



S.A.(MD)No.1182 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2024

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

S.A.(MD)No.1182 of 2009
and M.P.(MD)No.1 of 2009

- 1.Subbulakshmi
- 2.Rajaparameswaran
- 3.Banu @ Parvathi
- 4.Selvakumar

... Appellants

Vs

- 1.Sundarammal
- 2.The Secretary,
Tamil Nadu Electricity Board,
800 Anna Salai, Chennai.
- 3.The Chairman,
Tamil Nadu Electricity Board,
800 Anna Salai, Chennai.
- 4.The Chief Engineer (Distribution),
Tamil Nadu Electricity Board,
Tirunelveli.

... Respondents

PRAYER: Second Appeal filed under Section 100 of C.P.C., against the judgment and decree in A.S.No.17 of 2008 on the file of Subordinate Court, Srivilliputtur dated 14.08.2009 confirming the judgment and decree in O.S.No.406 of 2005 dated 27.08.2007 on the file of the Principal District Munsif Court, Srivilliputtur.



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For Appellants : Mr.T.S.Mohamed Mohideen
For Respondents : Mr.S.Venkatesh for R1
No Appearance for R2 to R4

JUDGMENT

The defendants 1 to 4 in the suit are the appellants. The first respondent herein filed a suit for declaration that she was one of the heirs of the deceased Poothanayagam along with defendants 1 to 4 and for consequential injunction restraining the official defendants 5 to 7 from disbursing the entire death benefits of Poothanayagam to defendants 1 to 4. The suit was decreed by the trial Court and the findings of the trial Court were affirmed by the first appellate Court. Aggrieved by the concurrent findings, the defendants 1 to 4 have come by way of this Second Appeal.

2. The appellants/defendants 1 to 4 are the wife and children of the deceased Poothanayagam. The first respondent/plaintiff is mother of Poothanayagam. She filed a suit claiming that she is entitled to 1/5th share after death of Poothanayagam in her capacity as class-I legal heir along with defendants 1 to 4. It was her case that after the death of Poothanayagam, defendants 1 to 4 attempted to withdraw the entire death



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benefits from the defendants 5 and 6 and therefore, she was constrained to file a suit for declaration and injunction.

3. The defendants 1 to 4 filed a written statement and resisted the suit on the ground that the deceased Poothanayagam, who served as a Superintending Engineer in Tamil Nadu Electricity Board, died while he was in service and as per the rules relating to the disbursal of gratuity, provident fund and family pension, the defendants 1 to 4 alone were entitled to receive the death benefit and the plaintiff/mother was not entitled to any share. It was also claimed by the defendants 1 to 4 that even before the death of Poothanayagam, there was misunderstanding between the plaintiff and the defendants' family and therefore, they got separated. It was asserted by the defendants that the plaintiff had no right to claim 1/5th share in the death and other terminal benefits of the deceased Poothanayagam and hence, sought for dismissal of the suit.

4. Before the trial Court, the plaintiff was examined as P.W.1 and three documents were marked as Ex.A1 to Ex.A3 on behalf of the plaintiff. The second defendant was examined as D.W.1 and yet another witness was examined as D.W.2. On behalf of the defendants, three



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documents were marked as Ex.B1 to Ex.B3.

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5. The trial Court, on appreciation of oral and documentary evidence available on record, came to the conclusion that after the death of deceased Poothanayagam, his mother as class-I heir was entitled to equal share along with her daughter-in-law and grandchildren and hence, decreed the suit as prayed for. Aggrieved by the same, the defendants 1 to 4 preferred an appeal in A.S.No.17 of 2008 on the file of Sub-Court, Srivilliputtur. The first appellate Court affirmed the findings of the trial Court. Aggrieved by the concurrent findings, the defendants 1 to 4 are before this Court.

6. The learned counsel for the appellants by relying on Rule 48 of the Tamil Nadu Pension Rules, 1978, submits that the Government servant is entitled to nominate any member of his family as a person entitled to receive the benefit after the death and based on the nomination made by the deceased, the Officials of the respective Department are entitled to disburse the amount. In the case on hand, the deceased Poothanayagam nominated his wife viz., the first defendant as a nominee to receive the death benefits and therefore, there may not be any impediment for the official defendants to disburse the benefits to the



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defendants 1 to 4.

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7. It is settled law, merely because a person is nominated by the Government servant to receive the death benefit, he will not become the sole heir of the deceased employee. The nominee is entitled to receive the benefits not only for his or her benefit but also for the benefit of the other legal heirs of the deceased. The nominee is only as a trustee entitled to receive the benefit on behalf of the heirs of the deceased. Therefore, merely because one of the heir is nominated as a person entitled to receive the benefit, after the death of the deceased employee, the nominee cannot claim himself as a sole heir of the deceased. The Courts below by rightly relying on Section 8 of the The Hindu Succession Act, 1956, dealing with intestate succession, came to the conclusion that the first respondent/plaintiff as a class-I legal heir was entitled to 1/5th share in the estate of the deceased along with the defendants 1 to 4. Accordingly, a declaration was granted as prayed for. The trial Court also granted an injunction restraining the official defendants from disbursing 1/5th share of the amount pertaining to the death benefits of the deceased Poothanayagam in favour of the defendants 1 to 4.



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8. In view of the above, the judgment and decree passed by the Courts below are in accordance with law and I do not find any substantial question of law to interfere with the findings rendered by the Courts below. Accordingly, the Second Appeal is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

30.07.2024

NCC : Yes / No

Index : Yes / No

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To



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- 1.The Subordinate Judge, Srivilliputtur.
- 2.The Principal District Munsif Court, Srivilliputtur.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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