

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2018

CORAM

The Honourable Mr.Justice M.M.SUNDRESH

and

The Honourable Mr.Justice N.ANAND VENKATESH

Original Side Appeal Nos.205 & 220 of 2013

Mrs.P.Geetha,
121, Adam Sahib Street,
Royapuram,
Chennai-20.

... Appellant/Petitioner
in O.S.A.No.205 of 2013

Vs.

1.P.Jayalakshmi
2.P.Shyla
3.P.Rajkumar
(1 to 3 are residing at No.56,
Gughan Street,
West Kamakoti Nagar,
Valasaravakkam,Chennai-87).

4.P.Bhanumathi
5.P.Sarath Babu
6.P.Ganesan
7.P.Geetha
(4 to 7 are residing at
No.40/18, Kavarai Street,
(opp.to Shanmugam Kalyana Mandapam)
Mettupalayam, West Saidapet,
Chennai-600 033.

... Respondents/Respondents
in O.S.A.No.205 of 2013

1.A.Ashokkumar
2.Mrs.B.Geetha

..Appellants/Respondents
in O.S.A.No.220 of 2013

..Vs..

1.P.Jayalakshmi
2.P.Bhanumathi

... Respondent/Petitioner
... Respondent/Respondent
in O.S.A.No.220 of 2013

O.S.A.No.205 of 2013:

Original Side Appeal is filed under Clause 15 of Letters Patent R/W Order 37 Rule 1 of O.S.Rules 1956, against the judgment and decree dated 07.01.2013 in O.P.No.444 of 2003.

O.S.A.No.220 of 2013:

Original Side Appeal is filed under Clause 15 of Letters Patent R/W Order 36 Rule 1 of O.S.Rules 1956, against the judgment and decree dated 07.01.2013 in O.P.No.103 of 2004.

O.S.A.No.205 of 2013

For Appellant : Mr.V.Kannan

For Respondents : Mrs.T.Ramadevi for R-1

For R 2 to R 7 : No appearance

O.S.A.No.220 of 2013

For Appellants : Mr.V.Kannan

For R 1 : Mrs.T.Ramadevi

For R 2 : No Appearance

COMMON JUDGMENT

(Judgment of the Court delivered by N. ANAND VENKATESH, J)

The appellant in O.S.A.No.205 of 2013 filed a petition under Section 372 of the Indian Succession Act for grant of Succession Certificate with power to collect the death benefits of her husband from Southern Railway, on the ground that she is the wife of the deceased A.Prithivirajkumar, in O.P.No.444 of 2003. Since this petition came to be dismissed, she has filed the present Original Side Appeal. O.S.A.No.220 of 2013 has been filed by the same appellant along with Ashok Kumar against the judgment and decree made in O.P.No.103 of 2004 wherein the Succession Certificate was granted to the daughter of the deceased A.Prithivirajkumar claiming for a Succession Certificate with the power to collect the death benefits of her father from the Southern Railway. Both O.P.Nos.444 of 2003 and 103 of 2004 were dealt together and common judgment was passed on 07.01.2013 dismissing O.P.No.444 of 2003 and allowing O.P.No.103 of 2004.

2.The case of the appellant is that she is the wife of the deceased A.Prithivirajkumar and she is the only legal heir who

is entitled to claim his death benefits. It is the further case of the appellant that P.Jayalakshmi is not the daughter of the deceased A.Prithivirajkumar

3. In order to substantiate her claim as the wife of the deceased A.Prithivirajkumar, the appellant has filed Ex.P-1 - Marriage Invitation, Ex.P-2 - Marriage Statement of the Panchayat President to the effect that a Suyamariadhai Marriage took place between the appellant and deceased A.Prithivirajkumar. Ex.P-3 has been marked to show that the deceased A.Prithivirajkumar had included the appellant in the family composition by way of a letter to the employer. Ex.P-5 was also relied upon which has a letter dated 11.01.2002 said to have been written by deceased A.Prithivirajkumar to his employer deleting the names of his daughters and son from the family composition. Ex.P-6 was also relied upon to show that A. Ashokkumar, the brother of the deceased A.Prithivirajkumar was appointed as the nominee in the service register. Ex.P-9 was also relied upon which is a legalheirship certificate issued by the Tahsildar showing the appellant as the legal heir of the deceased A.Prithivirajkumar in her capacity as the wife. All these exhibits were marked in O.P.No.444 of 2003.

