



WEB COPY



S.A.No.1284 of 20 --

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2023

CORAM

THE HON'BLE MR. JUSTICE V.LAKSHMINARAYANAN

**S.A.No.1284 of 2011 &
M.P.No.1 of 2011**

1. Kaliyannan

2. Chinnamuthu

... Appellants

Vs.

1. Varudhayee ammal

2. Papayee

3. Pavayee ammal

4. Ponnusamy

R.Periasamy

... Respondent

PRAYER: The Civil Revision Petition is filed under Section 100 of the Code of Civil Procedure praying to set aside the judgment and decree dated 28.04.2011 made in A.S.No.33 of 2007 on the file of the Sub Court, Namakkal confirming the Judgment and decree dated 30.11.2006 made in O.S.No.516 of 2001 on the file of the Additional District Munsif Court, Namakkal.

For Appellants : Mr.T.Dhanyakumar

For Respondents : No appearance



WEB COPY



S.A.No.1284 of 20 --

ORDER

This Second Appeal is filed to set aside the judgment and decree dated 28.04.2011 made in A.S.No.33 of 2007 on the file of the Sub Court, Namakkal confirming the judgment and decree dated 30.11.2006 made in O.S.No.516 of 2001 on the file of the Additional District Munsif Court, Namakkal.

2. The property belonged to one Sriranga Gounder. After the death of his first wife, he married one Sellayee Ammal. On 12.05.1954, Sriranga Gounder and his son Ramasamy Gounder, grand son Perumal Samy and daughters, Varudhayee Ammal, Pappayee and Pavayee Ammal executed a document of settlement in favour of Sellayee Ammal. After the settlement, the defendants' father (Rangasamy Gounder) purchased the property on 25.01.1958 from Ramasamy Gounder. On the death of Sellayammal, Perumalsamy, Varudhayee Ammal, Pappayee, Pavayee Ammal, presented a suit for declaration and injunction.

3. The case of the plaintiffs/respondents was that the property that had been vested as a limited estate in favour of Sellayee Ammal on coming into force the Hindu Succession Act on 17.06.1956 bloomed into her



absolute estate. The trial Court applying Section 14(1) decreed the suit.

Aggrieved by the same, the defendants preferred an appeal in A.S.No.33 of 2007. The said appeal was also dismissed. Against which, the present second appeal has been preferred.

4. Mr.T.Dhanyakumar, learned counsel appearing for the appellants would vehemently contend that the defendants have prescribed the title by adverse possession. He would also contend that the judgment in ***Kothi Satyanarayana v. Galla Sithayya and Others reported in (1986) 4 SCC 760*** what went to the Sellayee Ammal was only a limited estate and not absolute title. The relationship between the parties are admitted. Sellayee Ammal was the wife of the 1st settler, step mother of the 2nd settler and mother of the remaining settlers. She had a pre-existing right of maintenance from all the settlers, jointly and severally. Section 14(2) applies only where the grant is not in lieu of maintenance. Only if fresh right is conferred by the document in favour of Sellayee Ammal, then Section 14(2) would operate. Here is a case where Sellayee Ammal is admittedly the wife of Sriranga Gounder and it is the duty of the husband to maintain the wife during his life time. The Courts below have held that the claim of adverse possession



S.A.No.1284 of 20 --

has not been proved.

WEB COPY

5. I had gone through the document and I am satisfied that Section 14(1) alone applies and not Section 14(2) of the Act. No question of law, much less, any substantial question of law arises for consideration in this appeal. I am not able to accept any of the strenuous contentions of the learned counsel for the appellants.

6. Hence, the Second Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.03.2023

Index :Yes/No

kal

To

4/6



S.A.No.1284 of 20 --

1. The Sub Court,
Namakkal.

2. The Additional District Munsif Court,
Namakkal.

V.LAKSHMINARAYANAN,J

kal



WEB COPY



S.A.No.1284 of 20 --

**S.A.No.1284 of 2011 &
M.P.No.1 of 2011**

24.03.2023



WEB COPY



S.A.No.1284 of 20 --

01.04.2021