



AS.No.1255/2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.06.2023

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

AS.No.1255/2015

- 1.Kannammal [died]
- 2.Rangasamy Gounder
- 3.R.Palanisamy
- 4.P.Santhamani
- 5.V.Indirani
- 6.P.Maragathamani
- 7.Thulasimani
- 8.Jayamani
- 9.Palanisamy
- 10.Thangavel
- 11.Nandhini
- 12.Dharani
- 13.Shanmugam
- 14.Savithri
- 15.Dhanabakiyam

.. Appellants /
Plaintiffs

****Appellants 7 to 15 are brought on record as
LRs of deceased 1st appellant viz., Kannammal
vide order dated 20.12.2022 made in CMP.Nos.
22159, 22162 & 22163/2022 in AS.No.1255/2015**



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Versus

- 1.Nagammal [died]
- 2.Thirumoorthy [died]
- 3.S.Velusamy
- 4.S.Subramani
- 5.Santhamani
- 6.Krishnasamy [Died]
- 7.The Sub Registrar
Sub Registrar's Office
Soolur, Coimbatore District.
- 8.G.Kumarasamy
- 9.Thaivathal
- 10.T.Bhuvaneswari
- 11.T.Rajeswari
- 12.T.Bagyalakshmi
- 13.K.Balasubramaniam
- 14.K.Mounasamy
- 15.K.Sundaramurthy
- 16.K.Venkatachalam
- 17.K.Padmavathi

.. Respondents /
Defendants

****RR8&9 are brought on record as LR's
of deceased 1st respondent viz., Nagammal
vide order dated 13.03.2023 made in
CMP.Nos.22170, 22174 & 22179/2022 in
AS.No.1255/2015.**

****RR10 to 12 are brought on record as LR's
of deceased 2nd respondent viz., Thirumoorthy
vide order dated 13.03.2023 made in
CMP.Nos.22182 & 22184/2022 in
AS.No.1255/2015.**



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****RR13 to 17 are brought on record as LR
of deceased 6th respondent viz., Krishnasamy
vide order dated 13.03.2023 made in
CMP.Nos.22171, 22173 & 22176/2022 in
AS.No.1255/2015.**

Prayer:- Appeal Suit filed under Section 96 of CPC read with Order 41 Rule 1 of CPC against the judgment and decree dated 27.03.2015 in OS.No.734/2011 on the file of the learned I Additional District Judge, Coimbatore.

For Appellants : Mrs.A.L.Gandhimathi
Senior Counsel for
M/s.S.Meenakshi

For RR3, 10 to 17 : Mr.A.K.Sriram
Senior Counsel for
Mr.S.Thangavel

For R7 : Mr.M.Muthusamy, GA

JUDGMENT

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

(1) Plaintiffs in the suit in OS.No.734/2011 on the file of the I Additional District Court, Coimbatore, are the appellants in the above appeal.



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- (2) The suit property originally belongs to one Sengaliappa Gounder son of Kupppanda Gounder. One Nallammal is the wife of late Sengaliappa Gounder and Subbaiya Gounder, Krishnasamy Gounder, Kannammal, Nagammal and Rangammal are the sons and daughters of Sengaliappa Gounder. Kannammal is the 1st plaintiff. Plaintiffs 2 to 6 are the husband, son and daughters of the deceased Rangammal / one of the daughters of late Sengaliappa Gounder. The 1st defendant Nagammal is also one of the daughters of late Sengaliappa Gounder. Defendants 2 to 5 in the suit are the legal heirs of the deceased Subbaiya Gounder. The 6th defendant is the second son of Sengaliappa Gounder.
- (3) During pendency of the appeal, the 1st appellant Kannammal died and therefore, appellants 7 to 15 were brought on record as legal representatives of the deceased/1st appellant. Similarly, respondents 1, 2 and 6, namely, Nagammal, Thirumoorthy and Krishnasamy died and their legal representatives were brought on record as respondents 8 to 17.



