



SA No. 64 of 2009



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 06.10.2025

CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

SA No. 64 of 2009

1. Lakshmi Gandham
W/o. Sivagnana Gramani Rettanai
Village Tindivanam Tk.

Appellant(s)

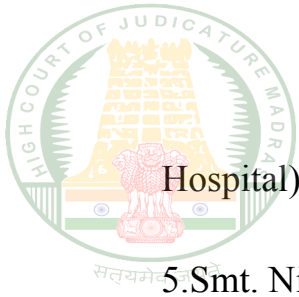
Vs

1. Thiruvengadam(died)
S/o. Godhandaraman Old No 65 New
No 71 Veerabhadran Koil Street
Shanthi Nagar Ponidcherry.

2.THILLAI MUDALIAR (died)
S/o. Chokalinga Mudaliar No 42
Murugan Koil Street Rettanai Village
Tindivanam Tk.

3.Tmt Bhanumathi
W/o Late Thiruvengadam No. 28
Sankaradoss Swamy Nagar 2nd Cross
Street, Muthiyalpet (po) (near Singer
Hospital), Pondicherry

4.EZHILARASAN
S/o Late Thiruvengadam No. 28
Sankaradoss Swamy Nagar 2nd Cross
Street, Muthiyalpet (po) (near Singer



Hospital), Pondicherry

5.Smt. Nisa

W/o Balu Iysiah , No 102, Kamaraj
Nagar , Thirupathur , Vellore District.

6.T. Vijayalakshmi

W/o. Thillai Mudaliar, No.42,
Murugan Kovil Street, Rettanai
Village, Tindivanam Taluk

7.T.Malini

D/o. Thillai Mudaliar, No.42,
Murugan Kovil Street, Rettanai
Village, Tindivanam Taluk

8.T. Mohan Kumar

S/o. Thillai Mudaliar, No.42, Murugan
Kovil Street, Rettanai Village,
Tindivanam Taluk

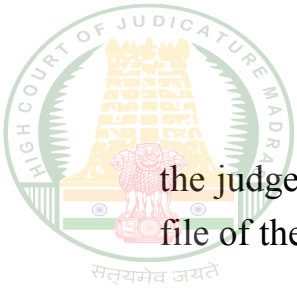
9.T.Selvi

D/o. Thillai Mudaliar, No.42,
Murugan Kovil Street, Rettanai
Village, Tindivanam Taluk Rr6 To 9
Brought On Record As Lrs Of The
Deceased 2nd Respondent Vide Order
Of Court Dated 21-07-2022 Made In
Cmp.18672/2022 In Sa.64/2009 (cvkj)

Respondent(s)

PRAYER

This second appeal is filed under Section 100 of the Code of Civil Procedure, against the judgement and decree dated 25.07.2008 passed in A.S.No.68 of 2001 on the file of the learned Principal Subordinate Judge, Tindivanam confirming



the judgement and decree dated 07.09.2001 passed in OS.No.70 of 1995 on the file of the learned District Munsif, Tinidivanam.

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For Appellant(s): Mr A.K Kumarasamy Senior
Counsel For M/s. S. Kaithamalai
Kumaran

For Respondent(s): M/s.P.Mani for R2
M.Tamilthendralarasu For Rr3
To 9

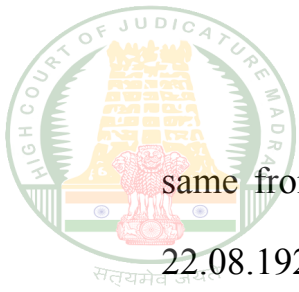
JUDGEMENT

The second appeal has been preferred as against the judgment and decree dated 25.07.2008 passed in A.S.No.68 of 2001 on the file of the Principal Sub Court, Tindivanam in confirming the judgement and decree dated 05.09.2001 passed in O.S.No.70 of 1995 on the file of the learned Principal District Munsif Court, Tindivanam.

2. The plaintiff has filed the suit for partition by claiming 17/21 share in the suit property. The said suit has been dismissed. The first appeal preferred by the plaintiff in A.S.No.68 of 2001 was also dismissed on 25.07.2008 confirming the judgement of the trial Court. Aggrieved over that the appellant / plaintiff has filed the present Second Appeal.

