



AS.No.517/2011

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

AS.No.517/2011

K.Palanisamy

.. Appellant / 2nd
Defendant

Vs.

- 1.Samiyathal
- 2.Karuppanna Gounder
- 3.Velappa Gounder
- 4.Karuppana Gounder [died]
- 5.Muthappa Gounder
- 6.Kumarappa Gounder
- 7.Muthusamy
- 8.Ramasamy
- 9.Kolandasamy Gounder
- 10.Peruyasami Gounder [died]
- 11.Nachiyappa Gounder
- 12.Samiyappa Gounder
- 13.Pavayammal [died]
- 14.Thangamuthu
- 15.Vadivel Gounder
- 16.Kolandasamy Gounder
- 17.Kuppusami



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- 18.Velusami
- 19.Ramasamy Gounder
- 20.Songappa Gounder
- 21.Angammal
- 22.Murugesan
- 23.Pappathi
- 24.Muthayammal
- 25.Sadasivam
- 26.Saraswathi
- 27.Thangamuthu
- 28.Saraswathi
- 29.Easwari
- 30.Devi
- 31.Sampoornam
- 32.Inbamani
- 33.Maragatham
- 34.S.Sadasivam

.. Respondents

Prayer:- Appeal Suit filed under Section 96 of CPC against the judgment and decree passed in OS.No.12/2006 on the file of the learned Additional District Court [Fast Track Court No.1], Erode, dated 30.04.2010. is liable to be set aside insofar as the limitation of share of the appellant is concerned.

For Appellant : Mr.A.Sundaravadhanam

For Respondents : No appearance



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JUDGMENT

[Judgment of the Court was made by S.S.SUNDAR, J.,]

- (1) This Appeal is preferred by the 2nd defendant in the suit in OS.No.12/2006 on the file of the learned Additional District Court [Fast Track Court No.1], Erode.
- (2) The 1st respondent herein is the plaintiff in the suit who is the wife of the appellant herein. The suit was filed by the plaintiff/wife of the appellant herein for partition of her 1/3rd share in the suit 'A' schedule properties and for 1/4th share in the suit 'B' schedule properties.
- (3) The suit was partly decreed. Aggrieved by the same, the 2nd defendant has filed the present Appeal Suit. First defendant is the father of appellant.
- (4) During the pendency of the appeal, the 1st respondent herein/plaintiff died on 03.07.2020. Though there were two children born out of the wedlock between the plaintiff and the 2nd defendant/appellant herein, it is admitted even in the plaint that both of them died long before the filing of suit. The suit itself is



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filed as a mother of her son entitled to succeed to his estate. It is also admitted that the appellant filed a petition for divorce and the same was allowed in his favour. However, the 1st respondent/plaintiff challenged the same before this Court and she died when the proceedings were pending. Though the appellant is not the legal heir of the deceased/plaintiff/1st respondent and the decree obtained by the appellant against her for divorce is not set aside, the question whether the other legal heirs of the deceased/plaintiff are entitled, cannot be decided unless the parties interested are before this Court.

- (5) In the said circumstances, this Court has no other option except to dismiss the appeal as abated since no steps have been taken to being on record, the legal representatives of the deceased/plaintiff/1st respondent.
- (6) Hence, this Appeal Suit stands **dismissed as abated**. No costs.

[SSSRJ] [AANJ]
09.12.2022

AP
Internet : Yes



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To

- 1.The Additional District Judge,
[Fast Track Court No.1], Erode.
- 2.The Section Officer
High Court, Madras.



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S.S.SUNDAR, J.,

AND

A.A.NAKKIRAN, J.,

AP

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