4. Similarly P.Jayalakshmi who filed O.P.No.103 of 2004 claiming for a Succession Certificate in her capacity as the daughter of the deceased A.Prithivirajkumar has relied upon Ex.P-2 to show that her mother Vijayalakshmi died in the year 1992 and in the death certificate the husband's name is shown as the deceased A.Prithivirajkumar. She has also relied upon Ex.P-4 which is a letter from the Southern Railway to P.Jayalakshmi and others wherein it has been specifically stated that the deceased A.Prithivirajkumar had indicated in the year 2001 that his family composition consisted of P.Jayalakshmi, P.Shyla as his daughters and P.Rajkumar as his son. She has also relied upon Ex.P-6 which is a Ration Card which contains the names of the family members reflecting the wife and children of the deceased A.Prithivirajkumar. Reliance is also placed on Ex.P-7 which was a free pass given by Southern Railway which also indicates about the two daughters and son of the deceased A.Prithivirajkumar. Reliance was also placed upon the transfer and Conduct Certificate issued in the year 1998 in favour of Jayalakshmi showing her to be the daughter of the deceased A.Prithivirajkumar and marked as Ex.P-11. Reliance was also placed on the passport which was issued to Jayalakshmi and also the election I.D. issued in the year 1997 and marked as Exs.P-15 and P-16 respectively to show that Jayalakshmi is the daughter of the deceased A.Prithivirajkumar. Reliance is also placed upon documents marked as Exs.P-18 and P-19 wherein the family composition as available before the employer, Southern Railway, the name of Jayalakshmi is shown as the daughter.

These documents were independently marked during trial in O.P.No.103 of 2004.

5.The respective parties examined themselves as witnesses.

6.The learned single Judge on appreciation of all the documents filed on either side and also the oral evidence adduced by the parties came to the conclusion that P.Geetha has not proved her relationship as a wife of the deceased A.Prithivirajkumar and that there is overwhelming evidence to show that P.Jayalakshmi is the daughter of the deceased A.Prithivirajkumar and granted the Succession Certificate in favour of P.Jayalakshmi by allowing O.P.No.103 of 2004 filed by them.

7.The learned counsel for the appellant argued that the documents marked on the side of the appellant goes to prove that P.Geetha is the wife of the deceased A.Prithivirajkumar. He would further argue that P.Jayalakshmi is not the daughter of the deceased A.Prithivirajkumar and she has not proved that she was born to the deceased A.Prithivirajkumar and Vijayalakshmi. On the other hand, the learned counsel for the respondents has put forth arguments to the effect that there is absolutely no ground to interfere with the judgment and decree granted in favour of Jayalakshmi.

8.We have considered the entire materials on record and also the detailed reasons given by the learned single Judge while passing the common judgment. The evidence of P.Geetha who was examined as P.W-1 throws a lot of light on the frivolous claim made by her by projecting herself as the wife of the deceased A.Prithivirajkumar. It is found from her deposition that the marriage took place according to her on 22.04.2001 and she lived with A.Prithivirajkumar for ten days. A.Prithivirajkumar died on 10.03.2002 and she has already married another person named Muralikrishnan in the year 2004, and out of the said wedlock two children were born. Strangely while deposing in an earlier proceedings in T.O.S.No.11 of 1994 in the year 2001, she clearly stated that the name of her husband is Muralikrishnan. If that is so, we are not able to understand as to how she again got married to deceased A.Prithivirajkumar in the year 2001. Further the only relevant document in order to prove the alleged marriage is Ex.P-2 which is a statement of the Panchayat President. The person who made that statement has not been examined in the proceedings and the very evidentiary value of Ex.P-2 is questionable. The conduct of the appellant in concealing about her marriage to Muralikrishnan to the Southern Railway, while claiming for the death benefits of the deceased A.Prithivirajkumar also throws a very poor light about the appellant. One more factor which has

