



SA No. 576 of 2016

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-07-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

SA No. 576 of 2016 &

C.M.P.No.10538 of 2016 & Caveat No.1561 of 2015

M.D. Sridevi
W/o. Late. L. Asirvatham,
D/o. Devaraj, Melpakkam Village,
Paruthiputhur Post, Arakonam Taluk,
Vellore District.

..Appellant(s)

Vs

1. L. Alan David
S/o. Late. G. Lasar,
No.15/16, Nammaneri,
Mosur Post, Arakonam T.K,
Vellore District.
2. The General Manager
Southern Railway,
Park Town, Chennai - 3.
3. The Sr. Divisional Personnel Officer,
Southern Railway, Madras Division,
Park Town, Chennai 3.
4. Divisional Railway Manager
Southern Railway, Madras Division,
Park Town, Chennai 3.
5. L. Alexander
S/o. G. Lazar, No.15/16, Nammaneri,
Mosur Post, Arakonam T.K,
Vellore District.



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6. L. Abale
S/o. G. Lazar, No.15/16, Nammaneri,
Mosur Post, Arakonam Taluk, Vellore District
7. L. Moses
S/o. G.Lazar, No.15/16, Nammaneri,
Mosur Post, Arakonam T.K,
Vellore District.
8. L. Solomon Raj
S/o. G. Lazar, No.15/16, Nammaneri,
Mosur Post, Arakonam T.K. Vellore District.
9. L. Rebaka
D/o. G. Lazar, No.15/16, Nammaneri,
Mousr Post, Arakonam T.K, Vellore District.
10. L. Gracy
D/o. G. Lazar, No.15/16, Nammaneri,
Mosur Post, Arakonam T.K. Vellore District
11. L. Kamap
S/o. G. Lazar, No.15/16, Nammaneri,
Mosur Post, Arakonam Tk, Vellore District.

..Respondent(s)

Prayer: Second Appeal filed under Section 100 of Civil Procedure Code against the Judgment and Decree made in A.S.No.261 of 2014 dated 30.03.2015 on the file of the learned III Additional Judge, City Civil Court, Chennai in confirming the Judgment and Decree made in O.S.No.9274 of 2009 dated 24.07.2013 on the file of learned VI Assistant Judge, City Civil Court, Chennai in decreeing the suit.

For Appellant(s): Mr.V.Shanmuga Sundaram
Mr.T.Jai Shankar

For Respondent(s): No appearance



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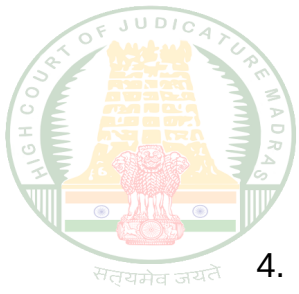
JUDGMENT

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This Second Appeal has been preferred as against the decree and Judgment passed by the learned III Additional Judge, City Civil Court, Chennai in A.S.No.261 of 2014 dated 30.03.2015, wherein the appellant herein has preferred the Appeal Suit as against the Decree and Judgment passed by the learned VI Assistant Judge, City Civil Court, Chennai in O.S.No.9274 of 2009 dated 24.07.2013.

2. The 1st respondent herein has filed the suit in O.S.No.9274 of 2009 on the file of the learned VI Assistant Judge, City Civil Court, Chennai for the relief of declaration and permanent injunction and the same was decreed. Aggrieved by the said Judgment and Decree, the 4th defendant, who is the appellant herein, has preferred the Appeal Suit before the learned III Additional Judge, City Civil Court, Chennai in A.S.No.261 of 2014 and the same was dismissed by confirming the Decree and Judgment passed by the trial court. Aggrieved by the said Decree and Judgment, the present Second Appeal has been filed by the appellant.

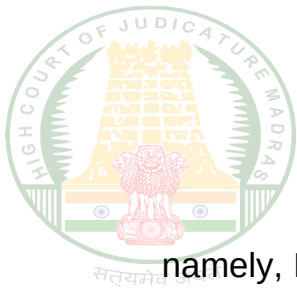
3. For the sake of convenience and brevity, the parties herein are referred to as plaintiff and defendants, as referred before the trial court.