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- (4) The appellants filed the suit in OS.No.734/2011 for cancelling the Partition Deed dated 24.06.2009 registered as Doc.No.7919/2009 executed between defendants 2 to 4 and 6 and for partition and separate possession of plaintiffs' 2/5th share in all the suit properties.
- (5) It is admitted by the plaintiffs themselves that the suit properties are Punja agricultural lands and that the lands originally belonged to one Sengaliappa Gounder. It is their case that the said Sengaliappa Gounder died intestate in the year 1958 leaving behind his wife Tmt.Nallammal, sons by name Subbaiya Gounder and Krishnasamy Gounder and daughters by name Nagammal, the 1st defendant herein, Kannammal, the 1st plaintiff and Rangammal. Stating that the suit properties are in the joint possession and enjoyment of Sengaliappa Gounder and his two sons and daughters, it is contended that the daughters are entitled to 1/5th share each. Though the plaintiffs admitted the Partition Deed dated 24.06.2009 in respect of the suit properties, it is contended by the plaintiffs that the said partition is not binding on the plaintiffs and it is void. It is further contended that the partition was registered



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by the 7th defendant without verifying the parent documents and hence, the 7th defendant is bound to cancel the document, namely, Partition Deed dated 24.06.2009.

- (6) The suit was resisted by the 6th defendant by filing a written statement which was adopted by defendants 2 and 4. Defendants 3 and 4 also filed a written statement and the same was adopted by defendants 2 and 6. 5th defendant also filed a written statement claiming 1/20th share. Defendants denied the specific allegations levelled against them by the plaintiffs in the plaint. The defendants *inter alia* contended that the suit properties are purchased by Sengaliappa Gounder, the father by way of a registered Sale Deed bearing Doc.No.1900/1938 dated 14.11.1938 from one Appachi Gounder. It is further stated that against the father Sengaliappa Gounder, a suit came to be filed by one Muruganantha Gounder in OS.No.79/1946 challenging the said Sale Deed dated 14.11.1938 and the said suit was dismissed by the District Munsif Court at Tiruppur on 15.09.1947. Referring to the fact that his father Sengaliappa Gounder died during pendency of the suit and his legal



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heirs were brought on record on the application filed in the year 1946, it is specifically contended that succession opened in the year 1946 and not as claimed by plaintiffs in the plaint. It is the specific case of 6th defendant in the written statement that after the demise of Sengaliappa Gounder, the suit properties devolved only on the male members who are Subbaiya Gounder and Krishnasamy Gounder. Subbaiya Gounder died in the year 1968 and his sons and daughter are defendants 2 to 5. Stating that Sengaliappa Gounder died before the Hindu Succession Act, 1956 and that succession opened long before the Hindu Succession Act, 1956, it is contended by the defendants that Hindu Succession Act, 1956 is not applicable to plaintiffs to claim any share in the properties of Sengaliappa Gounder.

(7) The Trial Court framed the following issues:-

(a) *Whether the plaintiffs are having rights or title over the suit property?*

(b) *Whether the plaintiffs are entitled to ask for the relief of partition?*



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(c) Whether the Partition Deed dated 24.06.2009 is liable to be cancelled?

(d) To what other relief the plaintiffs are entitled to?

- (8) Before the Trial Court, the 1st plaintiff was examined as PW1. Plaintiffs 3 and 4 were examined as PWs.2 and 3. Exs.A1 to A3 were marked on the side of plaintiffs. On behalf of defendants, the 4th defendant was examined as DW1. Exs.B1 to B12 were marked on the side of defendants.
- (9) Though the plaintiffs did not claim any right in the plaint referring to the Hindu Women's Right to Property Act, 1937 [hereinafter referred to as '1937 Act'], put forth their arguments before Trial Court, claiming a share through the mother Tmt.Nallammal, who is entitled to get a share in the properties of her husband under the 1937 Act. Stating that the life estate to which Smt.Nallammal, mother of 1st plaintiff entitled to under 1937 Act, and that it would enlarge into her absolute right by virtue of Section 14[1] of the Hindu Succession Act, 1956 [hereinafter referred to as '1956 Act'], the plaintiffs claimed 2/5th share in all the suit properties.
- (10) The Trial Court held that Sengaliappa Gounder died long before the



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1937 Act, was extended to agricultural lands/properties in the State of Tamil Nadu. Therefore, it was held that the plaintiffs are not entitled to any share through the wife of Sengaliappa Gounder. The Trial Court also referred to the judgment of Federal Court in the case reported in *AIR 1941 FC 72 [In Re:Hindu, Women's Rights to Property Act, 1937]* and held that 1937 Act will not apply to agricultural lands. Since 1937 Act was extended to agricultural lands only after the death of Sengaliappa Gounder. The Trial Court referred to Section 3 of Act 26 of 1947 extending 1937 Act [Central] to agricultural lands which specifically state that the Act shall not apply to any Hindu dying intestate before 26.11.1946. The Trial Court, of course referred to several judgments relied upon by the learned counsels appearing on either side and held that the plaintiffs are not entitled to any share in any of the suit properties.

