



S.A.(MD).No.541 of 2024

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THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.09.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE B.PUGALENDHI**

S.A.(MD).No.541 of 2024

Muthu

... Petitioner

Vs

1. Subramanian (Died)

2. Vadivelu

3. Kaliasammal

4. Vadivukarasi

5. Kasthuri

6. Kannaki

... Respondents

**(*Respondents
3 to 6 are Brought On Record as LRs of
the Deceased first respondent
vide order dated 30.03.2022
in C.M.P(MD)No.1625/2022 in
S.A(MD)SR.No.12581/2020.)**



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PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code set aside the judgment and decree, dated 01.08.2018 made in A.S No.6 of 2016, on the file of the Subordinate Judge, Ramanathapuram, confirming the Judgment and Decree dated 20.07.2011 made in O.S.No. 20 of 2007 on the file of the District Munsif cum Judicial Magistrate, Thiruvadanai.

For Appellant : Mr.PT.S.Narendravasan,

For R4 to R6 : Mr.S.Muniyandi

JUDGMENT

The plaintiff has filed this second appeal as against the concurrent findings of the Courts below.

2.The plaintiff has filed the suit for the relief of declaration and



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injunction for the suit schedule property in S.No.85/2 σ to an extent of 2.2 acres.

3.The case of the plaintiff is that he is the only son of Chinnaya Servai. The property in S.No.85/2 σ is the property of Chinnaya Servai and therefore, it has to be conferred only on him. However, a joint patta has been recorded in the revenue records in the name of the first defendant/Subramanian. According to the plaintiff, the said Subramanian is the son born to his mother through another person namely, Ramalinga Servai. Therefore, the first defendant is not the son of Chinnaya Servai, but he was born to Nacharammal/mother of the appellant.

4.Before the trial Court, the plaintiff has examined himself as P.W. 1 and marked the documents as Ex.A.1 to Ex.A.8. After considering the oral and documentary evidence, the trial Court has dismissed the suit by observing that the first defendant is the son of the plaintiff's parents. As against which, the plaintiff has preferred an appeal suit before the learned



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Subordinate Judge, Ramanathapuram, in A.S No.6 of 2016. The lower appellate Court has also confirmed the judgment and decree passed by the trial Court. Therefore, the plaintiff/appellant has filed the present second appeal.

5.This Court has considered the rival submissions made and perused the materials available on record.

6.The trial Court has considered the documents Ex.B9 and Ex.B10, which are registered documents executed by the said Nacharammal mentioning the first defendant as son of Chinnaya Servai. Apart from that the marriage invitation and identity cards were taken into consideration by the trial Court to arrive at the conclusion that the first defendant is the son of Chinnaya Servai. The defendants have also relied on the partition deed arrived at between the plaintiff and the first defendant in the year 1973. Pursuant to which, patta for the subject property was also transferred in the name of the first defendant and he has also constructed a house and the tax receipts Ex.B3 (series) were also



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placed before the trial Court.

7.In view of the above discussion this Court does not find any reason to interfere with the judgments of the Courts below. Therefore, this Court is not inclined to entertain the second appeal. Accordingly, this second appeal stands dismissed. No costs.

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Internet :Yes
Index :Yes/No
NCC : Yes/No
LR

TO:

1.The Subordinate Judge,
Ramanathapuram.

2.The District Munsif cum Judicial Magistrate,
Thiruvadanai..

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



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B.PUGALENDHI, J.

LR

Judgment made in
S.A.(MD)No.541 of 2024

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