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4. The brief averments of the plaintiff before the trial court are as follows:-

The plaintiff is the brother of one Asirvatham, father of Asirvatham, namely, G.Lazar was working as Electrical Fitter, Grade-1 / TLD, Chennai in the Southern Railway. The said G.Lazar, died, during his employment, thereby the brother of the plaintiff, namely, L.Asirvatham was employed as Technician, Grade III, at ELS/AJJ/A.C.Loco, Arakkonam on 05.04.1997 on compassionate ground. At the time of appointment on compassionate ground, all the brothers and sisters had given consent for the said Asirvatham. Further, the said Asirvatham died at Perambur Railway Hospital on 14.03.2009, due to severe chest pain. Apart from the plaintiff, other brothers and sisters, viz., defendants 5 to 11 are the legal heirs of the deceased Asirvatham. After demise of the said Asirvatham, the plaintiff and his brothers and sisters had given consent for compassionate appointment to one Slomon Raj, who is the brother of Asirvatham and also approached the Railway Department for compassionate appointment. The railway department has not released the terminal benefits of the deceased Asirvatham. The plaintiff reliably learned that one Devi had lodged a claim that she is the wife of the said Asirvatham and the Railway Department also hastily disbursed part of the amount to the said Devi without even verifying the veracity of her documents and the claim lodged by the plaintiff. The said Asirvatham had not married the 4th defendant,



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namely, Devi, therefore, the plaintiff and the defendants, 5 to 11, viz., brothers and sisters, are to be declared as legal heirs of the deceased Asirvatham, therefore, filed the suit.

5. The gist of the written statement filed by the defendants 1 to 3 are as follows:-

The said L.Asirvatham was working as Technician, Grade III under the control of Electrical Loco Shed / Arakonam and died on 14.03.2009. As per Railway Services (Pension) Rules, 1993, the railway servants have to declare their family members before the employer, accordingly, the said L.Asirvatham mentioned Smt.M.D.Sridevi, as his wife, while he was in service and the same was certified by the Assistant Divisional Electrical Engineer/Rolling Stock / Arakkonam under whom he was working at the time of death. Thereafter, the said Smt.M.D.Sridevi had submitted pension papers along with legal heir certificate issued by Tahsildar, Arakonam and also extract of Hindu Marriage Certificate issued by Joint II Sub Registrar, Arakonam that she is the legally wedded wife to claim dues. Based on the documents, the pension papers have been processed and sent to Accounts for payment. All settlement benefits have been arranged and payments have been made to the said M.D.Sridevi on 22.11.2009. Under the scheme for appointment on compassionate grounds, only widow / widower / son / daughter of the



deceased employee are eligible to be appointed. In this case, since the widow is available, the plaintiff and defendants 5 to 11 who are brothers and sisters of the deceased are not entitled to be appointed on compassionate ground, thereby the plaintiff and the defendants 5 to 11 are not entitled to be considered for compassionate appointment. The defendants 1 to 3 are duty bound to disburse the entire settlement amounts and family pension to the ex-employee's wife in accordance with the provisions of the Railway Services [Pension] Rules, 1993 and other relevant Rules. As per the Railway Services [Pension] Rules, 1993, the wife / husband / son / daughter, are entitled for the payment in equal shares. In the absence of the said four persons, the plaintiff cannot claim any benefits of the late M.Asirvatham, therefore, the suit is liable to be dismissed.

6. The brief averments of the written statement filed by the 4th defendant are as follows:-

The 4th defendant denied the allegations contained in Paragraph Nos. 5 to 7 of the plaint. In fact, the 4th defendant got married to the brother of the plaintiff, late L.Asirvatham on 23.02.2009 before the Registrar of Marriage, the Joint Sub Registrar II, Arakonam in the presence of the relatives and friends working at Southern Railway. During the marriage, the plaintiff and some of the relatives of the 4th defendant's late husband did not attend the marriage



