

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated: 19.09.2017****Coram**

WEB COPY

The HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA**S.A(MD)No.415 of 2017**

Yakooopu

.. Appellant/Appellant/Plaintiff

Vs.

1.Kulanthaisamy .. 1st Respondent/1st Respondent/1st Defendant
Devamary (died)
2.Amalorbava Mary
3.Siresh Mary
4.Punitha
5.Suseela .. Respondents 2 to 5/Respondents 2 to 5/Defendants

Prayer:- Second Appeal is filed under Section 100 of Civil Procedure Code against the Judgment and Decree, dated 14.03.2017 made in A.S.No.30 of 2016 on the file of the Additional District Court (Fast Track Court), Kumbakonam, confirming the Judgment and Decree, dated 10.02.2016 made in O.S.No.108 of 2010 on the file of the Additional Sub Court, Kumbakonam.

For Appellant : Mr.I.Suthakaran

JUDGMENT

The second appeal arises against the Judgment and Decree, dated 14.03.2017 passed in A.S.No.30 of 2016 on the file of the Additional District Court (Fast Track Court), Kumbakonam, confirming the Judgment and Decree, dated 10.02.2016 passed in O.S.No.108 of 2010 on the file of the Additional Sub Court, Kumbakonam.

2.The unsuccessful plaintiff has filed the suit for partition claiming that the suit properties belonged to his father and the defendants, who are his siblings, are entitled to a share along with him and made a claim of one-third in the suit properties. However, the same was denied by the defendants. The first defendant has stated that he had obtained the suit property through Natham Settlement Scheme, for which, he has also obtained patta. The second and seventh item of the suit properties are said to be belonged to one Amalorpavamary. The third item of the suit property belonged to the wife of Anthonisamy, namely Grace Mary. Similarly, the fourth item belonged to one Punitha and the fifth item belonged to one Susila. While so, the plaintiff has impleaded



unnecessary parties claiming a share without any right over the same.

3.The Courts below have concurrently held that the plaintiff has not proved his case that the property belonged to his father and that, he is also entitled to a share in the same.

4.Heard the learned counsel for the appellant.

5.It is also found that the plaintiff in his evidence as P.W.1 has stated that the lands originally belonged to a Temple and subsequently classified as Natham and the defendants had obtained patta in their names. Without any iota of evidence that the suit properties belonged to the father of the plaintiff's-Savoriyar, the plaintiff has got no right to make any claim over the same. However, the defendants have also produced Ex.B.1 to B.29 to show that they are in possession of the suit properties.

6.In the absence of any evidence, the Courts below have rightly non-suited the plaintiff. As there is no substantial question of law arising out of the same for consideration, this Second Appeal is dismissed at the admission stage itself. No costs.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1.The Additional District Judge, (Fast Track Court),
Kumbakonam.

2.The Additional Subordinate Judge, Kumbakonam.

+1cc to M/S.I.SUTHAKARAN, Advocate SR.No.79663

Ps

MAS/KP/SAR2:28.09.2017:2P-4C

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19.09.2017