- (11) On the question of possession, the Trial Court specifically held that the suit properties devolved on the two sons of Sengaliappa Gounder by name Subbaiah Gounder and Krishnasamy Gounder. Since patta and all revenue records were mutated in favour of the



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two sons as seen from the documents filed by the defendants, the Trial Court held that the legal heirs of Subbaiah Gounder and Krishnasamy Gounder alone who are in possession and enjoyment of the suit properties right from the death of Sengaliappa Gounder in the year 1946 are entitled to the suit properties. Referring to several mortgages and lease and other transactions in relation to the suit properties by Krishnasamy Gounder and Subbaiah Gounder, the Trial Court held that the suit properties were in the absolute possession and enjoyment of the two sons namely Subbaiah Gounder and Krishnasamy Gounder. Finding that the wife of Sengaliappa Gounder by name Nallammal was never in possession of the properties and the suit proceeding were allowed to be enjoyed by Subbaiah Gounder and his brother Krishnasamy Gounder all along, the Trial Court specifically held that the plaintiffs have not established any right over the suit properties.

- (12) The Trial Court also found that one of the daughters of Subbaiah Gounder by name Santhamani who was impleaded as 5th defendant,



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is also entitled to a share after the death of Subbaiah Gounder. However, finding that the plaintiffs are not entitled to any share in the suit properties, the suit filed by the plaintiffs was dismissed in entirety. Aggrieved by the same, the plaintiffs have preferred the above appeal suit.

- (13) This Court heard Mrs.A.L.Gandhimathi, learned Senior counsel appearing for the appellants and Mr.A.K.Sriram, learned Senior Counsel appearing for respondents 3, 10 to 17 and also perused the materials placed.
- (14) Having regard to the submissions of the learned Senior counsels appearing on either side, this Court is required to frame the following points for determination:-

A) Whether the appellants/plaintiffs are entitled to claim right as the legal heirs of Smt.Nallammal, wife of late Thiru.Sengaliappa Gounder by virtue of the Hindu Women's Right to Property Act, 1937 and by virtue of Section 14 of the Hindu Succession Act, 1956?

B) Whether Hindu Women's Right to Property Act, 1937, is



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applicable to agricultural lands in the State of Tamil Nadu with retrospective effect from the date on which 1937 Act came into force even though the State Act came into force only with effect from 27.11.1946?

C) Whether Sengaliappa Gounder died before 27.11.1946?

D) To what relief the appellants are entitled to?

POINTS [A], [B], [C] & [D]:-

- (15) Learned Senior counsel appearing for the appellants submitted that Sengaliappa Gounder died after the commencement of Act 26 of 1947 and therefore, the plaintiffs are entitled to a share as legal heirs of Smt.Nallammal, wife of Sengaliappa Gounder. However, the learned Senior counsel appearing for the respondents 3, 10 to 17 relied upon the documents, namely, Exs.B11 and B12. Ex.B11 is a copy of the judgment made in OS.No.66/1948 on the file of the Sub Court, Coimbatore. Ex.B12 is the xerox copy of the Suit Register showing entries relating to OS.No.79/1946. From Ex.B11 it is seen that a suit in OS.No.66/1948 was filed by a 3rd party against Sengaliappa Gounder and the said suit was dismissed on



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15.11.1948. It is seen from the suit register that an application to implead the LRs of the deceased Sengaliappa Gounder was filed on 14.08.1946. Hence, the Trial Court came to the conclusion that Sengaliappa Gounder died before coming into force of the Tamil Nadu Act 26 of 1947, extending Hindu Women's Right to Property Act, 1937, to agricultural lands. It is admitted that 1937 Act confers equal right as that of son to the widow and she takes only life estate. However, the Federal Court, in the judgment reported in *AIR 1941 FC 72*, that 1937 Act, is not applicable to agricultural lands on the ground that the succession relating to agricultural lands falls in the List of Provincial Government. Though the amendment was introduced in the State of Tamil Nadu extending the application of 1937 Act to agricultural lands in the year 1947, it is admitted that the said amendment came into effect from 26.11.1946. Since the Act was extended to agricultural lands in the State of Tamil Nadu only with effect from 26.11.1946 and Sengaliappa Gounder died before 14.08.1946, learned Senior counsel appearing for respondents submitted that the Trial Court



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has rightly held against the appellants that they are not entitled to claim any right through their mother on the basis of 1937 Act.

