



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-08-2025

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CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

S.A.No.503 of 2016

1. Smt.Subbathal,
W/o. Ramasamy, 55, Kamarajar
Colony, Udayampalayam,
Sowripalayam Po, Coimbatore 641 028.

Appellant(s)

Vs

1. Subramanian,
S/o. Pechianna Thevar, Nalla Thanneer
Thottam, Bodipalayam Via,
Madukkarai Po, Coimbatore.

2.Easwaran,
W/o. Pechianna Thevar, Tea Shop,
Kamaraj Nagar, Madukkarai Road,
Lic Colony Po, Coimbatore 641 021.

3.Vellingiri,
S/o. Pechianna Thevar, Nalla Thanneer
Thottam, Bodipalayam Road,
Madukkarai Po, Coimbatore.

4.Mr. G. Sangameswaran,
No. 4 D S.S. Apartment 3rd St,
Gopalapuram, Coimbatore 18.



5.Smt. Hamsaveni

W/o. Moorthy, D/o. Late Ramaswami,
Kamaraj Nagar, Lic Colony,
Madukkarai Road, Coimbatore.

6.Smt. Rajeswari,

W/o. Nagaraj, 13/13, Annamalai
Thevar Lane, Coimbatore 641 402.

7.Smt. Savithri,

W/o. Ganesan, D/o. Late Ramasamy,
Yaman Koil Thottam, Vallalore,
Singanallur Via, Coimbatore 641 111.

8.Smt. Rajitha,

D/o. Late Ramaswami, Kamaraj Nagar,
Lic Colony, Coimbatore 641 021.

9.Smt. Krishnaveni,

W/o. Late Subramaniam, No. 24
Subramaniapuram, Thadagam Road,
Coimbatore.

10.Smt. Chitra

D/o. M. Subramaniam,

11.Mr. Ramesh

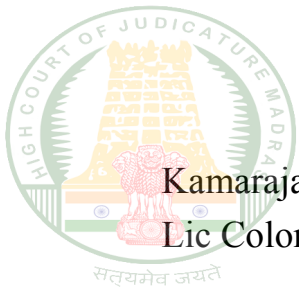
S/o. Late Subramaniam

12.N. Senthil Kumar

S/o. Late Nanjukutty @ Nanjappan,
Kamarajar Nagar, Madukkarai Road,
Lic Colony Po, Coimbatore 21.

13.Mr. Sathish Kumar,

S/o. Late Nanjukutty @ Nanjappan,



Kamarajar Nagar, Madukkarai Road,
Lic Colony Po, Coimbatore 21.

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14.Smt. Mariyammal,
W/o. Natarajan, 2/121, Pollachi Road,
Sundarapuram, Coimbatore 641 024.

15.Smt. Rukmani,
W/o. Natarajan, 11/5, Gopal Pillai St,
Sulur Po, Coimbatore.

16.Smt. Parameswari,
W/o. Shanmugam, 132, Ashok St,
Udayampalayam, Sowripalayam Po,
Coimbatore 28.

Respondent(s)

PRAYER

Second Appeal filed under Section 100 of C.P.C., 1908 as amended, praying to reverse and set-aside the judgment and decree dated 19.12.2012 passed by the Principal Subordinate Judge, Appellate Authority, Coimbatore in A.S.No.69 of 2011, confirming the judgment and decree dated 01.08.2007 passed by the Principal District Munsiff, Coimbatore in O.S.No.4601 of 2004 and allow this appeal.

