



S.A. No. 1044 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

S.A. No. 1044 of 2009

V.Kamadhenu

...

Appellant

Vs.

1.V.Arumugam

2.V.Amirtham

3.N.Bhaskar

4.The Kancheepuram Central Co-operative Bank Ltd.

Represented by its Manager

Kancheepuram.

5.S.Krishnaveni

6.J.Saradha

7.S.Vijayan

8.S.Sankar

9.S.Thulasi

...

Respondents

This Second Appeal has been filed under Section 100 of Code of Civil Procedure praying to allow the Second Appeal by setting aside the judgment and decree dated 31.10.2008 made in A.S. No. 6 of 2008 on the file of the Subordinate Judge, Kanchipuram confirming the judgment and decree dated 02.08.2007 made in O.S. No. 210 of 2004 on the file of the Court of Additional District Munsiff, Kanchipuram.



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For Appellant : M/s.S.V.K.Thampi

For Respondents : M/s.Ramalingam & Associates
(R1, R2 & R7)
M/s.P.T.Ramadevi (R5, R6, R8 & R9)
M/s.G.Thilakavathi (R4)

J U D G E M E N T

There is no representation on behalf of the appellant today. On 12.06.2025, this Court had noted as follows:-

“ No representation for the appellant. The appeal has not yet been admitted. The suit has been filed seeking partition and separate possession of the properties which according to the plaintiff belonged to the father and he died intestate. However, the defendants marked the Will as Ex.B1. One of the attesting witnesses was examined as D.W.3.

2. The suit has been dismissed and the first appeal filed by the plaintiff was also dismissed. No representation for the appellant. List the matter on 19.07.2025, when, the matter would be examined on merits to determine whether any substantial question of law arises for consideration and whether the appeal merits admission.”



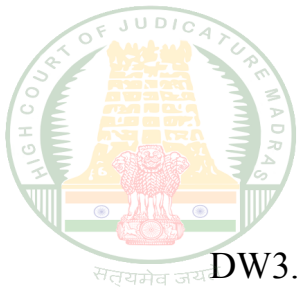
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2. The plaintiff in O.S. No. 210 of 2004 on the file of the Additional District Munsif, Kanchipuram, is the appellant herein. The said suit has been filed for partition and for separate possession of the property, which the plaintiff claimed belonged to his father and that his father died intestate.

3. However, the defendant marked a Will as Ex.B1. One of the attesting witnesses of the Will was examined as DW2 and the scribe of the Will was examined as DW3. Since the Will had been proved in the manner known to law, the suit was dismissed by judgment dated 02.08.2007 by the Additional District Munsif at Kancheepuram. Thereafter, the plaintiff had filed an Appeal Suit in A.S. No. 6 of 2008, which came up for consideration before the Subordinate Judge, Kancheepuram. The Appeal Suit was also dismissed by judgment dated 31.10.2008. The plaintiff had then filed the present Second Appeal.

4. Both the Courts below had concurrently held that Ex.B1 had been proved in the manner known to law by examination of DW2 and



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DW3. It had been proved as enunciated under Section 68 of the Indian Evidence Act. No substantial question of law arises for consideration.

5. The Second Appeal stands dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

07.08.2025

Index: Yes/No
Internet: Yes/No
Speaking /Non-speaking order
NCC : Yes / No

Maya

To

1. The Subordinate Judge,
Kanchipuram
2. The Judge,
Additional District Munsif,
Kanchipuram.
3. The Section Officer,
Vernacular Section,
High Court, Madras.



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C.V.KARTHIKEYAN, J.

Maya

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