



AS.No.73 of 2013

S.S.SUNDAR, J.
AND
A.A.NAKKIRAN, J.

(Order of the Court was made by S.S.SUNDAR, J.)

1. This appeal is filed by the Defendants in OS.No.676 of 2009, on the file of I Additional District Court, Coimbatore.
2. The Respondents filed the above suit for partition and separate possession of their 5/6th share in all the suit properties and for consequential reliefs.
3. The learned counsel for the Appellants/ Defendants submitted that the suit property has been treated as the joint family property. He submitted that the properties, which are described in the plaint, admittedly belonged to one Nanjappa Gounder and that the suit property was allotted to the father of the Plaintiffs by name, Velappa Gounder by virtue of a registered partition deed. Referring to the recitals of the partition deed and the documents, the learned counsel submitted that the Plaintiffs are not entitled to any share in the suit property. Without deciding the issue regarding the character of the property, the Plaintiffs' entitlement cannot be determined.
4. The submissions of the learned counsel for the Appellants that the suit properties are self acquired properties of Velappa Gounder is based on the assumption that Velappa Gounder died after 1956. It is an admitted position that the suit property can be described as ancestral property only if father of Velappa Gounder died before 1956. In this case, the suit property was purchased by Nanjappa Gounder in 1952. If Nanjappa Gounder died before 1956, his property will devolve on all his heirs, namely the Plaintiffs and the 2nd Defendant. However, the Appellants have not let in any evidence to clinchingly establish the death of Nanjappa Gounder after 1956.



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5. The learned counsel for the Appellants seeks time to produce clinching documents to prove the death of Nanjappa Gounder after 1956.
6. Post the matter after two weeks.

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(S.S.S.R.J.) & (A.A.N.J.)
25.01.2023

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