

2) The averments in the petition, which are necessary for the disposal of the petition, in brief as follows:-

This suit is filed by the 1st respondent against this petitioners and 1st defendant for partition and for permanent injunction not to encumber the properties. During pendency of this case, a compromise was entered into between parties and 1st defendant RamanujamAmmal transferred 1 acre 94 cents in Sy.No.1545/2A, which is shown as 1st schedule property and another property in Sy.No.1545/1 totally 5 acre 50 cents to 1st respondent/plaintiff. The 1st respondent agreed to withdraw the suit. But after the death of her mother (1st defendant), without withdrawing the suit, she is proceeding with this case. As per the compromise, the properties allotted to this petitioners were sold by them to 5th defendant. On the application of 1st respondent, the 5th defendant is also impleaded. But the 1st respondent/plaintiff sold some suit properties to third person. This petitioners filed IA.No.05/2023 to implead the purchasers, which was dismissed. The 1st respondent filed petition for amendment and it was allowed in the year 2016. But, the 1st respondent has submitted amended copy of the plaint only on 15.12.2023. By way of amendment the 1st respondent/plaintiff has included plaint schedule item 6 to 18. Then the 1st respondent/plaintiff filed IA.06/2024 to delete some properties and that petition was partly allowed. In the order in IA06/2024, there are some mistakes and there is no clarity in the decreetal order. Hence this petition is filed for review the order on the following grounds.

- (i) In the affidavit filed along with IA.No.06/2024, there is no proof in support of the claim, which was not taken in to consideration by this court.
- (ii) The plaintiff has prayed to delete Sy.No.1545/2A with an area 2.75.50 and to include Sy.No.1545/2A2 with an area 1.96.50. The Sy.No.1545/2A was settled by the 1st respondent's mother in a compromise. But now stating that her mother gifted the property to her. In the order, this court has stated that the facts can be decided only at the time of trial and the amendment cannot be allowed.
- (iii) It was also prayed to delete Sy.No.1551 and to insert Sy.No.1537/2. This court

has held that the fact of amendment can be decided only at the time of trial and by mistake stated in the decretal order that except amendment para 5, 7, 8 other paras were allowed.

iv) The 1st respondent has not stated the real value for 1st schedule 9th item property Sy.No.1544. So the amendment in this regard has to be set aside.

v) The 1st respondent has prayed for amending the value of some properties and this court accepting the prayer for amendment is illegal.

So, all the amendments allowed in IA.06/2024 has to be set aside.

3) The 1st respondent filed counter contending that all the averments in this petition are false. This respondent has filed IA.No.06/2024 for amendment of plaint, which is partly allowed on 01.03.2024. Against that order, this respondent has preferred CRP(MD) No.1075/2024 and it was allowed on 23.10.2024. As per the order of Hon'ble High Court, this respondent has amended the plaint also. So, this petition is not maintainable. The averment that the property in Sy.No.1545/2A was allotted to this respondent in compromise is false. The averment that the order in IA.No.06/2024 is illegal is false. Since the Hon'ble High Court has allowed CRP(MD) No.1075/2024, this petition is not maintainable.

4) There is no oral or documentary evidence on both sides.

5) The point for consideration is whether the petition deserves to be allowed?

6) Heard and documents perused.

7) **Point:**

This petition is filed by the petitioners/defendants 2 to 4 to review the order in IA.06/2024 dated 01.03.2024. The suit was filed by the 1st respondent/plaintiff against her mother (1st defendant) and others including this petitioners alleging that all the suit properties are purchased by 1st defendant from and out of the income from ancestral properties. During the pendency of the suit, the 1st defendant/mother died. Before that, the mother has executed a settlement deed in favour of 1st respondent /plaintiff on 14.12.2015. Hence, the 1st respondent filed petition to amend the plaint

for deleting those properties, which are settled by her mother in her favour.

8) It is the contention of the petitioners/defendants 2 to 4 that during the pendency of the case, a compromise was entered in to between the parties and the plaintiff was given her share by way of settlement and compromise memo was also filed before this court and so thereafter the 1st respondent/plaintiff is not entitled for any share.

9) The 1st respondent filed IA.06/2024 to delete the properties, which were given to her by her mother by way of settlement and to include some other properties. This court on 01.03.2024 partly allowed the petition and the amendment paras 5,7, 8 were dismissed and with respect to other amendments petition was allowed. This petition is filed to review the order in IA.06/2024. Now the point for consideration in this petition is whether the review petition is maintainable and to be allowed.

10) The 1st para of amendment sought for in IA.No.06/2024 is to delete 1st schedule item No. 3, Sy.No.1545/2A and to insert Sy.No.1545/2A2. It was allowed by this court. The 2nd amendment sought for is to delete the 1st schedule 7th item Sy.No.1551. It was allowed by this court. Now it is argued by the petitioner that this court in para 8 of the order in IA.06/2024 discussed that the question whether the properties are absolute properties of her mother or ancestral properties is a question to be decided at the time of trial and so the order permitting the amendment has to be reviewed. Then by way of 3rd amendment, this court permitted to amend the plaint by inserting Sy.No.1544. It is the argument of the review petitioner that the 1st respondent has not stated about the right of Ramanujam Ammal (1st Defendant) in the property and so the property cannot be included. Then it is also argued that the 1st respondent (petitioner in IA.06/2024) has not produced any documents like Patta to prove the ownership of the properties inserted by way of amendment No.7, 8, 9 and 10. Further it is argued that this court has dismissed amendments Para 5, 7 and 8 and along with that court ought to have dismissed other amendments in Para 3 and 4.

11) On perusal of the records, it is seen that this court has partly allowed IA6/2024. The grounds argued by this review petitioners are about the merits of the

order. In order to analyze the scope of review petition, it is relevant to extract Order 47 R.1 of CPC. Which reads as follows.

Order 47 R.1. Application for review of judgment – (1) Any person considering himself aggrieved;

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred.

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order.

From bare reading of the provision, it is clear that review is maintainable only if there are some mistakes or error apparent on the face of record. Here there is no allegation that there are some errors apparent on the face of record. But all grounds argued by the learned counsel is about the merits of the order.

12) As already discussed, this court has partly dismissed the petition for amendment in IA06/2024 . Against that order, the 1st respondent herein preferred Civil Revision Petition before the Hon'ble High Court as CRP(MD) No.1075/2024 and it was allowed on 23.10.2024 and thereby IA.06/2024 was allowed as prayed for. So the Hon'ble High Court of Madras, Madurai Bench has already allowed the Civil Revision Petition by setting aside the order of this court in IA.06/2024. After the Hon'ble High Court has allowed IA.06/2024, this court is of the view that this court cannot sit in review of the order in IA.06/2024.

13) Moreover, as per the above discussed provision of law if any appeal is preferred by the parties against the order, review is not maintainable. Here Civil

Revision Petition was filed and allowed. So this petition is not maintainable. From the above discussion, it is clear that there is no merits in the petition and liable to be dismissed.

14) In the result, this petition is dismissed. No order as to cost.

Dictated to the steno-typist, typed by her, corrected and pronounced by me in open court, on this the 06th day of February, 2025.

(Sd.) T.V.Hemanandakumar,
Additional District Judge,
Virudhunagar.

Witness and Exhibits on the side of the Petitioners:

Nil.

Witness and Exhibits on the side of the Respondents:

Nil.

(Sd.) T.V.Hemanandakumar,
Additional District Judge,
Virudhunagar.