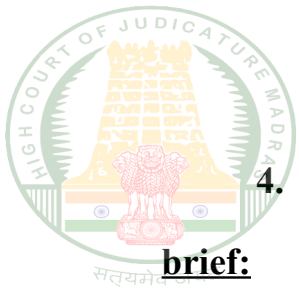
3. The averments made in the plaint filed by the plaintiff in brief:

The suit property originally belonged to Venniyammal who purchased the



same from one Venkatachalam Gramini as per the registered sale deed dated 22.08.1926. Venniyammal died leaving behind her 6 sons and 3 daughters namely Govindaramanujadhasar, Munusamy Gramini, Natesa Gramini, Kannapiran, Kothandaraman, Ethirasu, Muthalammal, Panchaliammal and Kannamal. The plaintiff purchased 5/7th share from the grandsons and granddaughters of Venniyammal vide a registered sale deed dated 11.07.1994 and 18.07.1994.

3.1 The defendants Thiruvengadam, Lakshmi and Palaniammal are the legal heirs of Kothandaraman and each of them are entitled to 1/21 share. The plaintiff purchased 2/21 shares from the said Lakshmi and Palaniammal as per the sale deed dated 01.04.1998. The first defendant is entitled to 1/21 share as he is one of the legal heirs of Kothandaraman. The daughter of Kannapiran namely Poongothai sold her 1/7th share to the first defendant as per the sale deed dated 08.03.1993. Hence the plaintiff is entitled to 17/21 share and the first defendant is entitled to 4/21 share. The plaintiff has constructed a house in the northern portion of the suit property and has been paying the house tax from 26.11.1994. The second defendant is claiming 2 cents in the suit property as though he had purchased the same from the first defendant and is proclaiming to construct a house.



4. The averments in written statement filed by the defendants in brief:

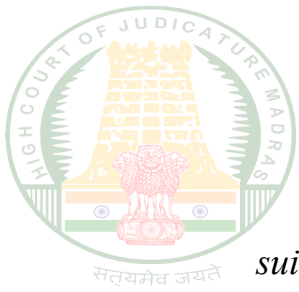
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The said Govindaramanujadhasar, Munusamy Gramini, Natesa Gramini, Ethirasu, Muthalammal, Panchaliammal and Kannammal are the legal heirs of Venniyammal. The said persons are not entitled to the suit property as they were not in possession of the same at any point of time. Kannapiran and Kothandaraman are the two sons of Venniyammal and they were in possession and enjoyment of the suit property as the legal heirs of the deceased Venniyammal by transferring patta in their names and by paying tax and mortgaging the suit property.

4.1 The first defendant son of Kothandaraman and Poongothai, daughter of Kannapiran are each entitled to 2 cents out of the total extent of four cents. The first defendant is in possession of his 1/2 share by constructing a house and residing therein. The first defendant purchased two cents from Poongothai as per the sale deed dated 08.03.1993 and became the owner of the entire suit property measuring four cents. The first defendant further sold his share of 2 cents to the second defendant as per the sale deed dated 15.05.1994.

5. On the basis of the above pleadings, the trial Court framed the following issues:

- i) Whether the plaintiff's vendor or the plaintiff got any right in the suit property or in possession of the suit property ?*



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ii) *Whether the two sons of Venniyammal alone enjoyed the suit property and paid kist and*

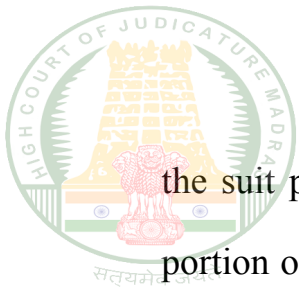
iii) *Whether the plaintiff is entitled to 17/21 share in the suit property ?*

6. At the conclusion of the trial, the trial Court dismissed the suit. Aggrieved over the same the plaintiff had preferred an appeal before the first appellate Court and the first appeal got dismissed by confirming the judgment of the trial Court. Hence the present Second Appeal has been filed.

7. The Second Appeal is admitted on the following Substantial Question of Law:

“ Whether the oral evidence particularly from the Vendors of the plaintiff have not been properly appreciated by the Courts below?”

