

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

A.S.No.402 of 2007 and
C.M.P.Nos.11999 & 20490 of 2016

1.Surname (deceased)
2.R.Gandhy ..Appellant/Plaintiff
Second Appellant brought on
records on LRs of deceased sole
appellant vide order dated 19.07.2012,
made in MP.No.1&2/12, in AS.No.402/07

Vs

1.K.Arikrishnan
2.A.Narayanasamy
3.M.Valliammal
4.A.Vadivelu
5.N.Dhanalakshmi ...Respondents/defendants

Prayer:- This Appeal has been filed under Section 96 C.P.C.,
against the decree and judgment passed in O.S.No.92 of 2006
dated 20.03.2007 on the file of the learned Principal District
Judge, Pondicherry.

For Appellant: Mr.S.V.Jayaraman, Senior Counsel
for Mr.T.Dhanasekaran

For RR1,24 & 5: Mr.D.Bharatha Chakravarthy,
for M/s.Sai Bharath & Ilan
For R.3 : Mr.T.M.Naveen,
for Mr.K.P.Jotheeswaran

JUDGEMENT

(Judgment of the Court was delivered by S.Nagamuthu.J)

Mrs.Surname, w/o Gandhi filed a suit in O.S.No.92 of 2006
on the file of the learned Principal District Judge,
Pondicherry for partition, separate possession of 1/5th share
and for declaration to declare that the partition deed dated
25.11.2004 executed by the respondents 1,2 4 & 5 as null and
void. In that suit, the first appellant herein namely, the
daughter of the first respondent contended that the suit
properties are joint family properties. It was contended by

the defendants that so far as the Union Territory of Puducherry is concerned, the concept of "joint family" is unknown and therefore, for the properties which is stood in the name of the first defendant namely the father of Mrs.Surname, the deceased Mrs.Surname cannot claim any share. Accepting the said plea of the defendant, the learned Principal District Judge dismissed the suit. As against the same, Mrs.Surname filed the present appeal in A.S.No.402 of 2007.

2.Pending appeal, Mr.Harikrishnan, first defendant died on 01.03.2010. The first appellant/plaintiff also died. Now Mr.Gandhi has been impleaded as second appellant in this appeal as the legal representative of the deceased Mrs.Surname. Thus, what is under challenge is the dismissal of O.S.No.92 of 2006.

3.We have heard the learned Senior Counsel appearing for the appellants and the learned counsel for the respondents and we have also perused the records carefully.

4.The learned Senior Counsel appearing for the appellants would fairly submit that so far as the Union Territory of Puducherry is concerned, the concept of "joint family" among Hindus is unknown and therefore, it is crystal clear that the trial Court was right in negating the claim made by the plaintiff for partition.

5.The learned Senior Counsel appearing for the appellant would however submit that the second appellant Mr.Gandhi is entitled for partition of the suit properties on the ground that he is the sole legal heir of Mrs.Surname. We do not want to go into the said issue because it is not before us. This can be agitated by the plaintiff by filing an appropriate suit. So far as the present appeal is concerned, we conclude that the trial Court was right in dismissing the suit because the concept of joint family is unknown to the Union Territory of Puducherry.

6.We do not any reason to interfere with the decree and judgment passed by the trial Court. Thus, we find no merit at all in this appeal. Accordingly, this appeal is dismissed. However, it is open for the second appellant herein to work out his remedies in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

The Principal District Judge,
Puducherry.

+1cc to Mr.T. dhanasekaran, Advocate, S.R.No.1406
+1cc to M/s. Sai, bharath & ilan, Advocate, S.R.No.1139
+1cc to K.P. Jotheeswaran, Advocate S.R.No.855
+1cc to Mr.Guruprasad, Advocate Sr. 932

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A.S.No.402 of 2007



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