- (16) Learned Senior counsel appearing for the appellants referring to the judgment in ***AIR 1941 FC 72*** contended that the Act has been made applicable even in respect of agricultural lands in the State of Andhra Pradesh and that the Hon'ble Supreme Court in the case of ***Vaijanath and Others Vs. Guramma and Another*** reported in ***1999 [1] SCC 292*** has held in categorical terms that property under the 1937 Act, would include agricultural property. The learned Senior counsel then relied upon the judgment of a Division Bench of this Court in the case of ***L.Bappu Ayyar and Another Vs. Ranganayaki @ Meenakshi Ammal and Others*** reported in ***1955 [2] MLJ 302 : AIR 1955 Mad 394*** and submitted that a Division Bench of this Court has categorically held that the Madras Act 26/1947 is retrospective in operation and therefore, 1937 Act, should be applied to agricultural lands with retrospective effect,

i.e., from the date of commencement of 1937 Act. This Court is



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unable to accept the arguments of the learned Senior counsel appearing for the appellants referring to the three judgments aforesaid.

- (17) Firstly, the Federal Court in the case reported in *AIR 1941 FC 72*, considered the issue whether the Hindu Women's Right to Property Act, 1937, can operate to regulate succession to agricultural lands. It has been held that the subject of devolution by survivorship for properties other than agricultural lands alone is included in the entries in 7th Schedule to Government of India Act, 1935 and the Act cannot be made applicable to agricultural lands.
- (18) The Hon'ble Supreme Court, in *Vaijanath's case [cited supra]* reported in *1999 [1] SCC 292*, dealt with the 1937 Act as applicable to Hyderabad. It was brought to the notice of the Hon'ble Supreme Court that under the Hyderabad [Application of Central Acts] Act, 1952, 1937 Act was made applicable to the State of Andhra Pradesh with effect from 22.07.1953 long before the death of male Hindu in July 1954. The Hon'ble Supreme Court held that by virtue of the State enactment in 1952, 1937 Act came into



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force with effect from 22.07.1953, irrespective of extension of 1937 Act, to agricultural lands by virtue of Hyderabad Hindu Women's Right to Property [Extension to Agricultural Lands] Act, 1954, which was published in the Gazette and came into force only from 22.11.1954.. It was in the factual context, the Hon'ble Supreme Court held that the ratio of Federal Court judgment in *AIR 1941 FC 72* would not apply to the case where the male member died after 22.07.1953.

- (19) Similarly, the judgment relied upon by the learned Senior counsel appearing for the appellants in *Bappu Ayyar's case [cited supra]*, this Court finds that the judgment of the Division Bench, has in fact clarified the position. The case dealt with by the Division Bench of this Court is different from the present case. In the said case, death of one Subbaraya Iyer on 24.08.1947 is a crucial fact which was considered by the Division Bench. The Division Bench of this Court has approved the views expressed by the Federal Court in the case reported *AIR 1941 FC 72* to the effect that the Central Legislature namely the Hindu Women's Right to Property Act,



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1937, was not extended to agricultural lands till it was extended by the State amendment which was in the year 1947. It is admitted that the State Act was published in the Government Gazette on 26.11.1947. However, it was concluded therein that the father died on 14.08.1946 even before the extension of 1937 Act to agricultural properties with effect from 26.11.1946.. From the State Amendment, it is seen that the term 'property' in the Central Act [Hindu Women's Right to Property Act] shall include agricultural lands. The Division Bench accepted the position that Section 3 of Madras Act 26 of 1947, would clearly indicate that the Act cannot be applied if the male Hindu owner die before 26.11.1946 leaving behind the widow and that the Act can be made applicable only when male member die after the commencement of the Act, i.e., 26.11.1946. It is clarified that the Madras Act 20 of 1947 will come into force retrospectively from 26.11.1946. The retrospectivity is therefore, only from 26.11.1946 and not with effect from 1937 as contended by the learned Senior counsel for the appellants.



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(20) The following passage from the said judgment will throw more light in understanding the ratio decidendi and the actual interpretation given to Section 3 of Act 26 of 1947.

".....It is not as if the point which we have to consider now is bereft of authority. In Appeal No. 165 of 1949 Satyanarayana Rao and Balakrishna Iyer, JJ. had to consider the retrospective operation of the statute. What they stated is as follows:

“The next question is whether the Act is retrospective. In our opinion, the language of S. 3 is clear in this respect for it says that “nothing contained in this Act shall apply to property of any Hindu dying intestate before the 26th of November 1946,” thereby implying that if a person died intestate after that date, the Act would apply notwithstanding that the Act came into force only after the institution of the suit, the language of the Act by necessary implication extends the provisions of the two Central Acts to agricultural lands in the Province in such a manner as to take in cases of intestacy occurring after 26th November 1946.”