8. The learned counsel for the appellant / plaintiff submitted that the suit property measures an extent of 1744 sq.ft of vacant site, but the plaintiff is claiming 17/21 share; both the parties agreed that the suit property belonged to their grandmother Venniyammal. Venniyammal died leaving behind her 7 children and they inherited the suit property. The plaintiff had purchased 5 shares out of the said 7 shares under Exs.A2 to A4 vide Sale Deeds dated 11.07.1994 and 18.07.1994. Hence the plaintiff claims title to 17/21 shares in

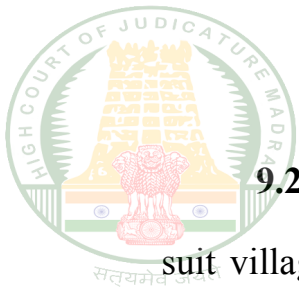


the suit property. In fact the defendants also admit that the plaintiff has got a portion of the property, however both the Courts below have not considered the same and dismissed the suit.

8.1 The plaintiff had constructed a house and resides in 2 cents of land. The first defendant is the original owner who has now sold the property to the second defendant and the second defendant has constructed a house in two cents and residing there. As on today there is no need for interference because both sides admit that each are entitled two cents.

9. The learned counsel for the respondent / defendant submitted that the trial Court and the lower appellate court have carefully and properly considered and appreciated the oral evidence of P.W.2 to P.W.4 as well as P.W.5 and came to a conclusion that their evidence are not supporting the case of the plaintiff that the deceased Vennaiymmal had 9 children and the plaintiff's vendors are also one of the legal heirs of deceased Vennaiymmal.

9.1 In the deposition of P.W.2, she has claimed that she is the daughter of one Natesan who is one of the alleged sons of Vennaiymmal. She further deposed that there is no proof to show that her father is the legal heir of Vennaiymmal and she was in possession of patta or kist receipts with respect to the suit property and the vendors were not in possession of the suit property for more than 30 years.



9.2. In the deposition of P.W.3, it is stated that she is not residing in the suit village and she got married 22 years ago and is living at Avanipoor. She further deposed that she is not aware of the portion of the suit property where her father resided. Even P.W.4 in her evidence deposed that she does not know the extent of the suit property and she did not pay any tax to the suit property in her name.

9.3 In the deposition of P.W.5 he had deposed that Venniyammal had only one daughter. But in the plaint it has been stated that Venniyammal had three daughters. Hence it is submitted by the learned counsel for the defendant that P.W.5's evidence cannot be considered to prove the case of the plaintiffs that Venniyammal had six sons and three daughters and the plaintiff's vendors are the grand children of Venniyammal. Both the Courts below have properly considered and appreciated the oral evidence of the witnesses and rightly concluded the matter. There is no illegality or perversity in the orders passed by the Courts below and hence the present Second Appeal has to be dismissed.

DISCUSSION:

10. The appellant/plaintiff claims title to the suit property on the premise that his vendors are the legal heirs of the deceased Venniyammal, in their capacity as descendants through her children. The contention of the respondent/defendant is that Venniyammal had only two sons, and she did not have nine children as claimed by the appellant.

11. It is the further contention of the respondent/defendant that



Venniyammal did not have any daughters, and therefore, the appellant/plaintiff could not have acquired title under the alleged sale deeds executed by the individuals claiming to be the descendants of Venniyammal. The appellant/plaintiff relies on the sale deeds Ex. A2 to A5, in support of his contention that a 5/7th share in the suit property has been purchased by her. The total extent of the suit property itself is 4 cents. [70 x 45 sq. ft in [S.No.108/3](#)].

12. The fact that the above property was originally owned by Venniyammal is not denied. As per the genealogy submitted by the learned counsel for the appellant/plaintiff, Venniyammal is said to have had 6 sons and 3 daughters. The six sons were claimed to be Govindaramanujadhasar, Munusamy Gramini, Natesa Gramini, Kannapiran, Kothandaraman, and Ethirasu, and the three daughters are Muthalammal, Panchaliammal, and Kannammal. The appellant/plaintiff is said to have purchased the sale deeds from Krishnaveni, d/o Govindaramanujadhasar; Pawnnamal, d/o Munusamy Gramini; Kumutham, d/o Natesa Graminni; and Lakshmi. Planaiammal and Thiruvengadam are the children of Kothandaraman, and Vedavalli and Adhilakshmi are the children of Muthalammal and Panchaliammal, respectively.

13. The five sale deeds of the appellant/plaintiff through which she is said to have purchased 5/7 shares of the legal heirs of the Venniyammal, have been marked as Ex. A2 to A5, dated 11.07.1994, 18/7/1994, 1.4.1998 and 28/4/1998. The original sale deed in favour of Venniyammal, dated 22.08.1926, is marked as Ex.A1. The above sale deed is not disputed by the respondents/defendants



also. When the appellant/plaintiff claims that her title in respect of the suit property has its origin in the inheritance of the legal heirs of the Venniyammal, the appellant/plaintiff has got the foremost duty to prove that her vendors are the legal heirs of the Venniyammal.

