



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

S.A. (MD) No.68 of 2020

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Vijaya

... Appellant / appellant / 5th defendant

vs.

1.Nobel Rani Salina

2.Agnus

... Respondents 1 & 2/Respondents 1 & 2/
Plaintiffs

3.The District Collector,
Korampallam,
Thoothukudi.

4.The Thasildar,
Thoothukudi Taluk,
Thoothukudi.

5.Agasta

Jebamani (died)

6.Killittrai Ponnammal

7.Jansi Rani

8.Asir

9.Daisy

10.Joy Sornam

... Respondents 3 to 10/Respondents No.3 to 10/
Defendants 1 to 4 & 6 to 11

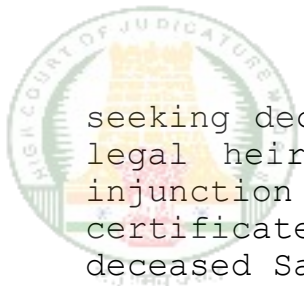
PRAYER: This Second Appeal is filed under Section 100 of Civil Procedure Code, to set aside the judgment and decree dated 13.09.2019 passed in A.S.No.09 of 2016 on the file of the Subordinate Judge, Tuticorin confirming the judgment and decree dated 16.11.2015 passed in O.S.No.71 of 2010 on the file of the Principal District Munsif Court, Tuticorin.

For Appellant : Mr.M.Arjun Varman
for Mr.T.Lajapathi Roy

For R1 : Mr.S.Siva Thilakar

JUDGMENT

The fifth defendant in O.S.No.71 of 2010 is the appellant herein. The suit was filed by the respondents 1 and 2 / plaintiffs
<https://hcservices.ecourts.gov.in/hcservices/>



seeking declaration that they along with defendants 3 and 4 are the legal heirs of one Sathya Samuel Rajapandi and for a mandatory injunction directing the second respondent to issue a legal heirship certificate recognizing the plaintiffs 3 and 4 as legal heirs of the deceased Sathya Samuel Rajapandi.

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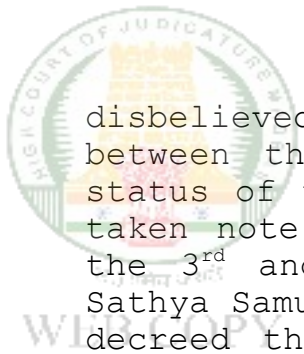
2. According to the plaintiffs, the first plaintiff got married to the deceased on 08.09.1986 and as a result of the said marriage, the second plaintiff and the defendants 3 and 4 were born to them. The fifth respondent, who was employed with Late Mr.Sathya Samuel Rajapandi, claimed to be his wife and obtained legal heir certificate describing herself and defendants 3 and 4 and one Thanga Deepa as legal heirs of the deceased Sathya Samuel Rajapandi. This prompted the plaintiffs to file the above suit.

3. The suit was resisted by the fifth defendant contending that there was no marriage between the first plaintiff and the deceased Sathya Samuel Rajapandi. The claim of the first plaintiff as the wife of the deceased was also disputed. The status of the second plaintiff and the defendants 3 and 4 as daughter and mother of Sathya Samuel Rajapandi was admitted. It was also contended that Sathya Samuel Rajapandi even during his life time had filed I.D.O.P.No.47 of 2001 seeking divorce against the first plaintiff and after compromise, the same was withdrawn. Again the deceased Sathya Samuel Rajapandi filed I.D.O.P.No.131 of 2006 seeking divorce as against the first plaintiff. Sathya Samuel Rajapandi died pending the petition. It was also contended that Sathya Samuel Rajapandi married the fifth defendant. The legal heirship certificate said to have been issued by the second defendant on 17.03.2010 was relied by the defendants to show the status of the first defendant. It was also claimed that it was the fifth defendant, who was taking care of the deceased Sathya Samuel Rajapandi during his last days and it was she, who performed final rights.

4. The defendants 3 and 4 filed separate written statements accepting the marriage between the first plaintiff and Sathya Samuel Rajapandi. They claimed that they are daughter and mother of Sathya Samuel Rajapandi.

5. An additional written statement was filed by the fifth defendant contending that she got married to Sathya Samuel Rajapandi on 26.12.1984 at Kanyakumari and the said marriage was registered at Faith Lutheran Church, 5B, Rajakeelakuppam, Pattabiram, Chennai-600 072. In support of the said marriage, a certificate in Form VII said to have been issued under Section 62 of the Indian Christian Marriage Act, 1872 was produced as Ex.B1.