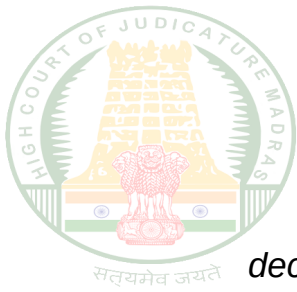
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function, as they opposed the marriage. Subsequent to the marriage, the spouses set their matrimonial home at Railway Quarters, Arakonam, while so, due to cardiac arrest, 4th defendant's husband, namely, L. Asirvatham died on 14.03.2009 at 06.00 pm at Railway Hospital, Perambur. After the funeral ceremonies, the 4th defendant obtained legal heir certificate from the Revenue Officials, Arakonam. The father-in-law and mother-in-law of the 4th defendant had died prior to the marriage, therefore, the 4th defendant is the only legal heir to the late Asirvatham. Hence the 4th defendant approached the railway officials for getting death benefits for L.Asirvatham and also requested for appointment on compassionate ground. Considering the state of being a young widow, the Railway, also appointed her on compassionate ground as Khalasi in Southern Railway, through order dated 03.09.2010. The death benefits of her husband were also paid to her on 22.09.2009. The plaintiff has filed this suit on false grounds and the plaintiff has suppressed the marriage between L.Asirvatham and the 4th defendant and the plaintiff has no locus-standi to seek the relief prayed for, therefore, the suit is liable to be dismissed.

7. Based on the above said pleadings and after hearing both sides, the trial court has framed the following issues:-

"1. Whether the plaintiff is entitled for the relief of declaration that plaintiff and his brother and his sisters are the legal heirs of the



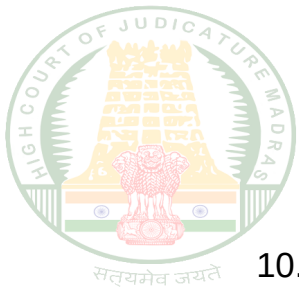
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deceased L.Asirvatham?

- WEB COPY 2. Whether the plaintiff is entitled to the relief of permanent injunction restraining the defendant and his men or agents the disbursing the death benefits of the said L.Asirvatham?
3. To what other relief?"

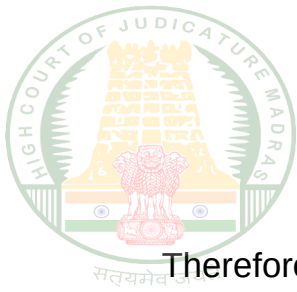
8. Before the trial court, on the side of the plaintiff, witnesses P.W.1 and P.W.2 were examined and marked Exhibits A.1 and A.2. On the side of the defendants, witnesses D.W.1 and D.W.2 were examined and marked Ex.B.1 to B.10. After analyzing the evidences adduced on both sides, the trial court decreed the suit by holding that the marriage between the deceased Asirvatham and the 4th defendant is not a valid marriage.

9. Aggrieved by the said decree and judgment, 4th defendant has preferred an appeal before the learned III Additional Judge, City Civil Court in A.S.No.261 of 2014 on various grounds. The First Appellate Court has not framed proper points for determination and raised the point, viz., 'Whether the appeal has to be allowed or not?' Thereafter, the First Appellate Court dismissed the appeal and confirmed the Decree and Judgment passed by the trial court. As against the said Decree and Judgment, the present Second Appeal has been filed by the 4th defendant.



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10. The learned counsel for the appellant would submit that the appellant is the legally wedded wife of Asirvatham, who was the employee under the Southern Railway. While the said Asirvatham was in employment, he died on 14.03.2009 and marriage between the appellant and the said Asirvatham was solemnized on 23.02.2009 and the same was registered. Thereafter, within a short span of time, the appellant's husband died on 14.03.2009 and the appellant approached the authorities for legal heir certificate and also approached the Railway Authorities for death benefits of her deceased husband and they also disbursed the amount to her and she was appointed as Khalasi on compassionate ground. Either the plaintiff or the defendants 5 to 11 had not even attended the funeral ceremonies of deceased Asirvatham. The deceased Asirvatham belongs to Hindu community and he also followed the Hindu procedures and customs, further, no where, viz., either in the plaint or in the evidence, they stated that the deceased Asirvatham was Christian, but both the courts without any evidence came to a conclusion that Asirvatham was Christian and the appellant is Hindu, therefore, the marriage certificate issued under Hindu Marriage Act is not valid. In fact, there is no denial about the marriage between the deceased Asirvatham and the appellant, while so, the courts below without framing issues and without any materials, erroneously held that Asirvatham was Christian and the marriage between the appellant and Asirvatham is not valid.



