon'ble Supreme Court in the ***State of Telangana V.Mohd.Abdul Qasim (died) per LRs*** reported in ***(2024) 6 SCC 461*** wherein the Hon'ble Supreme Court has elaborately dealt with the scope of review application under Order XLI CPC and observed that review application cannot be a second innings to enable the party, who was unsuccessful at the litigation, to reopen the matters which have attained finality. In ***Malleswari Vs. K.Suguna & Another*** [SLP © No.12787 of 2025], Mr.N Manoharan, learned counsel also relied on the decision of the Hon'ble Supreme Court in the ***State of Telangana V.Mohd.Abdul Qasim (died) per LRs*** reported in ***(2024) 6 SCC 461*** wherein



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the Hon'ble Supreme Court has elaborately dealt with the scope of review application under Order XLI CPC and observed that review application cannot be a second innings to enable the party, who was unsuccessful at the litigation, to reopen the matters which have attained finality. In ***Malleswari Vs. K.Suguna & Another*** [SLP © No.12787 of 2025], the Hon'ble Supreme Court has reiterated the principles that would govern review applications. The Hon'ble Supreme Court has held that the review proceedings are not appeals and have to be strictly confined to the scope and ambit of Order XLVII Rule 1 of CPC and it is only intimation of error at the first blush which would enable the Courts to correct apparent errors.

4. Mr.N.Manoharan further pointed out to the conduct of the review applicant in filing several writ petitions suppressing the judgment in S.A.No.1302 of 2019 and attempting to register the agreements of sale with a view to encumber the suit property in order to defeat the rights that are vested in the respondents. The learned counsel for respondents further submitted that though *ex parte* interim orders and final orders were obtained in various writ petitions, they were also recalled, on this Court being put on notice about the judgment in the second appeal. He would, therefore, submit that review applicant is not entitled to any indulgence whatsoever.



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5. I have carefully considered the submissions made on either side.

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6. On going through the judgment in the second appeal, I find that all these issues have been considered and the Court below, as well as First Appellate Court have also rendered concurrent findings that the petitioner is not the legally wedded wife of deceased Thirumoorthy and further the decree in O.S.No.196 of 1986 has become final and the same has not been challenged till date. This Court had also found that the suit itself came to be filed after lapse of two decades and the plaintiff has not been able to explain the inordinate delay and no steps have been taken in furtherance of the Settlement Deed (Ex.A1).

7. If at all the petitioner was aggrieved by any of the findings or even the findings, which are now sought to be reviewed, viz., the confirmation of the findings of the trial Court as well as the First Appellate Court being without any basis, be it documentary or oral evidence, it is a ground for appeal as against the judgment of this Court and a review would not lie. Applying the ratio laid down by Hon'ble Supreme Court in both the above cases, I find that there is no error apparent on the face of the record and attempt of the review applicant is only an appeal in disguise. There is no



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merit in the review petition and the same is dismissed. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

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Index: Yes/No

Neutral Citation: Yes/No

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