



WEB COPY

S.A.(MD)No.18 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

S.A.(MD)No.18 of 2014

and

M.P.(MD)No.1 of 2014

Natarajan

... 1st Defendant / 1st Appellant / Appellant

-Vs-

1.Gopalakrishnan

2.Dhanalakshmi (Died)

3.Pushpavalli ... Plaintiff / Respondents / Respondents

4.Krishnamoorthy ... 2nd Defendant / 2nd Appellant / Respondent

5.Kanagavalli ... 4th Defendant / 3rd Appellant / Respondent

6.Gnanasekaran

7.Selvakumar

8.Balamani

(Respondents 6 to 8 are suo motu impleaded as Lrs of the deceased R2 vide order dated 23.07.2021)

9.G.Thangamani

10.G.Sasikumar

(R9 and R10 are suo motu impleaded as Lrs of one Goplaakrishnan @ Gopal who is one of hte Lrs of the deceased R2 vide order dated 23.07.2021)

11.Lakshmanan

12.Saraswathi Manikandan

(R11 & R12 are suo motu impleaded as Lrs of one Malarkodi who is one of the Lrs of the deceased R2 vide order dated 23.07.2021)

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree dated 23.08.2005 in A.S.No.21 of 2003 on the file of the District Judge, Karur, confirming the judgment and decree made in O.S.No.252 of 1996 on the file of the Sub Court, Karur, dated 31.01.2003.

For Appellant	: Mr.V.Balaji
For R1 to R3	
& R6 to R12	: M/s.Maria Vinola
For R4	: Mr.R.Murali
for R5	: No Appearance

JUDGMENT

Heard the learned counsel on either side.



2. This second appeal arises out of a partition suit. The suit property belonged to one Vadamalai Pillai. He passed away on 20.04.1980 leaving behind his wife Akilambal and sons Gopalakrishnan, Natarajan and Krishnamoorthy and daughters Dhanalakshmi and Pushpavalli. There is no dispute that Vadamalaipillai died intestate. Therefore, the suit property has to devolve in equal shares on all his legal heirs. The plaintiffs who are three in number are none other than the son and daughters of late Vadamalai Pillai. The first and second defendant are the sons of Vadamalaipillai. The 3rd defendant is the wife of Vadamalaipillai. The fourth defendant is the wife of Natarajan and she has no share in the suit items. The trial Judge, vide judgment and decree dated 31.01.2003 had granted 1/6th share to each of the six legal heirs. The same has been confirmed by the first appellate Court vide judgment and decree dated 23.08.2005 in A.S.No.21 of 2003 on the file of the District Judge, Karur. Questioning the same, this second appeal has been filed by the first defendant.

3. Though the learned counsel appearing for the appellant reiterated all the contentions set out in the memorandum of grounds, I am of the view that no substantial question of law arises for consideration. There is no dispute that the suit property belongs to Vadamalaipillai. He died intestate. Therefore, the property will devolve in equal shares on all the six legal heirs. The Courts below allotted only 1/6th share in favour of each of the legal heirs. It does not call for any interference. The second appeal is dismissed.

4. It is now stated that the wife of Vadamalaipillai / D3 has passed away. While the appellant's counsel would claim that the mother's share had been purchased by the appellant in Court auction, the learned counsel for the respondents would state that it is not so. I do not want to go into the said controversy. How the Akilambal's share has devolved can be worked out in the final decree proceedings in accordance with law. The second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Cs-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

To

1. The District Judge, Karur.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Sub Court, Karur.

Copy to

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

+1 CC to M/s.M.MARIA VINOLA, Advocate (SR-25242[F] dated 04/08/2021

S.A. (MD) No.18 of 2014
and
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02.08.2021

VR (CO)
KB (13.09.2021) 3P 6C