14. In order to prove the same, it is firstly essential for the appellant/plaintiff to prove that Venniyammal had nine children. Except for the sale deeds marked as Ex. A2 to A5 and the evidence of the vendors of the plaintiff, [PW.2 to 4], no other evidence is available on record to prove that Venniyammal had nine children. Of course, one independent witness has been examined as PW.5. He has stated in his evidence that Venniyammal had six sons and three daughters. Though the chief examination of PW.5 on this aspect is clear, during the cross-examination, he has stated that Venniyammal had only one daughter and the sons of Venniyammal died 45 years ago and the daughters died before 20 years.

15. The evidence of PW.5 given in his cross-examination is contradictory to his chief examination. It would have been an easy task for the appellant/plaintiff if she could have produced the legal heirship certificate of Venniyammal to show the particulars of the legal heirs. Without the aid of the above document, the appellant/plaintiff had attempted to prove the legal heirs of the original owner, Venniyammal, only through oral evidence. As stated already, the vendors of the plaintiff, namely PW.2 to 4, are interested witnesses, as they have sold the property to the plaintiff by asserting themselves as the legal heirs



of Venniyammal. Even those witnesses, namely PW.2 to 4, did bring on legal heir ship certificate for Venniyammal.

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16. The learned counsel for the appellant/plaintiff submitted that the title deeds marked as Exs. A2 to A5 would show the relationship of the vendors through the original owner of Venniyammal. The recitals in the sale deeds, as well as the claimed relationship, are based solely on the self-declaratory statements of the vendors, and therefore, it cannot be presumed that the vendors of the plaintiff are the legal heirs of the deceased Venniyammal.

17. As stated already, the sale deeds are of the years 1994 and 1998 only. No document has been produced by the appellant/plaintiff to show that her vendors have been in enjoyment of the suit property either jointly or individually immediately after the death of Venniyammal. In fact, the death certificate of Venniyammal has not been produced to establish the time when the alleged inheritance opened in favour of the vendors of the appellant/plaintiff. The appellant/plaintiff was not able to produce any tax receipts to mutate the revenue records in the name of her vendors. The learned trial judge has appreciated the oral as well as documentary evidence to arrive at the conclusion that the appellant/plaintiff has not proved her case.

18. More particularly, when the learned trial judge has dealt with the oral evidence, the essential parts of the evidence of PW.2, 3 and 5 have also been extracted to show how their evidence does not support the claim of the appellant/plaintiff. The PW.2's cross-examination would reveal that no patta had



been in existence in respect of the share sold by her in the name of her father.

She also has not filed any tax receipts for any revenue documents to support her claim. PW.3 has stated that she did not even know the measurement of the property. So the tax receipts which were produced by the plaintiff were subsequent to her sale deeds. Unless the appellant/plaintiff claims to purchase the shares of the suit property from the alleged legal heirs of Venniyammal and proves before the court that her vendors are merely the defendants of the Venniyammal, both the trial court and the appellate court cannot be expected to accept the claim of the plaintiff over the suit property.

19. The oral evidence of PW.2 to 5 is not supported by any documentary evidence, and hence, the courts below cannot be found fault for the oral evidence of the witnesses not appreciated properly. Both the courts below have rightly appreciated the evidence and arrived at a correct conclusion that the appellant/plaintiff has not proved her title in respect of the 17/21 share in the suit property. Hence, I do not find any reasons for interference. Thus, the substantial questions of law are answered against the appellant/plaintiff.

In the result, the second appeal stands **dismissed**. No costs.

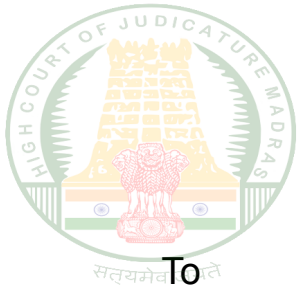
06.10.2025

jrs

Index: Yes/No

Speaking order /Non Speaking Order

NCC: Yes/No



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WEB
To
1. The Principal Subordinate Judge, Tindivanam.
2. The District Munsif, Tinidivanam.



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Dr.R.N.MANJULA
jrs

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