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S.A.No.7 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2025

CORAM

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

S.A.No.7 of 2009

and

M.P.No.1 of 2009

Dhanalakshmi Ammal
W/o. Late N.Subramaniam,
No.1, Govind Singh Street,
Puliyanthope, Chennai-12.

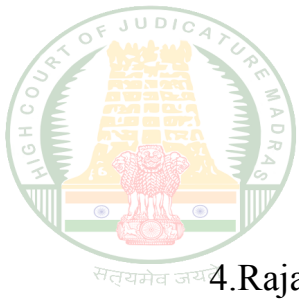
Appellant(s)

Vs

1.Lakshmi Ammal
W/o.Mr.Kothandam,
No.23, Govind Singh Street,
Puliyanthope, Chennai-12.

2.Thulasi Ammal
W/o.Mr.Kuttiappan,
No.11, Second Madam,
Alagappa Chetty Road, Chennai-7.

3.Thulasi Ammal
W/o.Late Jayaramachetty,
22, Govind Singh Street,
Puliamthope, Chennai-12.



S.A.No.7 of 2009

4.Rajabathar

S/o.Late Jayaramachetty,
No.22, Govind Singh Street,
Pulianthope, Chennai-12.

5.Manoharan

S/o. Late Jayaramachetty,
No.22, Govin Singh Street,
Pulianthope, Chennai-12.

6.Chenthamarai

S/o. Late Jayaramachetty,
No.22, Govin Singh Street,
Pulianthope, Chennai-12.

7.Iyappan

S/o. Late Jayaramahetty,
No.22, Govind Singh Street,
Pulianthope, Chennai-12.

8.Balaji

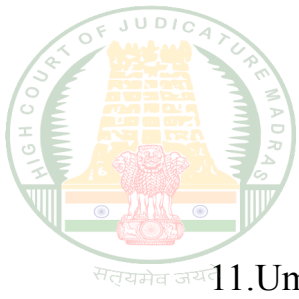
S/o. Late Jayaramachetty,
No.22, Govind Singh Street,
Pulianthope, Chennai-12.

9.Durga

S/o. Late Jayaramachetty,
No.22, Govind Singh Street,
Pulianthope, Chennai-12.

10.Mekala

D/o. Late Jayaramachetty,
No.22, Govin Singh Street,
Pulianthope, Chennai-12.



S.A.No.7 of 2009

WEB COPY

11.Uma Rathi

W/o.Surendara Kumar Rathi,
No.10, Murugappan Street,
Sowcarpet, Chennai-79.

12.Vishnu Kumar Rathi

S/o. Late Motilalji Rathi,
No.10, Murugappan Street,
Sowcarpet, Chennai-79.

13.Neha Rathi

W/o.Vishnu Kumar Rathi,
No.10, Murugappan Street,
Sowcarpet, Chennai-79.

14.Vinodh Kumar Rathi

S/o. Maneklal Rathi,
No.10, Murugappan Street,
Sowcarpet, Chennai-79.

15.Kalaiselvi

W/o.Manoharan,
No.22, Govind Singh Street,
Puliamthope, Chennai-12.

16.Kalaivanan

S/o. Late Mani,
No.22, Govind Singh Street,
Puliamthope, Chennai-12.

17.Mathivanan

S/o. Late Mani,
No.22, Govind Singh Street,
Puliamthope, Chennai-12.



S.A.No.7 of 2009

WEB COPY

18.Kamak Kannan @ Kannan
No.22, Govind Singh Street,
Puliamthope, Chennai-12.

19.Nithya
D/o. Late Mani,
No.22, Govind Singh Street,
Puliamthope, Chennai-12.

20.Baskar
S/o. Late Mani,
No.22, Govind Singh Street,
Puliamthope, Chennai-12.

Respondent(s)

Second Appeal filed under Section 100 CPC against the judgment and decree dated 30.08.2007 passed in A.S.No.316 of 2006 on the file of the I Additional City Civil Court, Chennai, which was confirmed by judgment and decree dated 19.02.2003 passed in O.S.No.12228 of 1996 on the file of the III Assistant City Civil Court, Chennai.

