



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.02.2022

Coram:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

Second Appeal No.1070 of 2015

Padmavathi ...Appellant/Appellant/Plaintiff

.Vs.

1.Sankaraiah Naidu

2.Krishnamurthy

3.Manjula

...Respondents/Respondents/Defendants

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure to set aside the Decree and Judgment of the Appellate Court dated 06.04.2015 made in A.S.No.16 of 2013 on the file of the Principal District Judge,Vellore, confirming the Decree and Judgment of the Trial Court dated 31.08.2012 in O.S.No.45 of 2006, on the file of the Subordinate Judge, Gudiyattam, Vellore.

For Appellant : Mrs.D.Kamatchi

For Respondents : R1 Died

R 2 - NA (notice served)

R 3 -Notice returned

JUDGMENT

The plaintiff is the appellant in this Second Appeal. The suit was filed by the plaintiff seeking for the relief of declaration to declare the Settlement Deed executed by the 1st defendant in favour of the 3rd defendant as null and void and for the partition of the suit properties and to allot 1/3rd share in favour of the plaintiff.

2.The case of the plaintiff is that the suit properties are in the nature of joint family properties and after coming into force of the Amendment Act, in the year 2005 and Section 6 of the Hindu Succession Act was amended, even the daughter is entitled for a share in the joint family property. Therefore,



according to the plaintiff, the plaintiff, 1st defendant and the 2nd defendant are entitled for 1/3rd share in the suit properties. The grievance of the plaintiff is that the 1st defendant had executed a Settlement Deed in favour of the 3rd defendant and settled the entire suit property and thereby depriving the share of the plaintiff. Aggrieved by the same, the suit was filed by the appellant.

3. Heard Mrs.D.Kamatchi, learned counsel counsel for the appellant and carefully perused the findings rendered by both the Courts below.

4.The Courts below rejected the claim made by the plaintiff by applying the proviso to Section 6 (1) of the Hindu Succession Act. It is an admitted fact that there was a registered partition that took place on 04.08.1986 and the joint family property was partitioned and a share was allotted in favour of the 1st defendant. By virtue of this partition, there is disruption in the status of the property and the property vested absolutely in favour of the 1st defendant. On the date of coming into force of the Amendment Act, since there was a disposition of the suit property by means of a registered partition deed, the benefit that was conferred by the 2005 Amendment Act, cannot be made applicable to the plaintiff. This is the effect of the proviso to Section 6(1) of the Hindu Succession Act. This was take note of by the Courts below and it was held that the 1st defendant had the right to execute the Settlement Deed in favour of the 3rd defendant and that the plaintiff does not have any right to claim for any share in the suit properties.

5.In the considered view of this Court, this Court does not find any perversity in the findings of both the Courts below and both the Courts below have properly applied law to the facts in hand. No substantial question of law is involved in this Second Appeal.

6.In the result, this Second Appeal is dismissed. Considering the facts and circumstances of the case, there shall be no order as to costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



KP

To

1. The Principal District Judge,
Vellore.

2. The Subordinate Judge,
Gudiyattam, Vellore.

3. The Section Officer
V.R. Section, High Court,
Madras.

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sj[co]
srg 08/03/2022