



S.A.No.497 of 2017 and A.S.Nos.12 & 13 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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Reserved on: 25.09.2025

Delivered on: 10.10.2025

CORAM

**THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN**  
**and**  
**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

S.A.No.497 of 2017 & A.S.Nos.12 & 13 of 2021  
& C.M.P.Nos.1153 of 2021, 4611 & 4613 of 2020 & 11748 of 2022

**S.A.No.497 of 2017**

1. K.Ranganayaki,  
W/o.S.P.Kandasamy,  
Extension Street No.1,  
Sathyamangalam,  
Sathyamangalam Taluk,  
Erode.

2. S.P.Shanmugam.  
S/o.Late Palaniappa Gounder,  
Thirunagar Colony,  
Sathyamangalam,  
Sathyamangalam Taluk,  
Erode District.

... Appellants/Defendants

**/versus/**

K.Parimala,  
W/o.Panneerselvam,  
Extension Street No.2,  
Rangasamudiram,  
Sathyamangalam – 638 402,  
Erode District.

... Respondent/Plaintiff



S.A.No.497 of 2017 and A.S.Nos.12 & 13 of 2021

**Prayer in S.A.No.497 of 2017:** Second Appeal filed under Section 100 of C.P.C., to set aside the judgment and decree dated 28.09.2015 made in A.S.No.16 of 2014 on the file of the Learned Sub Court, Sathyamangalam partly confirming the judgment and decree dated 07.03.2014 made in O.S.No.256 of 2010 on the file of the Learned District Munsif Court, Sathyamangalam by allowing this Second Appeal.

For Appellants : Mr.M.Sushanth

For Respondent : Mr.M.Roshan Atiq

**A.S.No.12 of 2021:**

Ranganayaki, (Died)  
Wife of late. S.P.Kandasamy,  
D.No.12, Thelkaradu Street,  
No.5, Rangasamudram,  
Sathyamangalam – 638 402,  
Erode District.

... Appellant/1<sup>st</sup> Defendant

A-2 A.S.Senthil Nathan,  
S/o.S.P.Shanmugam,

A-3 A.S.Sivakumaran,  
S/o.S.P.Shanmugam,

A2 and A3 residing at:  
No.74, Thelkaradu Street,  
Rangasamuthiram,  
Sathyamangalam Taluk,  
Erode District.

... Appellants

A1 died A2 & A3 brought on record as LRs of deceased 1<sup>st</sup> Appellant viz., Ranganayaki vide order of Court dated 26.07.2023 made in C.M.P.Nos.11454 and 11455 of 2021 in A.S.Nos.12 and 13 of 2021 [RSMJ and RKMJ]



S.A.No.497 of 2017 and A.S.Nos.12 & 13 of 2021

**/versus/**

1. K.Parimala,  
W/o.Panneerselvam,  
D/o.Late. S.P.Kandasamy,  
No.35, