



S.A.No.529 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :25.09.2024

CORAM:

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

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1.Nallammal (Died on 20.02.2008)
2. Ramasamy
3. Smt.Manikandeeswari
4.Smt.Jothimani
5.Sasthamani
(Appellants 2 to 5 are L.R's of deceased 1st appellant) .. Appellants

Vs.

1. Soundararajan
2. Mylathal(Died)
3. Padmavathy
4. Baby
5. Nanjappan @ Dhayalan
6. Lakshmi
7. Chinnathai
8.Ramasamy Naidu (Exonerated) .. Respondents

PRAYER : Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgement and decree dated 29.06.2007 pronounced/passed by the learned Sub-Ordinate Judge, Pollachi in A.S.No.24 of 2006, confirming the judgment and decree of the learned District Munsif, Pollachi dated 16.08.2005 passed in O.S.No.276 of 2000 by allowing this second appeal.

For Appellants : M/s.S.Vennila



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J U D G M E N T

The appellants have filed this appeal seeking to set aside the judgment and decree dated 29.06.2007, passed by the learned Subordinate Judge, Pollachi, in A.S.No.24 of 2006, which confirmed the judgment and decree of the learned District Munsif, Pollachi, dated 16.08.2005, in O.S.No.276 of 2000.

2. The matter was previously heard and referred to mediation, as both parties are siblings. However, the appellants, who are the legal heirs of plaintiff, are not willing to proceed with mediation. Challenging the concurrent findings of the courts below, the appellants have filed this second appeal.

3. In the trial court, the plaintiff filed a suit seeking partition but failed to prove that the properties were either self-acquired or joint family properties. Additionally, the plaintiff did not establish that the properties were in joint possession. Consequently, the suit was dismissed. A first appeal was filed against this dismissal, which was also subsequently dismissed. Nearly ten years later, this second appeal has been filed, challenging the concurrent findings.



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4. During the trial, the plaintiff acknowledged purchasing some of the properties from the defendants, which was duly appreciated by the courts below. Furthermore, Exhibit B3, a settlement deed, was executed in favour of the plaintiff by her father. The plaintiff has already admitted to this deed, and there is no evidence to suggest that the properties in question are joint family properties.

5. I find no merit in this appeal, as there is no substantial question of law. The properties in question are self-acquired properties of the respondents/defendants, and therefore, this court is not inclined to admit the appeal. The findings of the lower courts are hereby confirmed.

6. Accordingly, this second appeal is dismissed as devoid of merits. There shall be no order as to costs.

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Index : Yes/No
Speaking Order: Yes/No
Neutral citation: Yes/No
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T.V.THAMILSELVI, J.

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To

1. The Sub-Ordinate Judge, Pollachi.
2. The District Munsif, Pollachi.
3. The Section Officer, VR Section,
High Court of Madras.

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