



A.S.No.461 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2025

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

A.S.No.461 of 2022

Gopal

... Appellant

Vs.

C.Ramasamy (Died)

Sengamalai (Died)

1. M.Sellappan

2. Kaliammal

3. Sudha

4. Saravanakumar

... Respondents

PRAYER : Appeal Suit filed under Section 96 r/w 41 of Code of Civil Procedure to set aside the judgment and decree in O.S.No.305 of 2019 dated 01.12.2021 passed by the learned Sessions (Fast Track Mahila) Judge, Namakkal.

For Appellant : Mr.B.Gopalakrishnan

For R 1 : Mr.N.Umapathi

For R2 to R4 : No Appearance



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JUDGMENT

WEB COPY The suit in O.S.No.305 of 2019 was filed seeking partition of the property held in the name of Ramasamy, who died interstate, but had created an encumbrance over the property by entering into a sale agreement with one Sellappan.

2. During the life time of Ramasamy, Sellappan had instituted a suit for specific performance based on the agreement dated 07.07.2010 and the said suit in O.S.No.155 of 2011 was pending before the Sessions Court, Namakkal. On the demise of Ramasamy during the pendency of the suit, one of his legal heirs come forward to file a suit for partition, stating that the suit schedule property was ancestral property derived by Ramasamy and therefore, all his legal heirs are entitled to an equal share in it. This suit was contested by Sellappan, who was the agreement holder with Ramasamy, stating that the suit itself was a collusive suit filed by one of the legal heirs of Ramasamy to deprive his rights derived through the agreement for sale and the subject matter of the specific performance suit.

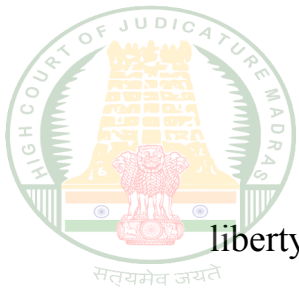


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3. The trial Court, which heard both the partition suit and the specific performance suit, allowed the suit for specific performance and dismissed the partition suit. Both judgments are now the subject matter of the appeals before this Court.

4. The appeal against the decree passed in the specific performance suit was heard in A.S.No.460 of 2022 and has been allowed. The other appeal, A.S.No.461 of 2022 which is a subject matter of the decree passed in O.S.No.305 of 2019. The partition suit has to be decided on the basis of the source of title through which Ramasamy acquired property. The trial Court, taking note of the specific plea of Ramasamy that the property was his self acquired property, dismissed the partition suit. However, since the specific performance suit has now been dismissed on appeal, the issue of inheritance remains open. Even if the property is the self acquired property of Ramasamy, since he died interstate, his legal heirs are entitled to succeed the property as per Section 8 of the Hindu Succession Act.

5. Therefore, Appeal Suit No.461 of 2022 is disposed of with a



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liberty to the parties concerned to work out their remedy with respect to the assets left behind by Ramasamy by instituting a separate suit. Any observations made in O.S.N.305 of 2019 by the trial Court shall not stand in the way of deciding such suit. No costs.

17.07.2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To :

The Sessions (Fast Track Mahila) Judge, Namakkal.



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Dr.G.JAYACHANDRAN, J.

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