

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2017

Coram

The Hon'ble Mr. Justice S.NAGAMUTHU
and
The Hon'ble Mr. Justice N.AUTHINATHAN

O.S.A.No.341 of 2013

G.Ramamurthy (deceased)
1.R.Renuka Devi
2.R.Harikrishnan

... Appellants

vs.

1.K.Sankari
2.Ms.G.Alameluammal

... Respondents

Appeals preferred under Order XXXVI Rule 9 of O.S. Rules r/w Clause 15 of the Letters Patent against the common order dated 25.07.2013 made in A.No.1336 of 2013 in C.S.No.4 of 2004.

For Appellants ... Mr.T.V.Vineeth Kumar

For Respondents ... Mr.M.V.Venkataseshan for R1
R2 given up

JUDGMENT

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

C.S.No.4 of 2004 was filed by one Mr.G.Ramamurthy against one G.Dhanalakshmi Ammal and Alamelu Ammal. The suit is for partition. During pendency of the suit G.Ramamurthy died and therefore, one R.Renuka Devi and R.Harikrishnan were brought on record as his legal representatives. Subsequently Mrs.Dhanalakshmi Ammal, the first defendant in the suit also died. The first respondent herein, Mrs.K.Sankari, claims to be the daughter of Mrs.Dhanalakshmi Ammal and thus, the sole Legal Representative of Dhanalakshmi Ammal. Seeking to implead himself as a party to the suit, Mrs.K.Sankari filed application No.337 of 2013. That application was allowed ex-parte. Seeking to set aside the same, the appellants, who are the plaintiffs 2 and 3, filed application No.1336 of 2013 in C.S.No.4 of 2004. That was dismissed by the learned single Judge by order dated 25.7.2013. Challenging the same, the appellants are before this Court with this appeal.

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

3. The learned counsel for the appellants would submit that the first respondent Mrs.K.Sankari is not at all the daughter of Mrs.Dhanalakshmi Ammal and by false representation, she has got herself impleaded as one of the defendants in the suit as the legal heir of Mrs.Dhanalakshmi Ammal.

4. The learned counsel for the first respondent would submit that the first respondent is in fact the daughter of Mrs.Dhanalakshmi Ammal, for which number of documents, including the Legal Heirship certificate, have been filed. Thus, according to the learned counsel for the first respondent, the order of the learned single Judge does not deserve interference at the hands of this Court.

5. We have considered the above submissions.

6. The question whether the first respondent Mrs.K.Sankari is the daughter of the deceased first defendant Mrs.Dhanalakshmi Ammal or not, cannot be adjudicated upon in an interlocutory application. If the appellants want to dispute the said relationship, it is for them to raise an issue in the suit and to get resolved. Similarly, the first respondent Mrs.K.Sankari cannot claim that the order made in Application No.337 of 2013 is a final adjudication regarding declaring her relationship with Mrs.Dhanalakshmi Ammal. The said order is only for the purpose of impleading Mrs.K.Sankari, as one of the defendants in the suit on a primary satisfaction about the relationship. Therefore, it is for the first respondent to establish before the learned single Judge, in the suit, that she, in fact, is the daughter of Mrs.Dhanalakshmi Ammal. In such view of the matter, in our considered view, the impugned order does not require any interference at the hands of this Court, except the above clarification.

In the result, the Original Side Appeal is dismissed, however, with the above clarification. No Cost.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

msk

To

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

+1cc to Mr.Kanaga Sundaram, Advocate sr.1325

+1cc to Mr.T.V.Vineeth Kumar, Advocate sr.1359

O.S.A.No.341 of 2013

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