



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A.(MD)No.698 of 2010

WEB COPY

1.Saminathan
2.Muniappan
3.Edison
4.Merin

... Appellants / Respondents / Defendants

-Vs-

1.Rajammal (died) ... Respondent / Appellant / Plaintiff

2.Rajendran
3.Shesu
4.Pitchammal
5.Vijya
6.Mallika
7.Thomma
8.Rayappan
9.Santhiyagu
10.Elaiyans

... Respondents

(Respondents 2 to 10 are brought on record as Lrs of the deceased 1st respondent vide order dated 04.04.2022 in C.M.P.(MD)Nos.9332, 9335 & 9336 of 2021 in SA(MD)No.698 of 2010)

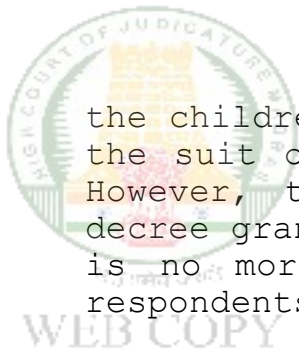
PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree of the learned Additional District Judge (Fast Track Court No.II), Thoothukudi passed in A.S.No.26 of 2009, dated 06.03.2010 reversing the well considered Judgment and decree of the learned Subordinate Judge, Thoothukudi passed in O.S.No.178 of 2005, dated 22.06.2009.

For Appellants : Mr.D.Srinivasa Ragavan
For Respondents : No appearance

JUDGMENT

This second appeal arises out of a suit for partition.

2. One Rajammal filed O.S.No.178 of 2005 on the file of the Sub Court, Thoothukudi. There is no dispute that the plaintiff was the biological sister of the first defendant. The other defendants were her nephews. The suit property stood in the name of the father Pappu Fernando. The said Pappu Fernando had six children. Two of



the children died issueless and intestate. The trial court dismissed the suit on the ground that one of the sisters was not impleaded. However, the first appellate court by the impugned judgment and decree granted 1/4th share in favour of the plaintiff. The plaintiff is no more and her legal heirs have been brought on record as respondents 2 to 10. There is no appearance on their behalf.

3. The learned counsel appearing for the appellants reiterated the contentions set out in the memorandum of grounds and called upon this Court to admit the second appeal and dispose of the second appeal after issuing fresh notice to the legal heirs of the deceased plaintiff.

4. I am not inclined to accept the said contention for the simple reason that what has been granted in favour of the plaintiff is only the share due to her. The primary contention advanced by the learned counsel for the appellants is that the property though standing in the name of Pappu Fernando was not actually purchased by him. But then, this contention cannot be accepted in view of the provisions of Benami Transactions (Prohibition) Act. No substantial question of law arises for consideration. The second appeal stands dismissed. No cost.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Additional District Judge
(Fast Track Court No.II), Thoothukudi.

2.The Subordinate Judge, Thoothukudi.

Copy To

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

+1 CC to M/s.D. SRINIVASARAGAVAN, Advocate (SR-16624[F]
dated 05/04/2022)

Judgment made in
S.A.(MD)No.698 of 2010
04.04.2022

SP(CO)GC(11.05.2022) 2P 6C

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