



Rev.Aplc.(MD).No.20 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2025

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

Rev.Aplc.(MD).No.20 of 2025
and CMP(MD).No.2225 of 2025

Sivakumar

.. Applicant

Versus

1.Arasu Rathinam
2.N.S.V.Nagappan
3.N.A.R.Nagaraj (Died)
(The Death of the respondent No.3 on 16.11.2004
is recorded vide order dated 25.02.2013 by BRJ)

4.Palaniappan
5.Dr.Murugaraj
6.Subbulakshmi @ Pappa

.. Respondents

Petition is filed under Section 114 of the Civil Procedure Code r/w Order 47 Rule 1 & 2 to review the judgment and decree dated 16.12.2019 in S.A.(MD).No.1499 of 2022 on the file of this Court.

For Applicant	:	Mr.B.Prahalad Ravi
For Respondents	:	Mr.T.Mohan, Senior Counsel for Mr.S.Parthasarathy for R1

ORDER

This review application has been filed on the ground that on the date of dismissal of the second appeal, the second appellant was already died.

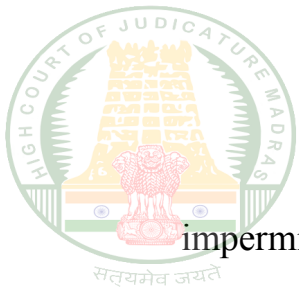
Therefore, the learned counsel for the applicant alleged that the second appeal



has to be recalled, since, it has been passed against a dead person. The other point raised is that there are materials available to show that one of the attesting witnesses examined in earlier proceedings in E.A.No.2 of 1986 did not appear despite the summons taken by the petitioner. Now, it is the contention that his presence could not be secured. Therefore, his previous evidence given in the execution proceedings with regard to Ex.B10 has to be relied by this Court.

2. As far as the contention raised by the review applicant that since the second appellant died the entire order has to go, such contention has no legs to stand. In fact, the first appellant is the purchaser of the property, right to sue survives on the date of death of the second appellant. Therefore, when the first appellant has already contesting the matter, right to sue survives on the date of appeal, mere death of one of the appellant will not vitiate the judgment.

3. As far as the second contention is concerned, this Court is of the view that such contention is nothing but an attempt to relitigate the entire issue. The contention that will has been proved in the entire proceedings, in E.A.No.2 of 1986, this Court has in fact discussed every aspect in paragraph 24 to 25 and disbelieved the contention of the appellant. The learned counsel for the review applicant is trying to re-argue the matter once again on merits which is



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impermissible under law. In fact, the arguments projected before this Court is only to re-agitate the matter which has already reached finality.

4. Accordingly, this review fails and stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

5. At this stage, the learned senior counsel for the first respondent submitted that taking note of the review application, EP.No.22 of 2020 on the file of Sub Court, Sivagangai is stalled all these years, hence, seeks for speedy disposal.

6. Such view of the matter, the Sub-Judge, Sub Court, Sivagangai is directed to expedite the EP.No.22 of 2020 pending on its file and dispose of the same.

07.02.2025

Index : Yes/No
Internet : Yes/No
dhk

To

1.The Sub Judge,
Sub Court, Sivagangai

N.SATHISH KUMAR, J.



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