



S.A. No.640 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

S.A. No.640 of 2024
and
C.M.P.No. 20519 of 2024

Aruchamy

... Appellant

Vs.

1. Subbannan

2. Palaniammal

3. Lakshmi

4. Periyannayagi

5. Bhagyam

.. Respondents

PRAYER : Second Appeal filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree passed in A.S.No.112 of 2013 on the file of V Addl. District Judge, Coimbatore dated 28.06.2022 confirming the judgment and decree dated 06.07.2013 passed in



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O.S.No.585 of 1999 on the file of I Addl. Subordinate Court, Coimbatore.

For Appellant : Mr.K.Magesh

JUDGMENT

The appellant, who is 1st defendant in the suit in O.S.No.585 of 1999, which was filed by the 1st respondent/plaintiff seeking for the relief of partition claiming 7/18 share and the same was partly allowed by allotting 6 equal shares. Against which, he preferred an appeal in A.S.No.112 of 2013 on the file of V Addl. District Judge, Coimbatore and the same was also dismissed confirming the findings of the trial court. Now, challenging the concurrent findings of courts below, the 1st defendant preferred this Second Appeal.

2. Heard the contentions of learned counsel for appellant and perused the materials available on record.

3. Before the trial court, the 1st defendant pleads that already oral partition was effected, but it was not proved. Therefore, the claim of oral partition made by the 1st defendant/appellant was denied by the courts below. According to plaintiff, the properties are self-acquired properties of their parents, in which, the 1st defendant claiming 1/6th share. Before the trial court, the plaintiff not proved that the properties are purchased by their



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parents by production of sale deeds and it is a self-acquired properties of Samy Gounder and Ramathal. Since the oral partition is failed, all the legal heirs are entitled to 1/6th share, which was rightly concluded by the courts below, which needs no interference. Therefore, the share allotted to the plaintiff granting 1/6th share is sustainable one, which needs no interference. Hence, I do not find any merit in this Second Appeal as there is no substantial question of law involved. Accordingly, this Second Appeal is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

19.09.2024

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
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To

V Addl. District Judge, Coimbatore.

T.V.THAMILSELVI, J.



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