

ITEM NO.5

COURT NO.1

SECTION XII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No.10322/2018

(Arising out of impugned final judgment and order dated 03-10-2017 in AS No. 463/1995 passed by the High Court of Judicature at Madras)

S. PERIYASAMY & ORS.

Petitioner(s)

VERSUS

S. KALIANNA GOUNDER (DEAD) THR. L.R.S.

Respondent(s)

(With appln.(s) for c/delay in filing SLP, exemption from filing O.T., c/delay in refiling and interim relief)

Date : 06-07-2018 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL  
HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Petitioner(s) Mr. R. Balasubramanian, Sr. Adv.  
Mr. B. Karunakaran, Adv.  
Mr. S. Gowthaman, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

Heard Mr. R. Balasubramanian, learned senior counsel  
for the petitioners.

Delay condoned.

It is submitted by Mr. Balasubramanian, learned  
senior counsel that the High Court could not have set aside  
the entire decree when some of the aggrieved defendants had

conceded to the decree. That apart, it is also submitted by him that the High Court should have directed for refund of the amount if it was not inclined to entertain the appeal.

Having heard learned counsel for the petitioner, we are only inclined to grant liberty to the petitioner to file an application for review only in respect of the above two aspects along with an application for amending the relief clause as an abundant caution within a span of four weeks. If the said application is filed within four weeks from today, the High Court shall not dismiss the review at the threshold on the ground of delay, but deal with the same on merits. The plea that some of the defendants had acceded to the decree and, therefore, the decree is executable, shall also be dealt with while considering the first aspect. If the petitioners ultimately do not succeed in the application for review, liberty is granted to challenge the order passed in review, as well as the impugned order (the main order) before this Court.

The special leave petition is, accordingly, disposed of.

(Chetan Kumar)  
A.R. -cum-P.S.

(H.S. Parasher)  
Assistant Registrar