a great bearing is that deceased A. Prithivirajkumar while submitting his nomination before his employer, Southern Railway, if really P. Geetha was his wife, would have nominated her to receive the benefits after his death. However, it is seen from Ex.P-23 marked in O.P.No.103 of 2004 and Ex.P-6 marked in O.P.No.444 of 2003 that he has in fact nominated his brother A. Ashokkumar and this nomination was made in the year 2002 well after the alleged marriage that is said to have taken place between the appellant and the deceased A.Prithivirajkumar in April 2001. It will be very unnatural for any husband to nominate his brother to receive the benefits after his death when a wife is alive and living with him. This is one more important factor which completely falsifies the claim made by the appellant that she is the wife of the deceased A.Prithivirajkumar.

9.On the other hand, we find that P.Jayalakshmi has proved her status with overwhelming evidence. Most of the documents marked on the side of P.Jayalakshmi is much earlier in point of time even before the appellant came into picture in the year 2001. The over all evidence clearly shows that the deceased A.Prithivirajkumar has always consistently recognised P.Jayalakshmi as his daughter.

10.We have gone through the reasons given by the learned single Judge while passing the common judgment and we find that substantial reasons have been given while granting the Succession Certificate in favour of the daughter P.Jayalakshmi and rejecting the grant of Succession Certificate in favour of P.Geetha who claimed to be the wife of deceased A.Prithivirajkumar. We do not find any ground to interfere with the judgment and decree of the learned single Judge.

11.In the result, both the Original Side Appeals will stand dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

सत्यमेव जयते Sd/-

Assistant Registrar (CS-V)

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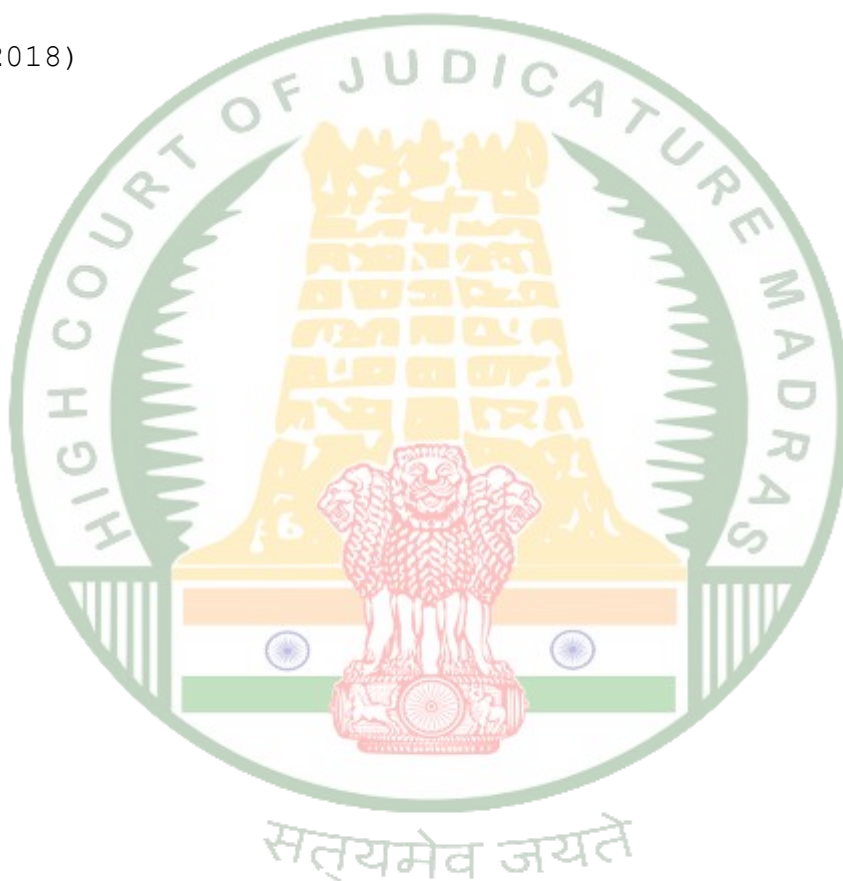
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Common Judgment in
O.S.A.Nos.205 & 220 of 2013

PVS (CO)
TR(22/06/2018)



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