



Rev.Aplc.(MD) No.39 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 20.12.2024

Delivered on: 03.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

Review Application (MD) No.39 of 2024
in CRP.(MD) No.2399 of 2015
& C.M.P.No.4425 of 2024

K.G.Rajendran @
Elephant G.Rajendran

.. Petitioner

Vs.

Shanmugam (Died)
1.S.Ponnamani
2.S.Praveen
3.S.Thenmozhi
4.S.Dhanasekar

.. Respondents

Prayer:- This Review Application is filed under Order 47 Rule 1 r/w. Section 114 of the Code of Civil Procedure, 1908 to review the order dated 10.11.2023 passed by this Court in C.R.P.(MD).No.2399 of 2015 (NPD).

For Applicant : Mr.Elephant G.Rajendran
(Party in person)

For Respondents : Mr.H.Lakshmishankar



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ORDER

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This Review Application has been filed to review the order dated 10.11.2023 passed by this Court in C.R.P.(MD).No.2399 of 2015 (NPD).

2.I have heard Mr.Elephant G.Rajendran, party in person for the review applicant and Mr.H.Lakshmishankar, learned counsel appearing for the respondents 1 to 4.

3.Mr.Elephant G.Rajendran, appearing in person would seek review of the order dated 10.11.2023. He would submit that the respondents 1 to 4 have suppressed the death of their father, Shanmugam and proceeded with the case for almost six months without taking steps. According to the learned counsel for the applicant, fraud has been played on the Court by the respondents 1 to 4. He would further submit that once fraud is established, it vitiates all orders and judgments and moreover, the judgment against the dead person is also non-est and enforceable in the eye of law. He would therefore seek for the order in the revision being reviewed.



4.Per contra, Mr.H.Lakshmishankar, learned counsel appearing for the respondents 1 to 4 would submit that it is not as if the respondents did not bring it to the notice of this Court about the death of the father. He would invite my attention to the Interlocutory Application which was filed and very much available in the Court bundle. He would also submit that there is no fraud played upon the Court as alleged by the applicant in person and he seeks for dismissal of the review application.

5.I have carefully considered the submissions advanced by the learned counsel on either side.

6.In my order, I was concious of the fact that the application to record the death of the deceased person and to implead the legal representatives was not filed in time. However, I found that an application was in fact filed under Order IX Rule 9 of CPC even by the original plaintiff and only pending that application, he died. Therefore, the objection taken by the review applicant as respondents in the revision was only hyper technical and no serious prejudice would be caused if the application under Order IX Rule 9 of CPC and the condonation application under Section 5 are heard afresh by the Trial Court.



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7. In do not find any error apparent on the face of the order warranting entertainment of the present review application under any of the limbs of the Order 47 of CPC. In fact, even Mr. Elephant G. Rajendran would only contend that it was always be open to the respondents 1 to 4 to file a fresh application instead of pursuing the earlier application to implead the legal heirs of the deceased plaintiff. Thus, no serious prejudice would be caused by adopting the procedure which has been directed in the revision. The review applicant will have full opportunity to contest both the condonation of delay application as well as the impleadment application. Hence, I do not see any grounds to review the order dated 10.11.2023 in C.R.P. (MD).No.2399 of 2015 (NPD).

8. In view of the above, this Review Application is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

03.01.2025

Internet : Yes
Index: Yes/No
Neutral Citation: Yes/No
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P.B.BALAJI,J

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**Pre-delivery Orders in
Review Application (MD) No.39 of 2024
in CRP.(MD) No.2399 of 2015
& C.M.P.No.4425 of 2024**

03.01.2025