

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED: 28.07.2021**CORAM****THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN****AS(MD)No.46 of 2021**

M.Valarmathi

... Appellant / 1st defendant

Vs.

1.Nagavalli

2.Kalaivani

3.Rani

4.Balamurugan

5.The Branch Manager,
Indian Bank, Salai Street,
Ramanathapuram Town,
Ramnad District.6.The Branch Manager,
Punjab National Bank,
K.T.M.Centre, Salari Street,
Ramanathapuram Town,
Ramnad District.... Respondents 5&6 /
Defendants 2 & 3



Prayer: First Appeal filed under Section 96 r/w. Order 41 Rule 1 CPC to set aside the judgment and decree passed in O.S No.1 of 2019 dated 16.10.2019 on the file of the Principal District and Sessions Judge, Ramanathapuram.

For Appellant : Shri.K.C.Ramalingam

For Respondents : Mr.J.Bharathan for R2

Mr.V.Veerapandian for R5

No appearance for R1, R3, R4 and R6

* * *

JUDGMENT

The first defendant in O.S No.1 of 2019 on the file of the Principal District Judge, Ramanathapuram has filed this appeal under Section 96 of CPC challenging the judgment and decree dated 16.10.2019.

2.One Nagavalli and Muthuvel got married and through the wedlock, three daughters and one son were born. Muthuvel during his lifetime had made fixed deposits in Indian Bank, Salai Street, Ramanathapuram Taluk and Punjab National Bank, KTM Centre,



Ramanathapuram Town. Valarmathi, the appellant herein who is one of the daughters, was made the nominee. Muthuvel passed away on 14.12.2015. Since Valarmathi, the nominee did not distribute as per the law of succession, the suit came to be instituted. It is beyond dispute that Muthuvel died intestate. Nagavalli, wife of the deceased and the other three children (2 daughters and 1 son) joined together and filed the suit for directing the appellant herein to pay the sums due to them with interest.

3.The second plaintiff examined herself as PW.1. Exs.A1 to A5 were marked. Valarmathi examined herself as DW.1. Exs.B1 to B8 were marked. The learned trial Judge decreed the suit since admittedly the plaintiffs were entitled to 1/5th share each in the suit deposits. Interest was awarded @ 7.5% p.a from the date of plaint till the date of decree and @ 6% p.a from the date of decree till realisation.

4.The first defendant has filed this appeal. The point for determination is whether the nominee of a fixed deposit is entitled to appropriate the amounts for herself. The issue is no longer res integra. The Hon'ble Supreme Court in the decision reported in (1984) 1 SCC



424 (Sarbati Devi v. Usha Devi) held that nominee cannot be treated as being equivalent to heir or legatee. The nominee has to distribute the amount received in accordance with the law of succession governing the parties or as per the testament executed by the deceased. The Trial Court has passed the impugned judgment and decree keeping in mind the aforesaid statutory mandate. Interference is not warranted. This first appeal is dismissed. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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G.R.SWAMINATHAN, J.

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