



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

S.A. No.872 of 2021
and C.M.P. No.16611 of 2021

Mories Antoine Danraj
Son of late Iroudadass,
No.565, Bharathiar Road,
Nehru Nagar,
Karaikal.

..Appellant/1st Defendant

Versus

1. Victoria
2. Nambique Marie alias Vasuki
3. I.Pouline
4. M.Cleophas Mary
5. A.Rosaly
6. A.Adaikalamary
7. G.Usharani
8. Manikavathy

..Respondents/Plaintiffs 1 to 6

..Respondents 7 & 8/Defendants 7 & 8

Second Appeal filed under Section 100 of Civil Procedure Code, 1908, to set aside the judgment and decree dated 22.12.2020 made in A.S. No.02/2018 on the file of Subordinate Judge, Karaikal, confirming the judgment and decree dated 13.02.2018 made in O.S. No.401/2013 on the file of Principal District Munsif, Karaikal and allow the above second appeal.

For Appellant: Mr. M.V.Venkateseshan

JUDGMENT

Aggrieved by the judgment and decree in A.S. No.02 of 2018, passed by the learned Subordinate Judge, Karaikal, confirming the judgment and decree made in O.S. No.401 of 2013 passed by the learned Principal District Munsif, Karaikal, the appellant filed the above second appeal.

2. The appellant is the first defendant in O.S. No.401 of 2013. The respondents 1 to 6 in the above second appeal filed a suit in O.S. No.401 of 2013 on the file of Principal District Munsif Court, Karaikal, for a declaration that the plaintiffs and defendants are the only legal heirs of deceased Thiru.



6. Having regard to the nature of relief, the declaration declaring the status of parties without reference to the properties left are the rights of legal heirs of deceased. The



Court is not expected to conduct a roving enquiry about the proof or validity of Will set up by one of the party to lis in the present suit. It is open to a person claiming right under the Will or aggrieved by the Will to establish his right over the property of Iroudayadass, by filing a separate suit. Even if the other side files a suit for partition or claims absolute title or right, it is open to the party who relies upon the Will stated to have been executed by the father Iroudayadass, to raise any plea to substantiate his right under the Will. Absolutely there is no finding recorded against the appellant as regards the plea which he has raised in the written statement.

7. This Court is not inclined to entertain the Second Appeal particularly when no substantial question of law is involved or arise for consideration in this second appeal. Accordingly, this Second Appeal is dismissed at the admission stage itself. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

bkn

To

1. The Subordinate Judge, Karaikal
2. The Principal District Munsif, Karaikal.

Copy to

The Section Officer

VR Section

High Court, Madras 104.

+2 CCS to Mr. M.V.Venkateseshan, Advocate sr 7924.

S.A. No. 872 of 2021

MG (CO)

SP(25/02/2022)