



Rev.A.No.16 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 22.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

Rev.A.No.16 of 2025
and
C.M.P.No.1400 of 2025

1.M.Mohamed Ibrahim
2.Shinesha
3.M.Mohammed Arif
4.Syed Ali Fathima
5.Haji Rishwana

...Applicants

Vs.

1.P.Selvam
2.P.Muthukumar

...Respondents

Review Application filed under Order XLVII Rule 1 and 2 read with Section 114 of Civil Procedure Code, 1908 to review and set aside the judgment and decree dated 27.11.2024 passed in S.A.No.699 of 2018 confirming the concurrent findings of the Court below.



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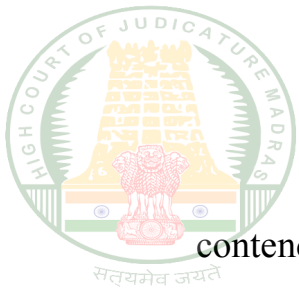
For Applicants : Mr.G.Nandagopal

For Respondents : Mr.K.S.Gnanasambandan

J U D G M E N T

Heard, the learned counsels appearing on either side.

2. The respondent herein had filed a suit for declaration and for permanent injunction. The Courts below refused to entertain the suit and the appeal on the sole ground that the respondent had taken out an application under Order 47 Rule 21 before the first appellate Court to receive Additional documents. The said application had been rejected by the First Appellate Court and consequently, the appeal suit filed by the respondent was also dismissed. Challenging the Orders passed under Order 47 Rule 21 and the First appellate Court judgment and decree, the second appeal had been filed. This Court while allowing the appeal, had taken into consideration the documents filed under Order 47 Rule 21 which has been rejected while interfering with the well considered judgment and decree of the Courts below. Learned counsel appearing for the petitioner would vehemently



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contend that Under Section 100 CPC if the Court finds that the order rejecting the application to receive additional documents had been erroneously rejected, then, according to him, this Court ought to have kept the Second Appeal in abeyance and ought to have remitted the matter back to the First Appellate Court for Recording evidence on the documents and thereafter Proceed with the Second Appeal or otherwise, the second appeal would have to be allowed, setting aside the order in first appeal and this Court ought to have remitted the matter back to the First Appellate Court for fresh consideration. Such a procedure has not been followed by this Court. Such a procedure having not been adopted by this Court would have to render the judgment and decree in second appeal to be a one with material error on the face of the record and should be reviewed.

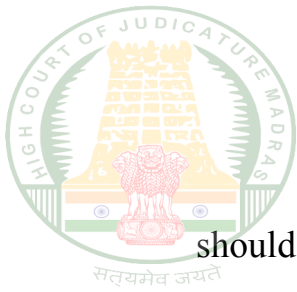
3. Countering his argument, the learned counsel appearing for the respondent would submit that the grounds of review do not reflect the arguments made by the learned counsel appearing for the petitioner. He would submit that the Grounds of review are all in the nature of Grounds of appeal and hence, it is for the petitioner to only file an appeal against the



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order and not a review. The grounds also do not point out any material error apparent on the face of the record for review of the order. That apart, he would submit the documents that were sought to be received under Order 47 Rule 21 are the original of the certified copy which has already been on record and therefore it cannot be said to be a material error on the face of the record. Therefore he prays this Court to dismiss the Review Petition.

4. This Court has considered the submissions made by the learned counsel appearing on either side. Admittedly, the respondent herein before the First Appellate Court had taken out an application for receipt of certain documents which was dismissed while dismissing the Appeal suit. Therefore an appeal had been filed also raising a substantial question of law, as to whether the refusal of documents sought to be introduced in the First Appellate Court materially affects the judgment and decree of the First Appellate Court. As rightly pointed out by the learned counsel for the petitioner, had this Court accepted the documents then it ought to have directed the First Appellate Court to record any evidence on the same by marking those documents, while keeping the Second Appeal in abeyance. Or



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should have set aside the order and the judgment and decree passed and remitted the matter back with a direction to accept the said documents and record evidence, and pass orders afresh. This Court has failed to follow the procedure in that aspect. Hence, in the judgment and decree granted by this Court, a material error on the face of the record has crept in.

5. For the aforesaid reasons, the review petition stands allowed and the judgment and decree made in second appeal dated 27.11.2024 is recalled and the second appeal stands restored for fresh consideration. Consequently, the connected miscellaneous petition is closed.

6. List the appeal for hearing on 22.09.2025.

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dsa

Index : Yes/No

Speaking Order/Non-Speaking order

K.KUMARESH BABU, J.

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