



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Date: 15.09.2020
CORAM

THE HONOURABLE MR.JUSTICE **N.SESHASAYEE**

WEB COPY

S.A(MD)No.727 of 2015

and

M.P(MD)No.1 of 2015

1.T.Arumugam

2.T.Selvaraj

: Appellants/Appellants
/1st and 2nd Defendants

Vs.

1.T.Subramanian : 1st Respondent /1st Respondent /Plaintiff

2.T.Ekambaram @ Sundaram

3.Santha

4.Saroja

5.Mallika

6.Devika

7.Senthamil Selvi

8.Manjula

9.Premalatha : Respondents 2 to 9/Respondents 2 to 9
/Defendants 3 to 10

PRAYER: Second Appeal is filed under Section 100 of C.P.C, against the judgment and decree passed by the II Additional District and Sessions Judge, Thanjavur in A.S.No.39/2014 by his order dated 26.02.2015 confirming the decree and judgment passed in O.S.No.106/2012 on the file of the Additional Sub Court, Kumbakonam dated 28.03.2014.

For Appellants : Mr.T.Amjadkhan

For Respondents : Mr.M.R.S.Prabhu

J U D G M E N T

The defendants 1 and 2 in a suit for partition have filed the present Second Appeal challenging the concurrent judgment and decree of the courts below.

2. The plaintiff seeks partition of 1/11 share about 1340 sq ft. The said property stood originally in the name of one Padmavathy Ammal and this is not disputed. Padmavathy Ammal was married to Thiruvambalam Chettiyar through who she begot 11 children. On



10.01.1978 Padmavathy Ammal died and she was survived by her husband and 11 children. Subsequently, on 22.01.2011 Thiruvallambalam Chettiyar also died. Hence, the present suit was brought for partition of about 1336 sq feet X 11 shares (121 sq ft).

3. The contention of the appellants/defendants 1 and 2, who are the sons of Padmavathy Ammal and Thiruvallambalam Chettiyar (and hence brothers of the plaintiff) was that on 13.12.2006, Thiruvallambalam Chettiyar had executed Ex.B.4 settlement deed as regards entire property.

4. The case of the plaintiff is that Padmavathy Ammal was only a nominal or an ostensible of the suit property, since it was purchased in her name benami for Thiruvallambalam Chettiyar.

5. The matter went to trial. Both the courts rejected the plea of the defendants and dismissed the suit. The defendants 1 and 2 have only chosen to file this Second Appeal.

6. The learned counsel for the appellants submitted that inasmuch as Padmavathy Ammal had predeceased her husband Thiruvallambalam Chettiyar, he succeeds to 1/12 shares in the suit property atleast and the settlement deed should have been upheld atleast to the extent of his 1/12 share.

7. In response, the learned counsel for the first respondent/plaintiff would submit that it was the contention of the plaintiff that Ex.B.4 settlement deed was a forged document and that the attesting witnesses, who have signed the original, were never examined.

8. Heard both sides.

9. After hearing the rival submissions, this court finds no perversity in the order of the courts below and the Second Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Cm



To

1. The II Additional District and Sessions Judge,
Thanjavur.

2. The Additional Subordinate Judge,
Kumbakonam.

3. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2)

+1 CC to Mr.V.K.VIJAYARAGAVAN, Advocate SR-17242.

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