



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

S.A.No.833 of 2014

Poongodi

.. Appellant/Appellant/ Plaintiff

Versus

1. Palaniammal

2. Easwari

3. Gunasundarai

4. Pushpa

5. Poonjothi

6. Geethamani

.. Respondents/Respondents/ Defendants

Second Appeal is filed under Section 100 of Civil Procedure Code against the decree and judgment dated 30.08.2013 passed in A.S.No.9 of 2011 by the IV Additional District Judge, Coimbatore confirming the judgment and decree dated 04.10.2010 passed in O.S.No.744 of 2008 by the III Additional Sub Judge, Coimbatore.

For Appellant : Mr.C.D.Sugumar

For Respondents : No Appearance

JUDGMENT

The unsuccessful plaintiff in O.S.No.744 of 2008 is the appellant herein. The suit was filed for partition claiming half share in the suit property.

2. It is the case of the plaintiff that the suit schedule property originally belonged to one Nanjappa Pannadi, who had 2 sons, viz., Ponnusamy and Marudayyan. The said Nanjappa Pannadi and his 2 sons were in joint enjoyment of the suit property till Nanjappa Pannadi died on 20.10.1961. After the demise of Ponnusamy and Marudayyan, the plaintiff as daughter of Marudayyan is entitled for 1/2 share in the suit property. It is further alleged that the defendants did not come forward to divide the property despite repeated requests, legal notice and the pre-suit notice dated 14.11.2008. Hence,



the suit.

3. The suit was resisted by the defendants contending that Marudayyan died in the year 1964 unmarried without any issues. According to the defendants, the plaintiff is not the legal heir of the deceased Marudayyan and not entitled for a share in the suit property.

4. Based on the above pleadings, the Trial Court framed necessary issues. On the side of the plaintiff, PWs.1 and 2 were examined and Exs.A1 to A22 were marked. On the side of the defendants, DWs.1 and 2 were examined, but no documentary evidence was produced. The Trial Court after considering the evidence dismissed the suit. The finding of the Trial Court was confirmed by the Appellate Court in A.S.No.9 of 2011. Assailing the concurrent findings, the present appeal has been filed.

5. It is the submission of the learned counsel appearing for the appellant that it is not disputed that the suit property originally belonged to Nanjappa Pannadi and he had two sons. After the death of the said Nanjappa Pannadi and his two sons, the plaintiff instituted the suit on the basis that she is the only daughter of Marudayyan and the defendants are wife and children of another son Ponnusamy. In order to prove her case, Ex.A15 School record sheet was produced and the Village Headman was examined as PW2. But the Courts below without proper appreciation of evidence non suited the plaintiff. Hence, the findings are liable to be set aside.

6. Despite service of notice to the respondents and their names are being printed the cause list, none appears for them.

7. In the case on hand, the plaintiff has come to this Court with the specific case that she is the grand daughter of the original owner Nanjappa Pannadi and his father Marudayyan died in the year 1964. However, in the pleadings nothing has been stated about the mother of the plaintiff, the date of marriage and date of birth of the plaintiff.

8. The appellant / plaintiff attempts to prove his case only through Ex.A15, record sheet dated 01.02.2010. The Trial Court as well as the Appellate Court held that mere production of record sheet is not sufficient, which has to be substantiated by examining School authorities. As observed supra, absolutely there is no averment in the plaint about her mother, date of marriage and date of birth of the appellant. Except Ex.A15 and the oral evidence of PW2, no material has been produced to substantiate the case of the appellant.

9. In the light of the above facts, I do not find any substance in the contention of the appellant. This Court is of the opinion that there is no illegality or perversity in the



findings of the Courts below. In the result, the Second Appeal fails and the same is dismissed. No costs.

WEB COPY

//True Copy//

Sd/-

Assistant Registrar (CCC)

Sub Assistant Registrar

pvs

To

1. The IV Additional District Judge,
Coimbatore.
2. The III Additional Sub Judge,
Coimbatore.
3. The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.C.D.Sugumar, Advocate, S.R.No. 7077

S.A.No.833 of 2014

SPD(CO)
GN(15/09/2020)