For Appellant(s): No appearance

For RR11 to 14: Mr.V.Srimathi



S.A.No.7 of 2009

WEB COPY

ORDER

The Second Appeal has been filed challenging the judgment and decree dated 30.08.2007 passed in A.S.No.316 of 2006 on the file of the I Additional City Civil Court, Chennai, which confirmed the judgment and decree dated 19.02.2003 passed in O.S.No.12228 of 1996 on the file of the III Assistant City Civil Court, Chennai.

2. The learned counsel for the appellant is not present today. He was also not present on 05.06.2025 and this Court had observed as follows:

“The plaintiff is the appellant who suffered a decree in the Trial Court and order of the dismissal in the First Appellate Court. The appeal has not yet been admitted.

2. List the matter under the caption “for dismissal” on 12.06.2025 and an order to be passed on merits whether the counsel is present or not, since the admissions of the Appeal is prerogative of the Court.”



S.A.No.7 of 2009

WEB COPY

3. For the sake of convenience, the appellant and the respondents hereinafter will be referred to as the plaintiff and the defendants, respectively.

4. The plaintiff had filed a suit in O.S.No.12228 of 1996 seeking a judgment and decree for partition of 1/4th share in respect of the property at No.3, Avadi, Srinivasa Iyer Street, Choolai, Chennai, measuring about 2656 sq.ft. In the plaint, it had been contended that the said property was the self acquired property of Ponnuswamy Chetty, the father of the plaintiff, who died intestate on 10.12.1973, survived by his wife Thayarammal, one son Jayaramchetty, who is the husband of the third defendant and by the plaintiff and two other daughters *viz.* Lakshmi Ammal and Thulasi Ammal, who had been impleaded as the first and second defendants. It had been further contended that after the death of the father Ponnuswamy Chetty, the mother Thayarammal was in possession of the suit property till her death in the year 1990. It had been further contended that the third defendant had obtained signatures of the mother of the plaintiff in a partition-cum-release



S.A.No.7 of 2009

WEB COPY

deed dated 26.04.1983 and the same had been registered as Document No.484/1983 in the office of the Sub-Registrar, Periyamet, Chennai. The plaintiff claims that since her father had died intestate, her mother had no right or title to convey the property to the daughter-in-law, third defendant and therefore, contended that the said document is null and void and not binding on her.

5. Thereafter, the third defendant had executed a sale deed with respect to the property to the defendants 11 to 14 in the year 1994 by sale deed dated 14.09.1994 registered as Document No.2625/1994 in the office of the Sub-Registrar, Periyamet, Chennai. The plaintiff again claims that the sale deed is null and void and not binding on her. It is under this circumstances claiming that the plaintiff is entitled to an undivided 1/4th share, the suit had been filed.

6. The defendants had entered appearance and filed their written statement and contended that a suit seeking partition without seeking any relief to set aside the partition-cum-release deed or the sale deed is not



S.A.No.7 of 2009

maintainable. It had been further contended that the defendants 11 to 14 had purchased the property for valuable consideration and are also in possession. It had been further contended that the father of the plaintiff had died on 10.12.1973 and the suit had been filed on 16.12.1994 after nearly 20 years.

7. The suit came up for consideration before the III Assistant City Civil Court, Chennai and by judgment and decree dated 19.02.2003, the suit was dismissed. It was very specifically observed by the learned trial Judge that the plaintiff has not sought relief of declaration of title or to set aside the registered documents.

8. The plaintiff then filed A.S.No.316 of 2006, which came up for consideration before the I Additional City Civil Court, Chennai and by judgment and decree dated 30.08.2007, the Appeal Suit was dismissed.

9. It is thus seen that no question of law arises much less any substantial question of law. Both the Courts below have returned a concurrent finding that the suit is bad for not seeking the relief of



S.A.No.7 of 2009

WEB COPY

declaration and set aside the partition-cum-release deed and the sale deed and also that the plaintiff had filed the suit after nearly 20 years after the death of her father. Since no specific question of law arises for consideration, this Second Appeal stands dismissed. No costs. Connected M.P. is closed. The presence of Ms.V.Srimathi, learned counsel appearing for the respondents 11 to 14 is recorded, but the learned counsel was not called.

12-06-2025

nsd
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

- 1.The I Additional City Civil Judge,
Chennai.
- 2.The III Assistant City Civil Judge,
Chennai.



WEB COPY



S.A.No.7 of 2009

C.V.KARTHIKEYAN J.

nsd

S.A.No.7 of 2009

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