



WEB COPY



SA No. 117 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-03-2025

CORAM

THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

SA No. 117 of 2023

Radha
S/o. Mahi Polu Naidu,
Mettu Street, Korkai Village,
Cheyyar Taluk,
Thiruvannamalai District.

Appellant(s)

Vs

Vasanthha
W/o. S.A. Krishnan
Old No. 29B, New No.30,
Madam Street,
Kancheepuram Town.

Respondent(s)

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For Appellant(s): C.T. Prabhakar

For Respondent(s): Mr.P. Krishna Prasad.



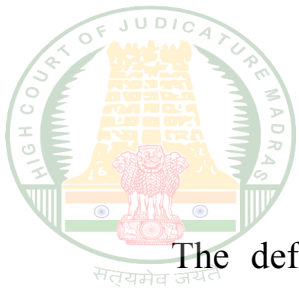
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WEB COPY PRAYER: This second appeal has been filed under Section 110 CPC, against the judgment and Decree of the learned Subordinate Judge, Cheyyar, Thiruvannamalai District in A.S No. 61 of 2018 dated 17.10.2022 confirming the judgement and decree passed by the learned Principal District Munsiff Judge, Cheyyar in OS No. 4 of 2015 dated 04.08.2018.

JUDGEMENT

Challenging the concurrent findings of the Courts below the defendant preferred this second appeal.

2. The parties are denoted as per the suit. The plaintiff filed the suit in OS No. 4 of 2015 on the file of the Principal District Munsiff Judge, Cheyyar, for the relief of partition. The plaintiff is the sister of the defendant claiming half share in the suit property which is absolutely belongs to her mother Kanniammal, who purchased the property through sale deed dated 22.05.1957 and she enjoyed the suit property as absolute owner till her demise i.e., on 20.11.2014. She died intestate leaving behind the plaintiff and the defendant as her legal heirs. Accordingly, the plaintiff is entitle for half share in the suit property. Since, the defendant/appellant not inclined to amicable partition the plaintiff filed the suit for partition.



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The defendant admitted the relationship between the plaintiff and the defendant. The defendant contended that the plaintiff was given marriage long back with all seethana in the year 1989. Thereafter, in the year 1971 there was a oral partition between the family members as per the oral partition the defendant enjoyed the suit property and the same also already known to the plaintiff and his mother, both of them not raised any objection. Subsequently, patta also transferred in his name. Near about 44 years the plaintiff not raised any objection, all these years the defendant enjoyed the entire suit property absolutely and patta, chitta also mutated in his favour. Hence, he prayed to dismiss the suit.

3. Considering the oral and documentary evidence, the Trial Court held that there is no proof on the side of the defendant to establish all oral partition held between the family members. On the other hand, as per the sale deed/Ex.B1 suit property is absolutely belongs to her mother Kanniammal, who died intestate. Thereby, as a legal heirs of kanniammal the plaintiff and the defendant each entitle to half share in the suit property. Accordingly, the suit was allowed by the Principal District Munsiff Judge, Cheyyar. Challenging, the same, the defendant preferred the appeal before the Subordinate Judge, Cheyyar, Thiruvannamalai District, in AS. No. 61 of



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2018, after considering the oral and documentary evidence the Subordinate Judge, Cheyyar, Thiruvannamalai District confirmed the findings of the Trial Court.

4. Challenging the concurrent findings of the Courts below, the defendant preferred this second appeal.

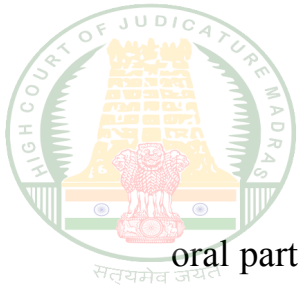
5. This Court admitted the second appeal on the following substantial questions of law.

i. Whether the respondent have right over the suit property as per the orders of the District Munsif, Cheyyar in OS No. 4 of 2015 ?

ii. Whether the oral family arrangement is binding on the respondent/plaintiff or not ?

6. Heard both sides.

7. The learned counsel for the defendant submits based on the oral partition held between the family members in the year 1971 patta was transferred in his name. Admittedly, there is no oral evidence on the side of the defendant to prove the oral partition nor panchayatar was examined. Mere mentioning of the oral partition happened between the family members is not sufficient, which requires more valid evidence. On the side of the defendant, except his evidence there is no oral evidence to prove the



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oral partition held between the family members. The learned counsel for the defendant relied the patta to prove the defendants right but it is settled proposition of law that the revenue records meant for collection of revenue it would not confer any title. Hence, the defendant failed to prove his title. Accordingly, questions of law are answered. Hence, this Court does not have any reason to interfere with the findings of the Courts below. Accordingly, judgement and decree passed by the Courts below is confirmed. Thus, the second appeal is dismissed. Since both parties are senior citizens, the Trial Court is directed to dispose the final decree proceedings within three months. No Costs. Consequently, pending petition(s), if any, is/are closed.

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



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