6. The trial Court upon consideration of the evidence on record concluded that the fifth defendant has not established the marriage between her and the deceased. Ex.B1, the alleged marriage certificate was



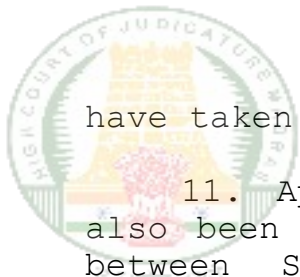
disbelieved on various grounds. The admission of the marriage between the first plaintiff and Sathya Samuel Rajapandi and the status of the second plaintiff and the defendants 3 and 4 was also taken note by the trial Court to conclude that the plaintiffs and the 3rd and 4th defendants are the legal heirs of the deceased Sathya Samuel Rajapandi. On the said finding, the trial Court has decreed the suit as prayed for. Aggrieved, the fifth defendant filed an appeal in A.S.No.9 of 2016. The lower appellate Court also agreed with the conclusions of the trial Court and dismissed the appeal. Aggrieved the fifth defendant has come up with this second appeal.

7. I have heard Mr.M.Arjun Varman, learned counsel for the appellant.

8. The learned counsel for the appellant would vehemently contend that the Courts below were not right in discarding Ex.B1, which evidences the marriage between Sathya Samuel Rajapandi and the fifth defendant. He would also rely upon the wedding invitation, which is marked as Ex.B5, in which, according to him, the fifth respondent has been described as wife of Sathya Samuel Rajapandi.

9. As regards Ex.B1, the very contents of the document makes it highly doubtful. The marriage is said to have taken place at Nagercoil at Kanniyakumari District on 26.12.1984 in the presence of two witnesses, whose address was shown to be at Chennai. The marriage has been registered on the same day at Chennai. No person connected with the said document has been examined to prove the authenticity of the said document. It is physically impossible for the marriage that was solemnized on 26.12.1984 at Kanyakumari to be registered on the same date at Chennai. The name of the person, who solemnized the marriage has not been stated in the document. Though section 62 of the Act enables registration of the marriage by a Registrar, there should be evidence of solemnization of marriage under Section 5 of the Indian Christian Marriage Act, 1872. The said evidence is totally absent in the case on hand.

10. As regards Ex.B5, the said document is also doubtful. In the English portion of the invitation the bride is described as granddaughter of late Mr.R.Rajamani and Mrs.R.Jebamani Ammal. In the Tamil portion, again she has been described as granddaughter of Mr.R.Rajamani and Mrs.R.Jebamani Ammal and the signatory shown to be Sathya Samuel Rajapandi and the name of the fifth defendant is printed in the bottom without any description. It is the admitted case of the parties as the fifth defendant was working in the Organization run by Sathya Samuel Rajapandi. The circumstances, under which the invitation came to be printed are not very clear. The Courts below have analyzed the entire evidence on record and have come to the conclusion that these two documents namely Ex.B1



have taken place in 1984.

11. Apart from the above certain crucial circumstances have also been taken note by the Courts below on the plea of marriage between Sathya Samuel Rajapandi and the fifth defendant. In fact the fifth defendant takes her claim under the Will said to have been executed by Sathya Samuel Rajapandi. The said Will also has not been proved in accordance with law and therefore, having failed to prove the marriage, the fifth defendant cannot claim to be a heir. The legal heirship certificate, which has been issued on 17.03.2010 by the second respondent also cannot be of any use to prove the marriage. The legal heirship certificate recognizes the third and fourth defendants as legal heirs of Sathya Samuel Rajapandi. This document has also been disbelieved by the Courts below for valid reasons.

12. I find that the Courts below were right in appreciating the documentary evidence. The learned counsel for the appellant is unable to show any perversity in the appreciation of the oral evidence and the documents by the Courts below. I do not find any question of law much less a substantial question of law in order to enable me to entertain the appeal. This second appeal therefore fails and it is dismissed without being admitted. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The Subordinate Judge, Tuticorin.
- 2.The Principal District Munsif, Tuticorin.

Copy to:

The Section Officer, Vernacular Section, (2 Copies)
Madurai Bench of Madras High Court, Madurai.

- +1 CC to M/s.S.SIVATHILAKAR, Advocate (SR-4383[F] dated 03/02/2020)
+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-4860[F] dated 05/02/2020

S.A. (MD) No. 68 of 2020

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