



S.A.(MD).No.146 & 395 of 2023

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.03.2024**

CORAM:

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

S.A.(MD).No.146 and 395 of 2023

S.A.(MD).No.146 of 2023:

1.Anthoniyammal
2.Lakshmi
3.Sudha

... Appellants

/Vs./

1.Jeyalakshmi
2.Nambirajan
3.Rajeshkumar

4.The Deputy Traffic Manager,
Cargo Undling Division,
V.O.Chidambaranar Port Trust,
Thoothukudi.

5.The Manager,
LIC of India,
D.No.58, Beach Road,
Thoothukudi Taluk,
Thoothukudi District.

6.Saraswathy

...Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree dated 22.01.2021 passed by the Sub-Court,



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Thoothukudi, in A.S.No.29 of 2017, confirming the judgment and decree, dated 22.12.2016, passed by the Additional District Munsif Court, Thoothukudi in O.S.No.346 of 2013.

For Appellant : Mr.P.Edin Brough
For R4 : Mr.N.Dilipkumar
For R5 : Mr.C.Godwin

S.A.(MD).No.395 of 2023:

1.Anthoniyammal
2.Lakshmi
3.Sudha

... Appellants

/Vs./

1.Jeyalakshmi
2.Nambirajan
3.Rajeshkumar

4.The Deputy Traffic Manager,
Cargo Undling Division,
V.O.Chidambaranar Port Trust,
Thoothukudi.

5.The Manager,
LIC of India,
D.No.58, Beach Road,
Thoothukudi Taluk,
Thoothukudi District.

6.Saraswathy

...Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the Judgment and decree dated 22.01.2021 passed by the Sub-Court, Thoothukudi, in A.S.No.28 of 2017, confirming the judgment and decree, dated



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22.12.2016, passed by the Additional District Munsif Court, Thoothukudi in O.S.No.346 of 2013.

For Appellant : Mr.P.Edin Brough
For R3 & R6 : Mr.A.K.Gopalan
For R4 : Mr.N.Dilipkumar
For R5 : Mr.Mr.C.Godwin

COMMON JUDGMENT

The second appeal is preferred by the defendants 3 to 5 in the suit. The plaintiffs have filed the suit to declare the plaintiffs are entitled to receive $\frac{3}{4}$ th of the share in the death benefits of the deceased Azhagarsami and restrain the first defendant by way of permanent injunction from tendering the death benefits of the said Azhagarsami. The said suit was allowed. Aggrieved over the same, the defendants 3 to 5 preferred an appeal and the same was dismissed. Aggrieved over the same, the present second appeal is preferred.

2. The contention of the appellant is that the first appellant is the second wife of the deceased Azhagarsami and the appellants 2 and 3 are daughters born out of the wedlock. But the Lower Appellate Court had rendered a specific finding based on the deposition of the deceased Azhagarsami that he had not married the first appellant at all, but they had relationship. The appellants have not



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raised any acceptable ground to set aside the said finding.

3. Hence, this Court is not inclined to interfere with the concurrent judgment. The judgment and decree of both the Courts are confirmed. It is made clear that the three plaintiffs namely Jeyalakshmi, Nambirajan and Rajeshkumar and the defendants 4, 5 and 6 namely Lakshmi, Sudha and Saraswathi are the legal heirs of the deceased Azhagarsami and they are entitled to equal share in terminal benefits.

4. With the above said observation, the second appeals are dismissed. No costs.

06.03.2024

Index : Yes / No
NCC : Yes / No

Tmg



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TO:
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1. The Sub-Court,
Thoothukudi.
2. The Additional District Munsif Court,
Thoothukudi.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

Tmg

Judgment made in
S.A.(MD)No.146 & 395 of 2023

Dated:
06.03.2024