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This was followed by the learned Chief Justice and Venkatarama Ayyar, J. in Appeal No. 881 of 1950 and L.P.A. No. 206 of 1951. But Mr. Venkatasubramania Iyer argues that the points which he has raised before us regarding the prospective nature of the statute were not put forward before the two benches who decided the two cases referred to above, with such a wealth and prosperity of legal learning as he has done in the present case. We are afraid that such an argument cannot be countenanced since it seems to us that these two decisions did lay down the correct law and therefore we must follow them and despite the learned arguments of the learned Counsel we are not inclined to hold that the Act is only prospective and not retrospective in its operation."

- (21) This Court is able to see that before Division Bench, the death of male member was on 24.08.1947. Since the State Act came into force even prior i.e., with effect from 26.11.1946, it was held that widow is entitled to right under 1937 Act.
- (22) This Court has to accept the date of death of Sengaliappa Gounder before 14.08.1946. There is no dispute with regard to the fact that



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the State Amendment came into effect from 26.11.1946. Therefore, the State Act extending 1937 Act, to agricultural lands cannot give right to the widow in the present case where the succession opened long before the Act came into force.

- (23) Learned Senior counsel appearing for the appellants relied upon the judgment of the Hon'ble Supreme Court in ***Babu Ram Vs. Santokh Singh [deceased] through his LRs and Others*** reported in **2019 [14] SCC 162**. The relevant portion of the judgment is extracted below:-

"13. The first case wherein scope of Section 22 was considered, was Laxmi Debi v. Surendra Kumar Panda [Laxmi Debi v. Surendra Kumar Panda, AIR 1957 Ori 1 : (1956) 22 Cut LT 466] by the High Court of Orissa. The submission that Section 22 of the Act would not cover succession in respect of agricultural lands was rejected. The contention on the strength of judgment of the Federal Court [Hindu Women's Rights to Property Act, 1937, In re, 1941 SCC OnLine FC 3 : (1941) 3 FCR 12 : AIR 1941 FC 72] was also negated as under: (Laxmi Debi case [Laxmi Debi v. Surendra Kumar Panda, AIR



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1957 Ori 1 : (1956) 22 Cut LT 466] , AIR pp. 4-5,
para 14)

“14. Mr Jena further contended that the Act, even if applies retrospectively, will not apply to agricultural lands, and for this he relies upon the Federal Court decision in Hindu Women's Rights to Property Act, 1937, In re [Hindu Women's Rights to Property Act, 1937, In re, 1941 SCC OnLine FC 3 : (1941) 3 FCR 12 : AIR 1941 FC 72] . That was a case which came up for decision by the Federal Court on a reference made by His Excellency the Governor-General of India.

Gwyer, C.J., who delivered the judgment of the Court held that the Hindu Women's Rights to Property Act of 1937, and the Hindu Women's Rights to Property (Amendment) Act of 1938, do not operate to regulate succession to agricultural land in the Governors' Provinces; and do operate to regulate devolution by survivorship of property to other than agricultural lands.

This decision, in view of the changed position



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in law, no longer holds good. The Federal Court decision was based upon the law of legislative competency as it then stood, by the Government of India Act, 1935. In Schedule 7, Government of India Act, 1935, this subject appears in the Concurrent Legislative List (List III) as Item 7. Item 7 was in the following terms:

‘7. Wills, intestacy; and succession, save as regards agricultural land.’

Now under the present Constitution of India the same subject has been dealt with in the Concurrent List (List III) in Schedule 7 as Item 5. Item 5 runs as follows:

‘Marriage and divorce; infants and minors; adoption; wills, intestacy and succession, joint family and partition, all matters in respect of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal law.’

It is clear that Parliament had omitted the phrase



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“save as regards agricultural land” from Item 5 of the Concurrent List in order to have a uniform personal law for Hindus throughout India, and accordingly, it necessitated the enlargement of Entry 5. We have no doubt, therefore, that in view of the change in law, the Act will apply to agricultural lands also, and the decision in Hindu Women's Rights to Property Act, 1937, In re [Hindu Women's Rights to Property Act, 1937, In re, 1941 SCC OnLine FC 3 : (1941) 3 FCR 12 : AIR 1941 FC 72] would no longer hold good.”