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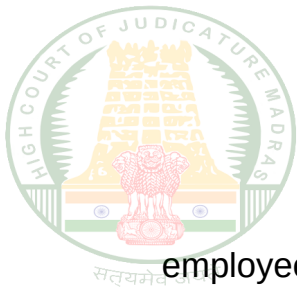
Therefore, the above said findings of the courts below are liable to be set aside by allowing this Second Appeal.

11. On the side of the respondents there is no representation, though this Court had given ample opportunities for the respondents' side arguments, none appeared and argued the matter, therefore, this Court is inclined to pass orders, based on the available records and after hearing the appellant's side arguments.

12. While admitting the present Second Appeal, on 08.07.2026, this Court formulated the following Substantial Questions of Law:

- “(I) Whether the Courts below can nullify any marriage legally performed under the Law without framing any issue in that regard.
(ii) Whether the Courts below can record finding beyond the scope of the pleadings and prayer sought for in the suit.”*

13. In this case, the plaintiff, who is the 1st respondent in this appeal has filed this Suit for declaration declaring that the plaintiff and 5 to 11 respondents / defendants are the legal heirs of deceased Asirvatham and for permanent injunction restraining the defendants 1 to 3 from disbursing the death benefits of the said Asirvatham, who was employed as Technician in Southern Railway. According to the plaintiff, the deceased Asirvatham was an



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employee under Southern Railway and died on 14.03.2009, as a bachelor.

The plaintiff and 5 to 11 defendants are the brothers and sisters of the deceased Asirvatham and thereby they are entitled to the death benefits of the said Asirvatham, while so, the appellant / 4th defendant approached the Railway Authorities claiming that she is the wife of Asirvatham and in fact, no marriage was solemnised between them. Therefore, prayed to declare them as legal heirs of Asirvatham and not to disburse the amount to any body.

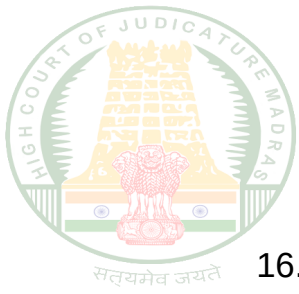
14. Per contra, the case of the 4th defendant / appellant is that she is the legally wedded wife of late Asirvatham and their marriage took place on 23.02.2009 and the same was registered under the Hindu Marriage Act and she already approached the Railway Authorities and received the death benefits and she was appointed as Khalasi on compassionate ground. At that stage, the suit has been filed.

15. Further, before the trial court, witnesses P.W.1 and P.W.2 were examined and marked Exhibits Ex.A.1 and A.2 on the side of the plaintiff and on the side of the defendants, witnesses, D.W.1 and D.W.2 were examined and marked exhibits Ex.B.1 to Ex.B.10. The trial court decreed the suit on the ground that the deceased Asirvatham was a Christian and the appellant / 4th defendant is a Hindu and their marriage has to be registered under Special



