

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

S.A.No.1146 of 2009
and M.P.No.1 of 2009

Mr.Natarajan (Died)

2. N.Malliga

3.N.Balamurugan

4. V.Meenachi

(Appellants 2 to 4 brought
on records as legal representatives
of the deceased sole appellant
viz., Natarajan vide order of Court
dated 16.07.2019 made in
M.P.No.1 of 2015 in S.A.No.1146 of 2009.)

...Appellants/LR of the Deceased Appellant

Vs.

1.Mrs.K.Amirtham

...1st Respondent/Plaintiff

2.Mr.Shanmugam

3.Mr.Poruran

4.Mr.Kumar

...Respondents 2 to 4/Defendants 1,3,4

Prayer:- Second Appeals filed under Section 100 of C.P.C.,
against the Common Judgment and Decree dated 30.07.2007 in
A.S.No.65 of 2006 on the file of the Subordinate Judge,
Kancheepuram, confirming the Judgment and Decree of the Trial
Court in O.S.No.74 of 1998 dated 03.10.2005 on the file of the
Additional District Munsif Court, Kancheepuram.

For Appellants : Mrs.A.Sumathy

For Respondents: No appearance -R1

JUDGMENT

The 2nd defendant in a suit for declaration of plaintiff's
title and for recovery of possession is the appellant herein.
Parties would be referred to by their ranks before the trial
Court. This appeal is not yet admitted.

2. The suit property originally stood in the name of one
Pazhani Mudaliar. Pazhani Mudaliar had five children, of who

the plaintiff is his only daughter. The other four children are his sons and they are the defendants in the suit. On 10.06.1990, under Ext.A1, Pazhani Mudaliar had settled the suit property in favour of the plaintiff. The defendants who are the brothers of the plaintiff are in physical possession of the suit property. On the strength of the settlement deed executed in her favour, the plaintiff has laid the suit.

3. The only defence taken by the defendants is that the suit property is the ancestral property, and their father Pazhani Mudaliar had no right to execute any settlement deed in favour of the plaintiff.

4. The plea of the defendants was negatived by the Courts below and hence the Second Appeal.

5. The learned counsel for the appellants made a valiant effort to convince this Court that the suit property is an ancestral property. However, on going through the materials, this Court does not find that the findings of the Court below that the suit property which stood purchased under Ext.A2 in the name of Pazhani gounder is his self-acquired property, is erroneous or improbable. In other words, there is no perversity in the approach of the Courts as to warrant any interference.

6. In conclusion, this Court does not find any merit in this appeal and accordingly, this appeal is dismissed and the Judgment and Decree dated 30.07.2007 in A.S.No.65 of 2006 on the file of the Subordinate Judge, Kanchipuram, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssn

To

1. The Subordinate Judge,
Kancheepuram.
2. The Additional District Munsif
Additional District Munsif Court,
Kancheepuram.
3. The Section Officer,
V.R.Section ,
High Court of Madras,
Chennai - 600 104.

+1cc to Mr.K.S.Lakshmi Kumaran, Advocate SR.70506

S.A.No.1146 of 2009
and
M.P.No.1 of 2009

BR(CO)
CB(14/09/2020)



WEB COPY