For Appellants(s): Mr.K.S.Gnanasambandan

For Respondent(s): Mr.K.Venkatasubban
For M/s.Sarvabhuman Associates
(For R6,R12 and R13)



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Mr.Saravanakumar
For M/s.I.Abrar MD Abdullah
(For R16)

R1 & R3 – Left

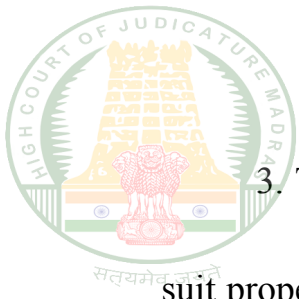
R2, R5, R8, R15 – No
appearance

Not ready in Notice - R9, R11,
R14, R4, R10 & R7

JUDGMENT

The instant Second Appeal has been filed to reverse and set-aside the judgment and decree dated 19.12.2012 passed by the Principal Subordinate Judge, Appellate Authority, Coimbatore in A.S.No.69 of 2011, confirming the judgment and decree dated 01.08.2007 passed by the Principal District Munsiff, Coimbatore in O.S.No.4601 of 2004 and to allow this appeal.

2. Heard K.S.Gnanasambandan, learned counsel appearing for the appellant and Mr.K.Venkatasubban, learned counsel appearing for respondents 6, 12 and 13 and also Mr.Saravanakumar, learned counsel appearing for 16th respondent.



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3. The learned counsel appearing for the appellant would submit that the suit properties were all purchased only by the parents of the parties in the name of their sons, who are the defendants in this suit, and therefore the plaintiffs, who are female descendants, are entitled to a share in the properties, as the same are joint family properties. Further, he would contend that the Courts below had wholly erred in giving a finding that the properties were all self-acquired properties of the defendants and have rejected the claim of the appellants, who are the plaintiffs in this suit. Therefore, he would submit that both the trial Court and the First Appellate Court had failed to consider various oral and documentary evidence produced by the appellant, and hence prayed for interference in the orders and for grant of decree as prayed for.

4. Countering his arguments, the learned counsel for the respondents would submit that the plaintiffs had not challenged the sale deeds standing in the name of the defendants. They had only sought for a partition, claiming the properties to be joint family properties. Even in the cross-examination of P.W.1, who is the third plaintiff, had categorically admitted that, except the second



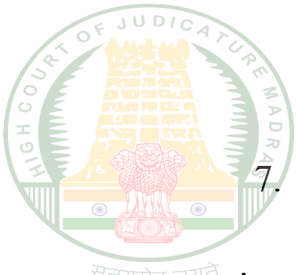
plaintiff, all other plaintiffs had been given in marriage even before the date of purchase of the properties. Therefore, the trial Court had rightly given a categorical finding that, as they had been given in marriage, they cannot claim to be members of the joint family. He would further submit that the second plaintiff had not come by way of an appeal and it is only the third plaintiff, who had approached this Court. Since she was already married even before the date of purchase of the suit properties, she cannot be said to be a member of the joint family, and therefore both the trial Court and the First Appellate Court had rightly dismissed the suit filed by the appellant. He would further contend that no evidence had been placed to prove that the properties were purchased out of the joint family income, and the Courts had rightly held that there was no material to establish that the avocation carried on by the defendants was a joint family business. Hence, he prayed that this Court to confirm the judgment and decree of the Courts below.

5. I have considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.



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6. The second appeal arises out of concurrent judgments and decrees of the Courts below, holding that the appellant, who was the third plaintiff, was not entitled to a decree of partition. It is the case of the appellant that the property purchased in the year 1973 was a joint family property, having been purchased out of the joint family business initiated by her father in the name of his sons. As rightly found by the trial Court, the appellant having been married even before the purchase of the properties, cannot claim to be part of the joint family which had purchased the suit properties. A claim of joint family property can be sustained only if there is participation of the member in the joint family which led to the purchase of the property. The appellant, having admitted that she was married much before the purchase of the properties, cannot be said to have been part of the joint family at the time of purchase. On the other hand, the Courts below have categorically found that the properties are not joint family properties, as no evidence has been led by the plaintiffs to substantiate the same.



7. For the aforesaid reasons, this Court does not find any substantial question of law raised by the appellant.

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8. In fine, the second appeal stands dismissed. However, there shall be no order as to costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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