

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.08.2023

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

S.A(MD)No.497 of 2012

and

M.P(MD)No.1 of 2013

Meena

... Appellant

-vs-

- 1) Vidyalakshmi
- 2) Minor Padmavathi

- 3) The Tahsildar,
Periyakulam Town,
Periyakulam Taluk,
Theni District.

... Respondents

PRAYER: Second Appeal filed under Section 100 Code of Civil Procedure against the Judgment and Decree dated 30.09.2011 made in A.S.No.14 of 2011 on the file of the Principal District Court, Theni confirming the Judgment and Decree dated 08.02.2011 made in O.S.No. 45 of 2009 on the file of the Sub Judge, Periyakulam.

For Appellants ... Mr.A.Arumugam for
M/s Ajmal Associates

For Respondents ... Mr.K.Kumaravel (for R1 and R2)
Mr.A.Baskaran
Addl. Govt. Pleader (for R3)

JUDGMENT

The first respondent/first plaintiff is the wife and the second respondent/second plaintiff is the daughter of one Ramasubramanian. The appellant/first defendant is the mother of the said Ramasubramanian. The said Ramasubramanian is a drunkard. However, suppressing the same, marriage was solemnised on 14.02.2003 between the said Ramasubramanian and the first respondent/first plaintiff by their parents. Out of their wedlock, the second respondent/second plaintiff was born on 25.12.2003. While so, on 16.10.2005, the said Ramasubramanian died. Since a suspect has been arose in his death, his father gave a complaint. Based on the said complaint, murder case has been registered against the first respondent/first plaintiff, the wife of the deceased.

2. At this juncture, the respondents 1 and 2/ plaintiffs have filed the suit in O.S.No.45 of 2009 on the file of the Sub Judge, Periyakulam seeking the relief of declaration declaring that the respondents 1 and 2/plaintiffs and the appellant/first defendant are the legal heirs of the deceased Ramasubramanian, S/o Late Kamatchi Pillai. The said suit was decreed. As against which, the appellant/first defendant filed the appeal

in A.S.No.14 of 2011 on the file of the Principal District Court, Theni. The said appeal was also dismissed. Hence, the appellant/first defendant filed the present second appeal.

3. The learned counsel appearing for the appellant/first defendant would submit that in the criminal case, the trial Court acquitted the first respondent/first plaintiff and the criminal appeal has also been dismissed in favour of her. Hence, the learned counsel would submit that the Judgment and Decree passed by the trial Court, which was confirmed by the first appellate Court, may be confirmed.

4.The learned counsel appearing for the respondents 1 and 2/plaintiffs would submit that the respondents 1 and 2 filed a suit for partition.

5.This second appeal is pending from the year 2012 under the caption for 'Notice of Motion'. For the past 11 years, this second appeal is not admitted and no substantial question of law is framed. Therefore, in view of the submission of both the learned counsel, this Court is of the view that there is no necessity to frame any substantial question of law.

Hence, this second appeal is **dismissed**. As submitted by the learned counsel for the respondents 1 and 2/plaintiffs, if any suit is filed, the same shall be decided in a manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

16.08.2023

NCC : Yes/No

Index : Yes/No

Internet: Yes

skn

To:

1.The Principal District Court, Theni

2.The Sub Judge, Periyakulam.

3.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

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KRISHNAN RAMASAMY, J.

skn

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