



Rev.Aplc(MD)No.31 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.02.2026

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

Rev.Aplc(MD). No.31 of 2025
in SA(MD)No.951 of 2008
and CMP(MD)No.9482 of 2025

1.V.Arumugam(Died)
2.V.K.Paramasivam
3.A.Muthulakshmi
4.A.Silamparasan(Died)
5.A.Veeramani
6.A.Divya (Minor)
7.Chinnathal
8.Chithra
9.Minor.Kayalvizhi
10.Minor Karthiga
11.Minor Aadhikesh ... Petitioners/Appellants
(Minor petitioners 9 to 11 are represented by their mother/next guardian
- 8th petitioner herein)
(Petitioners 8 to 11 are brought on record as LR's of the deceased 4th
petitioner vide court order dated 14.07.2025 made in CMP(MD)Nos.
9483, 9485 and 9486 of 2025 in Rev.Aplc(MD)No.31 of 2025 by RPJ)

Vs

1.R.Chandrasekaran
2.R.Rajasekaran ... Respondents/Respondents



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PRAYER :- This Review Application is filed under Order 47 Rule 1 and 2 of C.P.C against the judgment and decree dated 26.05.2016 passed in SA(MD)No.951 of 2008.

For Petitioners : Mr.H.Lakshmi Shankar

For Respondents : Mr.C.T.Perumal

ORDER

This Review Application is filed for review of the judgment and decree passed by this Court in SA(MD)No.951 of 2008 dated 26.05.2016.

2.For the sake of convenience, the parties are referred to as per their rank before the trial court. The brief facts leading to filing of the review petition are as follows:-

3. The plaintiff and the defendants are brothers. They entered into an oral agreement of sale of the suit property for a consideration of Rs. 15,000/-. Pursuant thereto, the plaintiff paid the sale consideration of Rs. 15,000/- to the defendants on 06.03.1991, and took possession of the suit



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property. According to the plaintiff, the sale was negotiated in the presence of well wishers and friends namely Mr.Padmanaban,VNS Garden, Arulanantha Nagar Thanjavur and Mr.Mahalingam,Vanakkara Street Manambuchavadi,Thanjavur.The plaintiff states that in view of the personal relationship with the first defendant, the plaintiff did not insist on a written document. The plaintiff further states that as the first defendant failed to execute a registered sale deed, despite repeated requests, the plaintiff issued a Lawyer's notice on 10.04.1997 to the first defendant calling upon him to execute the sale deed. Since the said notice was returned, the plaintiff filed the suit for the following relief:

"To pass a decree for specific performance of contract directing the defendants 2 and 3 and the first defendant jointly to execute registered sale deed covering the suit properties in default to execute sale deed in his favour and decree for specific performance seeking a direction to the first defendant for refund of of sale consideration with interest and the relief of permanent injunction restraining defendants 1-3 from interfering with his peaceful possession and enjoyment of the suit properties".

4.The first defendant states that as the absolute owner of the suit property, he executed a registered sale deed in favour of the defendants 2



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and 3 on 05.05.1997 for a valid sale consideration. The first defendant denied the plaintiff allegations relating to the oral sale agreement and possession of the suit property by the plaintiff. The first defendant states that the plaintiff as the elder brother kept all the family documents with him and taking advantage of the same, the plaintiff filed the vexatious suit against the defendants. The first defendant filed an additional written statement denying the plaintiff's claim and for alternative relief of refund of sale consideration of Rs.15,000/-. The first defendant also raised the plea of limitation and hence, prayed to dismiss the suit.

5. A written statement was filed by the third defendant and adopted by the second respondent. The defendants 2 and 3 state that the first defendant, as the absolute owner of the suit property, sold the same to the second defendant through a registered sale deed on 05.05.1997, pursuant to which, the second defendant raised black gram in the suit property and harvested the same. The defendants 2 and 3 state that the plaintiff, having failed in his attempts to purchase the property from the first defendant, filed a false case claiming an oral agreement between himself and the 1st defendant. The defendants 2 and 3 further denied the



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plaintiff's possession of the suit property. The second defendant filed an additional written statement stating that the defendants were *bonafide* purchasers without notice of the alleged oral sale in favour of the plaintiff.

6. The trial court framed necessary issues. On the side of the plaintiff, three witnesses were examined as P.W.1 to P.W.3 and sixteen documents were marked as Ex.A.1 to Ex.A.16. On the side of the defendants, three witnesses were examined as D.W.1 to D.W.3 and twelve documents were marked as Ex.B.1 to Ex.B.12.

7. The trial court, after a full-fledged trial, dismissed the suit by its judgment dated 04.03.2004. The trial court despite a finding that the oral sale agreement was valid, dismissed the suit on the ground of limitation. Being aggrieved by the judgment and decree of the Trial Court, the plaintiff filed an appeal in A.S.No.2 of 2004. The defendants 2 and 3 filed Cross Appeal No.41 of 2004. The lower Appellate Court confirmed the finding of the trial Court on the validity of the oral sale agreement., however, the lower Appellate Court by a common judgment and decree



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dated 11.04.2005 reversed the judgment and decree of the Trial Court holding that the suit was not barred by limitation. The Lower Appellate Court dismissed the Cross Appeal filed by the defendants 2 and 3. Aggrieved by the judgment and decree of the lower Appellate Court in A.S.No.2 of 2004, the defendants 2 and 3 filed the Second Appeal in SA.No.951 of 2008 before the Principal Seat of this Court and thereafter, the same was transferred to this Court and re-numbered as SA(MD)No. 951 of 2008. As against the dismissal of the Cross Appeal, no Second Appeal was filed.

