

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

O.S.A. No.455 of 2009
and M.P.Nos.1 and 2 of 2009

S.S.Pankajam ... Appellant/Applicant Third Party

-vs-

- 1.S.S.Visalakshmi Ammal ...R1/Plaintiff
2.K.Ayya Thaiyalnayagi Ammal (Since deceased)
3.K.Ayya Subramania Mudaliar (Since deceased)
4.K.A.Murugappan
5.K.A.Velappan
6.K.A.Shanmugavel
7.M.Kumudavalli Ammal
8.Sri Gnanamani Ammal Chatram
9.Thirukuttralam Thirukuttrala Nathasami
Koil Arthajama Kattalai.
10.Thirukuttrala Nathaswami Koil
Tharanipeedam Navarathri Kunkuma
Seva Kattalai.
11.Thirukuttrala Natheswami Koil
Sri Subramania Swami Kanthasasti Vizha
and Thirukalyana Mandakappadi.
12.Sri Thirupuramtheeswar Temple
Sri Aavadai Amman Arthajamakattalai.
13.Sri Thirupuramtheeswar Temple
Thaipooa Manadakappadi Kattalai.
14.Sri Thirupuramtheeswarar Temple
Thaitheppa Urvasa Kattalai.
15.Sri Thirupuramtheeswar Temple
Thaitheppa Urvasa Kattalai, Chitrai
and Ippasi Festival Naangamnal
Mandakapadi Kattalai.
16.Sri Thiripuramtheeswarar Temple,
Navaraathiri Kattalai.
17.Sri Thiripuramtheeswarar Temple,
Ippasi Thirukalyana Mandakapadi Kattalai.

- 18.Sri Ramaswami Koil Maasi Thiruvizha Aintham
and Aaram Naal Mandagappadi Kattalai.
19.Sri Ayirathamman Koil Navarathri Kattalai.
20.Thiruchendur Sri Subramaniaswami Koil
Avanithiruvizha, Maasi Thiruvizha Ezham
Naal Sri Arumuga Nainar Irandaam Sevai
- Vengu Pasha Vellai Sathi Mandakappadi.
21.Thiruverkadi Sri Vedapureeswarar
Temple-Vengu Pasha Attural Chitra
Pournami Mandagappadi.
22.Sri Prasanna Vinayagar Temple,
Park Town, Madras-3 and Sub-temple at
Kulathur Sri Agastheeswarar Koil and
Sri Akhilandeswari Temple, Nithia Pooja
Kattalai, etc.
23.Ayya Subramnia Mudaliar Ayya Thaiyalnayagi
Ammal Samaya,
Ara Kalvi Nambakkam. .. Respondents 2 to 23/Defendants

Appeal filed under Order XXXVI Rule 1 of O.S. Rules read with Clause 15 of the Letters Patent against the judgment dated 03.09.2009 in O.A.No.3118 of 2008 in C.S.No.1364 of 1995 application filed seeking to implead the applicant as party Defendant No.23 for the CS.1364/95 on the file of original side of this Court.

For Appellant : Mr.R.Vijay Narayan, Sr.Counsel
for Mr.Prasad Vijayakumar
For Respondents : Mr.R.Krishnasamy for R-1
: Mr.S.Baskaran for RR 4 & 22
: Mr.A.R.Nixon for R-5
: No appearance for others.

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

The properties inherited by Late T.M.P.Devasenambal Ammal form the subject matter of the suit filed on the original side of this Court. The suit has been filed by her grand daughter, S.S.Visalakshi Ammal. Late T.M.P.Devasanambal Ammal was survived by her only daughter K.Thaiyalnayagi Ammal, who is the first defendant in the suit. K.Thaiyalnayagi Ammal has two daughters and three sons, with the plaintiff being one of the daughters.

2.In this suit, the appellant, daughter of the plaintiff, sought impleadment which prayer has been rejected vide the impugned order dated 03.09.2009.

3.The appellant claimed a share in the properties, which was disputed on the ground that the properties belong to Late T.M.P. Devasenambal Ammal and the plaintiff is her grand daughter seeking Probate or Letters of Administration, partition and other reliefs. The learned Single Judge opined that even if the rights under the Will, not produced before the Court, are examined, the mother of the appellant is already the plaintiff in the suit. The learned Single Judge relied on various judicial pronouncements and had come to the conclusion that the appellant is neither a necessary nor a proper party to the suit.

4.At the inception of the hearing itself, we posed a query to the learned Senior Counsel for the appellant as to how the appellant claims a share in the suit properties under the Hindu Succession Act, 1956 or otherwise. There is really no satisfactory answer to our query.

5.We are of the opinion that a detailed factual analysis is not necessary as we are affirming the impugned order of the learned Single Judge and suffice to say that once the appellant does not have any share in any of the properties which originally devolved through her mother's grand mother, the mother being the plaintiff, her presence is not necessary for adjudication of the suit.

6.Original Side Appeal is dismissed. No costs. Consequently, M.P.Nos.1 and 2 of 2009 also stand dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

The Sub Assistant Registrar,
Original Side, Madras High Court,
Chennai.

+1cc to Mr.Prasad Vijayakumar, Advocate Sr.54712
+1cc to Mr.T.S.Baskaran, Advocate SR.54924
+1cc to Mr.A.R.Nixon, Advocate Sr.55111

O.S.A.No.455 of 2009

msm[co]
srg 30/09/2016