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S.A.No.1062 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.05.2025

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

S.A.No.1062 of 2014
and M.P.No.1 of 2014

R.Natarajan

... Appellant / Plaintiff

vs.

Swathika

... Respondent / Defendant

PRAYER: This Second Appeal is filed under Section 100 of C.P.C., against the judgment and decree in A.S.No.4 of 2013, dated 02.07.2014 on the file of Subordinate Court, Neyveli, confirming the judgment and decree in O.S.No.26 of 2011, dated 04.03.2013 on the file of the District Munsif cum-Judicial Magistrate Court, Neyveli.

For Appellant : Mr.A.Muthukumar

For Respondent : Mr.N.Subramaniyan

JUDGMENT

This second appeal has been preferred by the plaintiff against the Judgment and Decree dated 02.07.2014 passed by the Subordinate Court, Neyveli in A.S.No.4 of 2013



2. The parties are indicated herein as per their litigative status and ranking made before the Trial Court.

3. According to the plaintiff Mr.R.Natarajan, S/o.M.C.Ramamoorthy, he got married one Manohari on 08.04.1998 and it was registered at the Office of the Registrar at Vadalur in the year 2006. Due to mental incompatibility between the plaintiff and his first wife they have been living separately from 2006. The plaintiff met the defendant in 2007 and she stated that she is interested to get employment in the Gulf Countries and sought the help of the plaintiff as he was already employed and well settled as an Engineer in Kuwait. Any women who wants to get an employment and work permit and visa can get it easily at a cheaper cost if she goes there on spouse visa i.e. as the wife of a person already employed in Gulf country along with her husband. The defendant herself arranged and obtained marriage certificate as if they got married at Bangalore. On her persuasion and in a moment of weakness he signed in the papers produced by the defendant and on the so-called of marriage between the plaintiff and defendant in 2000, while the marriage with his wife Manohari was subsisting. Similarly, the defendant was already married to one Saravanan. So the defendant cannot acquire the status as a legally wedded wife of the plaintiff. They are living together in the same house at Kuwait would not create any legal relationship between the plaintiff and the

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defendant. To extract money and properties of the plaintiff, now the defendant is threatening the plaintiff and has been demanding him to marry her and to transfer his properties in her name. Hence, the suit.

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4. Contending contra, the defendant would state that her marriage with one Saravanan was nullified by the Subordinate Court, Panruti in HMOP.No.35 of 2003 dated 22.07.2004. She had registered herself as a divorcee in the Bharath Matrimony.com in the year 2007. On seeing the said details, the plaintiff contacted her through e-mail that he is also a divorcee and proposed for the marriage. The plaintiff being a culprit through his friends fabricated documents as if, the marriage was solemnized between them at S.N.Kalyan Mandapam at Jhalahalli, Bangalore, sentence is incorrect. The plaintiff taking advantage of the plaintiff innocence of the defendant got the affidavit of the Indian Embassy at Kuwait on 02.03.2008, the defendant is the wife and got the visa for her. Subsequently, the defendant came to know that she was cheated by the plaintiff that he is not a divorcee as his wife Manohari was living with him.

5. Based on the divergent pleadings, the Trial Court framed the relevant issues. At trial, to substantiate the plaint details, on the plaintiff's side, the plaintiff has examined himself as P.W.1 and eight documents have been marked. On the defendant's side, the defendant has examined

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herself as DW1 and five documents have been marked. Ex.B.1 is the Affidavit filed by the plaintiff before the Indian Embassy at Kuwait on 02.03.2008. Ex.B2 is the Medical records in respect of the plaintiff and the defendant issued by the State of Kuwait. Ex.B3 is the Identity Card issued by the State of Kuwait in the name of plaintiff and the defendant. Ex.B.4 is the Residency permit issued by the State of Kuwait in the name of plaintiff and the defendant.

6. Upon consideration of oral and documentary evidence and after hearing the arguments advanced by both sides, the Trial Court held that as the Court has no territorial jurisdiction to deal with the relief of declaration and as regards the relief of permanent injunction, holding that the plaintiff did not prove the same, the suit was dismissed in entirety.

7. Aggrieved, the plaintiff preferred appeal before the Subordinate Court, Neyveli in A.S.No.4 of 2013.

8. Upon persual of the entire case records and after hearing the arguments advanced by both sides counsels, the First Appellate Court by its Judgement dated 02.07.2014 dismissed the appeal by confirming the Judgment of the trial Court. Aggrieved by the said Judgment, the plaintiff has filed this second appeal .

