

A.S.No.55 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 28.01.2025

CORAM

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

A.S.No.55 of 2019

1.Vasuki
2.Janagi

...appellants

Vs

1.Ramasamy
2.Kolanji
3.Manikandan
4.G.Panjalai
5.Pazhanivel
6.Jayakumar
7.Kamaraj

... Respondents

PRAYER: Appeal Suit filed Under Section 96 of the Civil Procedure Code, against the Judgment and decree dated 19.11.2018 made in O.S.No.12 of 2017 on the file of the learned Additional District Judge, Ariyalur.

For Appellants	: Mr.K.Chandrasekaran
For R2	: Mr.S.Kamadevan
For R4	: Mr.P.Valliappan, Senior Counsel for M/s.P.V.Law Associates



A.S.No.55 of 2019

WEB COPY

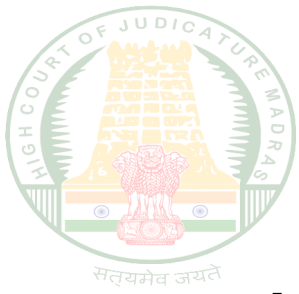
JUDGMENT

The appellants has filed this appeal against the Judgment and decree dated 19.11.2018 made in O.S.No.12 of 2017 on the file of the learned Additional District Judge, Ariyalur.

2. Both side parties appeared, but settlement not arrived.

3. For the sake of convenience, the parties herein are referred to as they were ranked in the original suit.

4. Challenging the findings of the learned trial Judge, the plaintiffs have preferred this appeal. Before the trial Court, they demanded 1/5th share in the suit properties from their father (1st defendant) and their brother (3rd defendant). The 2nd defendant is the daughter born to the 1st defendant through his first wife, while the plaintiffs and the 3rd defendant were born to the 1st defendant through his second wife.

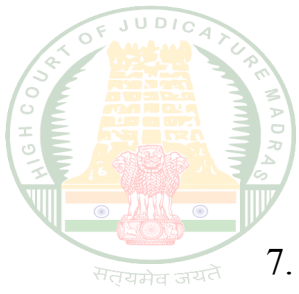


A.S.No.55 of 2019

WEB COPY

5. During the subsistence of the 1st marriage, the 1st defendant entered into a second marriage. These relationships are admitted by the parties. According to the plaintiffs, the suit properties originally belonged to Chinnasamy Konar, the father of the 1st defendant. All the plaintiffs and defendants 1 to 3 were enjoying the suit properties as joint family properties. However, the 1st defendant executed a gift deed in favour of his daughter (the 2nd defendant) born through his first wife on 16.11.2011, and subsequently, he executed another settlement deed in favour of the 3rd defendant on 11.10.2012. Thus, the entire suit properties were settled in favour of defendants 2 and 3.

6. The plaintiffs contended that the suit properties are joint family properties. Therefore, the 1st defendant had no right to execute the settlement deeds without effecting a proper partition. Hence, they filed the suit for partition.



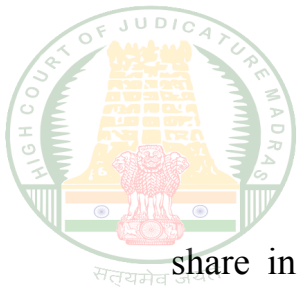
A.S.No.55 of 2019

7. The 1st defendant remained ex parte. The 2nd defendant contested the suit, asserting that the plaintiffs' mother, Annammal, had developed a relationship with the 1st defendant during the subsistence of his lawful marriage with his first wife. Consequently, the plaintiffs, being children born to Annammal, are illegitimate and are not entitled to claim any share in the suit properties. It was further contended that no demand for partition was ever made by the plaintiffs. Defendants 4 and 6 are subsequent purchasers of portions of the property from the 2nd defendant.

8. Upon considering submissions from both sides, the learned trial Judge framed the following prime issues:

- "(i) Whether the plaintiffs are entitled to claim a share in the suit properties?
- (ii) Whether the plaintiffs are illegitimate children?"

9. The facts reveal that during the subsistence of his first marriage with Pitchaiammal, the 1st defendant developed an intimate relationship with Annammal and begot the plaintiffs and the 3rd defendant. Therefore, the plaintiffs, being illegitimate children of the 1st defendant, claimed a



A.S.No.55 of 2019

share in the suit properties, asserting that they are ancestral joint family properties.

10. It is well-settled law that illegitimate children are not entitled to a share in ancestral or joint family properties. At the most, they can seek a share in the self-acquired properties of their father, but only after his demise.

11. In the present case, the facts clearly show that the properties originally belonged to the 1st defendant's father, were enjoyed by the 1st defendant, and were settled during his lifetime through two settlement deeds—one in favour of his daughter born through his first wife and the other in favour of his son born through his second wife. During the pendency of the proceedings, the 1st defendant passed away. Therefore, as of the date of his death, the 1st defendant held no right or title over the suit properties.

12. To support their contention, the learned counsel for the appellants



A.S.No.55 of 2019

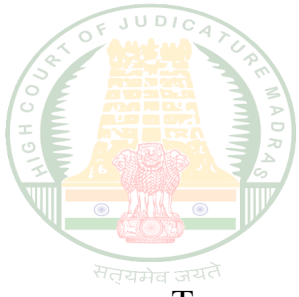
relied upon various legal authorities. However, in the present case, the 1st defendant had already settled the properties during his lifetime, and therefore, at the time of his death, he had no remaining interest in the suit properties. Consequently, the illegitimate children (plaintiffs) cannot claim a share in the suit properties through the 1st defendant.

13. The trial Court has rightly arrived at this conclusion, which warrants no interference. If there are any other properties, apart from the suit properties, left behind by the 1st defendant after his death, the plaintiffs are entitled to seek remedies before the appropriate Court of law, as per the procedure known to law.

14. Accordingly, this appeal suit is dismissed. There shall be no order as to costs.

28.01.2025

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non Speaking order
rri



A.S.No.55 of 2019

To
WEB COPY

1. The Additional District Judge, Ariyalur.
2. The Section Officer, VR Section, High Court of Madras.

T.V.THAMILSELVI, J.



WEB COPY



A.S.No.55 of 2019

rii

A.S.No.55 of 2019

28.01.2025