



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-07-2025

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

REV.APPL No. 120 of 2025

and

CMP No.14795 of 2025

Muthuravuthar Gounder (died)

1. M. Meenatchi

W/o.Late Muthuravuthar Gounder.

2. S.Sumathi

W/o.R.Shanmugam.

Petitioners

Vs

1.Rukmani

W/o.K.S.Perumal Goundar.

Chinnapillai @ Ravuthayammal (died)

2.S.Easwari

W/o. R.Subramanian.

3.Vijayalakshmi

W/o.Shanmugam.

4.Ponnusami

S/o.Poosappan.

Respondents



PRAYER

Review Application filed under Order 47 Rule 1 & 2 of the Civil Procedure Code, 1908, to review the Judgement and decree dated 29.01.2024 passed in S.A.No.559 of 2013.

For Petitioners : M/s. Chitra Sampath, Senior Counsel,
for Mr. T.S.Baskaran

For Respondents : Mr. A. Muthukumar (for R1)
Mr. A. Sundaravadanan (for R4)

ORDER

I heard Mrs.Chitra Sampath, for Mr.T.S.Baskaran, and Mr. A. Muthukumar, and Mr. Sundaravadanan, for their respective parties.

2. It is the plea of Mrs. Chitra Sampath, learned Senior Counsel for the petitioners that on the death of the father in the year 1962, the husband of the first review petitioner and father of the second review petitioner, namely, Kannupaiyan @ Muthuravuthar Gounder, became the sole surviving coparcener, and therefore, the daughter at whose behest a suit for partition has been laid cannot claim the property as an incident of coparcenary.



WEB COPY

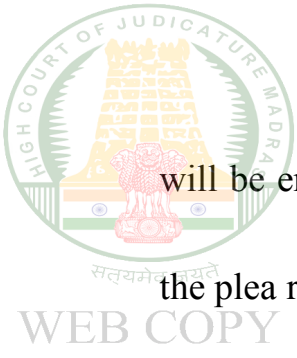
3. I should point out that this is a new plea that has been raised for the first time in review. The grounds on which the suit for partition was sought to be defeated, at the time of hearing of the second appeal were the following:

- i) Plea of *Res-judicata*;
- ii) Non-Joinder of necessary parties; and
- iii) Ouster.

4. After rejecting these three arguments, I held that the plaintiff/daughter is entitled to a share in the suit scheduled mentioned properties. Consequently, I allowed the Second Appeal.

5. A plea not raised during time of arguments, cannot be permitted to be raised in a review. It will amount to an appeal from the order in the second appellate judgment. A review cannot be used as an appeal in disguise. Therefore, I am not inclined to accept the same.

6. In any event, I have given a finding that the litigation arose on account of the death of Muthuravuthar Gounder, father of the plaintiff, and her siblings,



will be entitled to a share. In such circumstances, it is not necessary to go into the plea raised by Mrs. Chitra Sampath.

WEB COPY

7. Therefore, I do not find any error apparent on face of the record, which is *sine qua non* for the exercise of jurisdiction under Order 47 of Code of Civil Procedure. Consequently, the review filed against the Judgement and decree dated 29.01.2024 passed in S.A.No.559 of 2013, is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

11-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

klt



To
WEB COPY

- 1.The I-Additional District Court, Erode.
- 2.The II-Additional Sub Court, Erode.
- 3.The Section Officer, V.R. Section, High Court, Madras.



WEB COPY

REV.APPL No. 120 of 2025



V.LAKSHMINARAYANAN J.

klt

**REV.APPL No. 120 of 2025
and
CMP No.14795 of 2025**

11-07-2025