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9. The learned counsel appearing for the plaintiff would vehemently argue that Ex.A3 – Marriage Certificate is legal and enforceable. Therefore, the findings of the First Appellate Court with regard to jurisdiction is erroneous. To buttress his argument, the following Judgment was referred to :-

M/s.Nanak Chand Shadurain vs. The Tinnelvly-Tuticorin Electric Supply Co-Ltd., AIR 1975 Madras

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10. The learned counsel for the appellant would further argue that as per Section 21(1) of Civil Procedure Code, objection with regard to territorial jurisdiction has to be raised before the Court of first instance at the earliest possible opportunity and in all cases before issues are settled . He would further contend that the issue of jurisdiction was not at all raised by the defendant and the suit cannot be dismissed on the ground of territorial jurisdiction.

11. Per contra, the learned counsel appearing for the respondent/ wife would strenuously argue that the defendant married with one Saravanan was nullified by competent court and her marriage with the

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plaintiff is a legal one. To strengthen his argument, the following judgment was referred to :-

Kandasamy(since dead) and Others vs. T.R.K.Sarawathy and Another, 2024 SCC Online SC 3377

12. A thorough perusal of the plaint, in the cause of action in para

IV, the following details are given :-

“ The cause of action for the suit arose on 25.02.2008 at Peenya, Bangalore, where the marriage certificate was obtained by the defendant and on 05.03.2011 when she threatened to trespass to the suit property where the plaintiff and his parents are living and within the jurisdiction of this Hon'ble Court.

(Note :- Though the two cause of actions have arisen in two different places, the suit can be filed in any one of the Courts where one of the cause of actions arose)”.

13. It is useful to refer to Section 20 of the Civil Procedure Code :-

20. Other suits to be instituted where defendants reside or cause of action arises .-

Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction-

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is



given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

14. Clauses (a) (b) & (c) of Section 20 are independent of each other. At common law, actions are either personal or real. Sections 19 & 20 of Civil Procedure Code, deal with personal or transitory actions. As regards, the second cause of action, it squarely comes under Section 20 (c) of the Code of Civil Procedure. Therefore, the arguments in this regard, put forth by the learned counsel for the appellant are not tenable in law.

15. The following substantial question of law arise for consideration:-

When the defendant has not raised the issue of territorial jurisdiction and there was no plea or discussion with regard to failure of justice, whether the 1st appellate court erred in law in dismissing the suit on the ground of territorial jurisdiction after accepting the plaintiff's case on merits?

16. Plaintiff's candid case is that his first marriage was subsisting.

P.W.1 in his plaint, has not whispered about the divorce proceedings



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certificate – Ex.A4.

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19. As regards Ex.A3 – Marriage Certificate issued by the Sub-Registrar of Peenya, Bangalore, there is a presumption under Section 114 illustration (e) of the Evidence Act, 1872 which enables to presume that the official act would be regularly performed. It is for the party who alleges that it was done otherwise to prove the same.

20. In the given circumstances, I am reminded of the words of the Hon'ble Supreme Court in ***S.P.Chengalvaraya Naidu vs. Jagannath*** reported in 1994(1)SCC:-

“...the Courts of law are meant for impairing justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the Court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation”.

21. P.W.1 has acceded that he along with the defendant were living in the same house. He has approached the Court with total malafides. He has not pleaded the correct facts and he has spoken only falsehood. His pleadings and his evidence clearly show the fact that he



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has spoken falsehood and incorrect details one after another and the

Courts below have rightly rejected his case.

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22. This Court does not find any perversity or infirmity in the findings of the First Appellate Court and this Court does not find any good reason to upset the findings of the First Appellate Court. In such view of the matter, the substantial question of law is answered in favour of the defendant herein.

23. Based on the aforesaid observations and discussions, this second appeal stands dismissed. Sequel to this, the Judgment and decree granted by the Subordinate Court, Neyveli in A.S.No.4 of 2013 dated 02.07.2014 stands confirmed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking / Non-speaking order

kkd

To

1. The Subordinate Court, Neyveli.
2. The District Munsif cum-Judicial Magistrate Court,
Neyveli.

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R.KALAIMATHI, J.,

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