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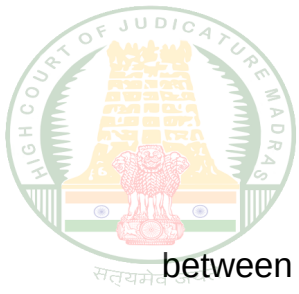
Marriage Act, whereas, the marriage between the appellant / 4th defendant and the said Asirvatham has been registered in accordance with the Hindu Marriage Act, therefore, the marriage is not valid and thereby the plaintiff and the defendants 5 to 11 are the legal heirs of the deceased Asirvatham. The trial court has not framed the issue as about the validity of the marriage and without framing any issues and without any prayer by the plaintiff, the trial court, discussed about the marriage between Asirvatham and the appellant / 4th defendant. Further, nowhere, either in the plaint or in the evidence, the plaintiff stated that the deceased Asirvatham was Christian and there are no records to show that the said Asirvatham was Christian, whereas, the defendants' side evidence and the documents clearly shows that the deceased Asirvatham married the 4th defendant and their marriage was registered under the Hindu Marriage Act and in the plaint long cause title, the name of religion of the 5 to 11 defendants who are brothers and sisters of Asirvatham is mentioned as Hindus. Therefore, in the plaint itself, the plaintiff admitted the religion of the family of deceased Asirvatham. However, the trial court without any evidence erroneously held that the marriage between Asirvatham and the 4th defendant is not valid, since Asirvatham was Christian. Therefore, the said finding of the trial court without any issues and documents and over looking the evidence of the defendants' side, is perverse.



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16. The First Appellate Court also without framing proper points for consideration, erroneously dismissed the appeal by holding that the marriage between the said Asirvatham and the 4th defendant is not valid. The courts below failed to consider that there is no evidence that Asirvatham was a Christian and the plaintiff himself admitted in the long cause title of plaint that the brothers and sisters of Asirvatham, namely, 5 to 11 defendants are Hindus.

17. Moreover, the marriage between Asirvatham and appellant / 4th defendant has been registered under Hindu Marriage Act and certificate was also produced as document, viz., Ex.B.2 based on the same, the revenue authorities have also issued legal heir certificate and death benefits also disbursed to the appellant / 4th defendant by the Railway Authorities. There is no prayer sought for by the plaintiff for the death benefits of the deceased Asirvatham, since the same was already received by the appellant / 4th defendant. The appellant / 4th defendant was also appointed as Khalasi on the compassionate ground, by the Railway Authority and according to the 1 to 3 defendants, the deceased Asirvatham recorded the 4th defendant as his wife in the records maintained by the 1 to 3 defendants. Therefore, the courts below without considering the same and without framing proper issues and without any pleadings and prayer sought for in the suit in respect of marriage



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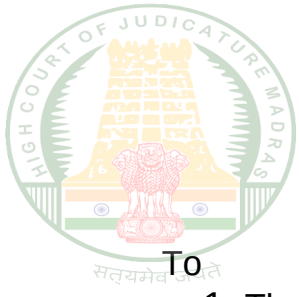
between Asirvatham and 4th defendant recorded findings beyond the scope of pleadings and prayer sought for in the suit, therefore, the findings of the courts below nullifying the marriage legally performed under Law without framing any issues and without any pleadings and prayer sought for in the plaint are unsustainable and the courts below cannot record findings beyond the scope of pleadings and prayer sought for in the suit. Thus the Substantial Questions of Law are answered.

18. Therefore, the courts below have committed an error and thereby the decrees and judgments passed by the courts below are liable to be set aside.

Accordingly, the Second Appeal is allowed and the decree and Judgment passed by the trial court in O.S.No.9274 of 2009 dated 24.07.2013 on the file of learned VI Assistant Judge, City Civil Court, Chennai and confirmed by the First Appellate Court in A.S.No.261 of 2014 dated 30.03.2015 on the file of learned III Additional Judge, City Civil Court, Chennai are set aside and the suit in O.S.No.9274 of 2009 dated 24.07.2013 is dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

16-07-2026

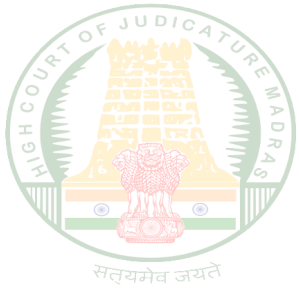
Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
ssd



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To

1. The General Manager
Southern Railway,
Park Town, Chennai – 3.
2. The Sr. Divisional Personnel Officer,
Southern Railway, Madras Division,
Park Town, Chennai 3.
3. Divisional Railway Manager
Southern Railway, Madras Division,
Park Town, Chennai 3.
4. The III Additional Judge,
City Civil Court, Chennai
5. The VI Assistant Judge,
City Civil Court, Madras



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P.DHANABAL, J.

ssd

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