



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

Review Application No.103 of 2026

Mary Magdalene

..Petitioner(s)

Vs

1. Sam E.Devasahayam

2. S.James Rajiah

3. Beulah Prabhakar

4. Elizebeth Suganthi

Christina Victoria (Deceased),
Mercy Maragatham (Deceased)

5. Salomi Francis

6. S.David Kingsley
given up

7. Daniel Sundaraj
given up

..Respondent(s)

Prayer: Review Petition filed under Order 47 Rule 1 & 2 of the Civil Procedure Code read with Section 114 of the Code of Civil Procedure, praying to review the order dated 02.02.2016 made in C.R.P.(NPD).No.2169 of 2005 on the file of this Hon'ble High Court and allow the review application.



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For Appellant(s):

M/s.Judah Hudson

For Respondent(s):

Mr.M.Sriram
(For R5)

ORDER

The present review petition has been filed to review the order dated 02.02.2016 made in C.R.P.(NPD).No.2169 of 2005 on the file of this Hon'ble High Court and allow the review application.

2. Heard M/s.Judah Hudson, learned counsel for the petitioner and Mr.M.Sriram, learned counsel for the 5th respondent.

3. The learned counsel for the petitioner would submit that the petitioner, who was a party to the partition suit and who had also filed a counterclaim for allotment of 1/3rd share as daughter of the plaintiff in the suit schedule property, was not a party to the compromise memo in the instant civil revision petition, which was disposed of recording the arrangement between the revision petitioner and the second respondent. He would submit that the suit itself had been dismissed as abated without independently considering the counterclaim filed by the review petitioner. Hence, he seeks review of the order passed by



this Court on the basis of the compromise decree without the review petitioner being a party to such compromise.

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4. Countering his arguments, the learned counsel appearing for the fifth respondent on the other hand would contend that the plaintiff in the suit had died and thereafter an application to bring on record the legal heirs was filed, wherein some of the legal heirs were not shown as parties to the application and the application to set aside the abatement also came to be dismissed by the Court. Against such dismissal, the instant revision petition was filed in which a compromise had been arrived at between the second respondent and the revision petitioners, wherein the second respondent had made a payment of Rs.20 lakhs to the revision petitioners to buy a portion of the property in which she is in possession. The right of the review petitioner to claim 1/3rd share has not been disturbed in the compromise memo, upon which the revision petition was dismissed as not pressed and not on the strength of the compromise entered between the parties. The memo of compromise forms part of the judgment in the revision, and therefore there is no requirement to review the same. He would further submit that the review petitioner has also not taken any steps to prosecute her counterclaim after the dismissal of the suit filed by the plaintiff as abated. Hence, he seeks dismissal of the review petition.



5. I have considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

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6. The suit had been filed by the predecessor in interest of the revision petitioner, and the revision petition was filed, challenging the interlocutory application filed to set aside the abatement and to bring on record the legal heirs of the deceased plaintiff. It is the claim of the plaintiff that in the suit schedule property, the plaintiff on one hand, defendants 1 and 2 jointly on the other hand, and the third defendant had 1/3rd share in the suit schedule property.

7. The third defendant, who is the review petitioner, had filed a written statement, admitting the averments made in the plaint and had sought for a decree of partition, claiming 1/3rd share in the suit property. Pending the revision petition, the legal heirs of the deceased plaintiff and the second defendant, who is also the daughter of the first defendant, and who is also no more, had entered into a compromise with the legal heirs of the deceased plaintiff, whereupon a fixed consideration, the revision petitioner had agreed to relinquish her right for claim of partition in the suit property in favour of the second defendant. Such relinquishment would give rise to 2/3rd share in the suit property in favour of the second defendant in the suit.



8. The third defendant, who is the review petitioner, in her written statement, had also admitted the share of the plaintiff and defendants 1 and 2 and had only sought for partition of 1/3rd share in the suit property. A reading of the compromise memo, upon which the revision petition had been dismissed as not pressed, would indicate that the right of the review petitioner had not been affected in any manner, which means that the review petitioner continues to have 1/3rd share in the suit property.

9. For the aforesaid reasons, this Court does not find any material error in the order passed in the revision petition, which requires review. Accordingly, the review petition stands dismissed. No costs.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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K.KUMARESH BABU, J.

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