



Rev.Aplc.(MD).No.82 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 18.07.2025

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

Rev.Aplc.(MD).No.82 of 2025

S.Sheik Abdullah

.. Petitioner

Versus

1.S.Siyathu Bava
2.S.Salhabeevi
3.S.Nabeezhabeevi
4.S.Rahamathnisha
5.S.Inupasariya
6.M.Aayessha Mariyam
7.S.Naina Mohamed

.. Respondents

Petition is filed under Order 47 Rules 1 & 2 and Section 114 of the Civil Procedure Code to review the judgment and decree dated 07.06.2023 in A.S.(MD).No.193 of 2022 on the file of this Court.

For Applicant	:	Mr.V.Vijayasethupathy
For Respondents	:	No appearance

ORDER

This review has been filed by the third defendant in the suit to review the judgment passed by this Court in A.S.(MD).No.193 of 2022 dated 07.06.2023.

2. The suit has been filed claiming partition of suit properties and for



allotment of 7/80 shares in the suit schedule properties. That apart, declaring the sale deed dated 16.08.2011 in Doc.No.1932 of 2011 executed by the defendants 1 and 7 with regard to the share of the plaintiff, 2nd to 6th defendants in the suit schedule properties as null and void. After trial, the Trial Court passed the following decree vide decree and judgment dated 31.03.2021:-

" In the result, suit is partly decreed

** by granting preliminary decree that the plaintiff is entitled for a share of 7/80 in the eastern portion of suit schedule property, i.e., 4137 sq.ft purchased under Ex.A.1,*

** defendants are entitled for their respective share at the time of filing of final decree petition,*

** suit is dismissed with regard to the western portion of suit schedule property purchased under Ex.A.2 and*

** suit is dismissed in respect of the relief of declaration.*

** Considering the nature of case and relationship of the parties, parties are directed to bear their own costs."*

3. Challenging the said decree and judgment, the second defendant has filed an appeal in A.S.(MD).No.193 of 2022 before this Court.

4. During the pendency of the appeal, the appellant and the respondents 1,2,5 and 7 have entered into a compromise to divide the properties equally between themselves and filed a memo to that effect incorporating the terms of compromise for partition stating that they will execute necessary deeds in future on the basis of the agreement. On that basis, the appeal suit was disposed of and the judgment and decree of the Trial Court was set aside. Now, the review has been filed seeking to review the judgment dated



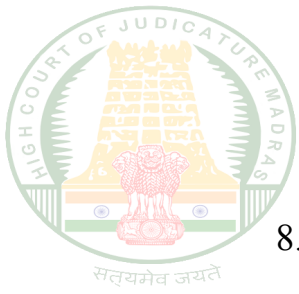
07.06.2023 passed in the above appeal suit.

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5. It is the contention of the learned counsel for the review petitioner/third defendant that the rights of the petitioner in the review has been declared in the preliminary decree, wherein, wife/first defendant is entitled to 1/8 share and the remaining 7/8 is to devolved upon the plaintiff and the defendants 2 to 7. Sons, i.e., D2, D3, D7 are entitled to double the shares of daughters, i.e, plaintiff, D4, D5 and D6. Further, the suit was dismissed with regard to the western portion of the suit schedule property purchased under Ex.A2 by the first defendant in respect of 4473 sq.ft., The suit property has been sold on 29.07.2022 to a third party suppressing all these facts, the plaintiff and others have conveniently entered a compromise ignoring the rights of present review petitioner. Hence, seeks for reviewing the judgment dated 07.06.2023.

6. Despite notice being served to the respondents and their names being printed in the cause-list, none appeared for the respondents.

7. Heard the learned counsel for the petitioner and perused the materials placed on record.

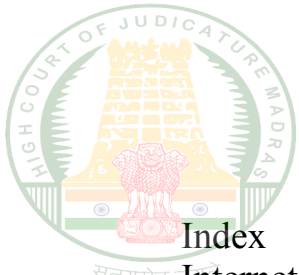


8. Considering the above submissions and the decree and judgment of the Trial Court, in fact, would indicate that the Trial Court has declared rights to the review petitioner/third defendant in the suit property and held that the D2, D3, D7 are entitled to double the shares of daughters, i.e, plaintiff, D4, D5 and D6. The third defendant is the review petitioner herein. The revision petitioner, in fact, will certainly get his share at the rate of 14/80 in the eastern portion of the suit schedule property, i.e., 4137 sq.ft., purchased under Ex.A1. Therefore, without making the third defendant as a party in the compromise, very conveniently, others have entered a compromise and obtained a decree and judgment of this Court by setting aside the decree and judgment passed by the Trial Court. Therefore, this Court is of the view that the judgment and decree passed by this Court in A.S.(MD).No.193 of 2022 has to be necessarily reviewed and the said judgment and decree is recalled.

9. Accordingly, this review application stands allowed. No costs.

10. Let the appeal suit be posted before the concerned portfolio judge as per roster for disposal of the appeal suit on merits.

18.07.2025



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Index : Yes/No

Internet : Yes/No

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To

1.The Principal Distirct Judge
Principal Distirct Court, Sivagangai

N.SATHISH KUMAR, J.

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