- (24) The Hon'ble Supreme Court, in the above judgment considered the scope of Section 22 of Hindu Succession Act which is held applicable to all lands including agricultural lands as the provision fall under Item 5 of Concurrent List. It was therefore held that the decision of Federal Court under 1937 Act, would no longer hold good in view of the change in law. This judgment would not lend any support to the arguments of learned Senior counsel appearing for appellants. This Court is in agreement with the learned Senior counsel appearing for the respondents that the State Amendment



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will not render any assistance to the appellants on the admitted facts. Learned Senior Counsel appearing for the respondents also relied upon the judgment of the Hon'ble Supreme Court in the case of ***Chinthamani Ammal Vs. Nandagopal Gounder and Another*** reported in **2007 [4] SCC 163**, wherein it is held as follows:-

"12. The legal position that the appellant herein could not claim any right, title and interest, whether in terms of the provisions of the Hindu Women's Rights to Property Act, 1937 or as a successor of the said Kesava Gounder, if the joint status was not severed, is not in dispute. The Hindu Women's Rights to Property Act was not applicable in relation to agricultural land. The State of Madras made an amendment in that behalf in the year 1947 whereafter, only a widow became entitled to claim limited ownership in the share of her husband. The mother of the appellant i.e. wife of the said Kesava Gounder, thus, did not derive any right, title and interest in the property of her husband in the year 1943, when he expired. Furthermore, admittedly, she left the family and married another person in the year 1945 and thus the question of her deriving any



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benefit in terms of the 1947 amendment also did not arise."

- (25) Since Item 5 of Concurrent List is now different and in order to have uniform Personal Law for Hindus throughout India, the scope of entry is enlarged to include any property. When law has changed with the State Act, Act 26 of 1947 it is not necessary for this Court to again deal with the position under our Constitution or after the advent of Hindu Succession Act, 1956.
- (26) In view of the discussions above, this Court is unable to find any force in any of the submissions of the learned Senior counsel for the appellants as this Court has held that 1937 Act, came into effect as regards agricultural property only after the death of Sengaliappa Gounder.
- (27) The Trial Court has elaborately considered and specifically held that two sons of Sengaliappa Gounder namely Subbaiah Gounder and Krishnasamy Gounder were in the exclusive possession and enjoyment of the suit properties right from the date of death of Sengaliappa Gounder and that the mother Nallammal had no right over the property.



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(28) Learned Senior counsel appearing for the appellants also made a submission that the mother Nallammal died in the year 1979 and she was holding the properties. In other words, it is submitted by the learned Senior counsel that one of the sons of Sengaliappa Gounder, i.e, Subbaiah Gounder died on 04.09.1968 and the other son by name Krishnasamy Gounder was a minor at the time when the father died in the year 1946. Stating that the mother Nallammal was in enjoyment of the property as a member of family, learned Senior counsel appearing for the appellants submitted that her possession would enlarge into absolute right by virtue of Section 14[1] of the Hindu Succession Act, 1956. This Court is unable to countenance the argument advanced by the learned Senior counsel appearing for the appellants for the simple reason that mother Nallammal though was alive and died in the year 1979, did not get any right to hold the property as a legal heir of Sengaliappa Gounder. The position reiterated by the Hon'ble Supreme Court and this Court with reference to Hindu Women's Right to Property Act, 1937 and the effect of the Hindu Succession Act, 1956, is that



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a widow though inherit the property of her husband by virtue of the Hindu Women's Right to Property Act, 1937, she gets only a limited right to enjoy the property during her life time. Only when the property is in possession of a widow under 1937 Act, the same may get enlarged into her absolute right by virtue of Section 14[1] of the Hindu Succession Act, 1956. However, a woman being in possession as a guardian of a minor or in any other capacity, will not acquire any right under Section 14[1] of Hindu Succession Act, 1956.

- (29) In view of the foregoing discussions and conclusions reached above, this Court finds no merit in the Appeal.
- (30) In the result, the Appeal Suit stands **dismissed** and judgment and decree dated 27.03.2015 made in OS.No.734/2011 on the file of the learned I Additional District Judge, Coimbatore, is confirmed. No costs.

[SSSRJ] [CKJ]

20.06.2023

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To

- 1.The I Additional District Judge
Coimbatore.
- 2.The Section Officer
VR Section, High Court
Chennai.



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S.S.SUNDAR, J.,
and
C.KUMARAPPAN, J.,

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