8.The Second Appeal was admitted on the following substantial question of law:

"Whether the lower Appellate Court is right in granting the decree of specific performance of an oral agreement when the suit itself is barred by limitation as per Section 54 of the Limitation Act?".

9.After hearing both counsels and on considering the entire materials on record, this Court confirmed the findings of the Courts below the on validity of the suit oral sale agreement dated 06.03.1991.



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On the question of limitation, this Court, on the basis of the evidence of P.W.2 and P.W.3, held that time was not the essence of the contract and therefore, the period of limitation started from the date of notice of refusal by the defendants. This Court found that the period of limitation commenced from 10.04.1997, and since the suit was filed within three years thereafter, the suit was not barred by limitation. On the aforesaid finding, this Court reversed the judgment of the Lower Appellate Court and confirmed the judgment and decree of the Trial Court. Aggrieved by the judgment and decree passed in the Second Appeal, the defendants filed the above review petition.

10. The learned counsel appearing for the review petitioners submitted that this Court failed to note that PW2 and PW3 were interested witnesses and further, their evidence was insufficient to uphold the validity of the alleged sale agreement. The learned counsel submitted that the learned Judge erred in relying on the oral evidence of PW2 and PW3 by overlooking the documentary evidence, Ex.B1. The learned counsel submitted that the learned Judge committed an apparent error since he failed to adhere to Section 39 of the Indian Evidence Act, which



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states that documentary evidence will prevail over oral evidence. The learned counsel further submitted that this Court erred in reversing the well considered judgment of the Lower Appellate Court by merely placing reliance on the evidence of PW2 and PW3. The learned counsel therefore prayed that the revision be allowed.

11. The learned counsel for the respondents on the other hand submitted that in the review petition, no new grounds were raised and hence, the review petition should be dismissed, otherwise, it would be equivalent to re-hearing the appeal, which is not permissible under review jurisdiction. The learned counsel further submitted that the Courts concurrently found the oral sale agreement to be valid and the only point of difference was on the issue of limitation. The learned counsel submitted that the plaintiff by filing the review petition, is attempting to re-agitate the issue of the validity of the oral sale agreement which issue was not raised in the Second Appeal. The learned counsel therefore submitted that there was no merit in the review petition and the same deserved to be dismissed.



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12. The learned counsel for the respondents filed a compilation of citations by way of typed set, relating among others to the scope of review jurisdiction and referred to the same at the time of arguments. This Court does not consider it necessary to refer to those judgments as the law on review jurisdiction is fairly well settled.

13. Heard both sides and perused the materials available on record.

14. The principle contention of the learned counsel for the review petitioners is that this Court while dismissing the Second Appeal, relied upon the evidence of PW2 and PW3, which according to the petitioners, is contrary to Ex.B1, and consequently held that the suit oral sale agreement was valid and that time was not the essence of the contract. Insofar as the submission regarding oral sale agreement is concerned, it is noted that both the Trial Court as well as the First Appellate Court had concurrently found that the oral agreement of sale dated 06.03.1991, was legal and valid. This Court, in Second Appeal, found no perversity or infirmity in the said concurrent finding and accordingly, confirmed the



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same. The said finding, being based on appreciation of evidence, cannot now be reopened in review proceedings. It is also relevant to note that the 1st defendant, who is the vendor of the appellants, did not challenge the finding of the Trial Court with regard to the validity of the oral sale agreement in the appeal preferred by the plaintiff against the dismissal of the suit on the ground of limitation. The subsequent purchasers alone, i.e., the review petitioners, filed a Cross Appeal questioning the finding. The First Appellate Court dismissed the Cross Appeal and no second Appeal was preferred against the said dismissal. The Second Appeal before this Court was filed only as against the judgment of the First Appellate Court in AS.No.2/2004. Therefore, the finding relating to the validity of the oral sale agreement, having attained finality upon dismissal of the Cross Appeal, cannot be permitted to be re-agitated in the present review petition.

15. Insofar as the question of limitation, is concerned, this Court while deciding the Second Appeal relied upon the evidence of PW2 and PW3 and found that the suit was not barred by limitation. This Court finds that an attempt now made by the review petitioners is essentially to



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invite this Court to re-appreciate the evidence already considered while deciding the Second Appeal. Such an exercise is impermissible in review jurisdiction, as it would virtually amount to rehearing the appeal and rewriting the judgment.

16.It is pertinent to note that this Court, after hearing the submissions of the learned counsel for the appellants/review petitioners, in the Second Appeal, considered the substantial question of law framed and answered the same against them. The very same contentions are sought to be reiterated in the present review petition under the guise of an error apparent on the face of the record. The scope of review jurisdiction is extremely limited. A review cannot be treated as an appeal in disguise, nor can it be invoked merely to re-argue the matter on merits.

17.The Hon'ble Supreme Court in ***Kamlesh Verma Vs, Mayavati*** [2013 [8] SCC 320], following the judgment of the Privy Council in ***Chhaju Ram Vs. Neki***, and other judgments, outlined the grounds on which review was not maintainable. They are as follows:-

[1]A repetition of old and overruled agreements is not enough to



reopen concluded proceedings.

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[2] Minor mistakes of inconsequential import.

[3] Review proceedings cannot be equated with the original hearing of the appeal.

[4] Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness and results in miscarriage of justice.

[5] A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for a patent error.

[6] The mere possibility of two views on the subject cannot be a ground for review.

[7] The error apparent on the face of the record should not be an error which has to be fished out and searched.

[8] The appreciation of evidence on record is fully within the domain of the Appellate Court, it cannot be permitted to be advanced in review.

[9] Review is not maintainable when the same relief sought at the time of arguing the main matter, had been negatived.



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18.In view of the above discussions, this Court finds no merit in the review petition.

19.In fine, this review petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet: Yes/No
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To,
The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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N.MALA., J

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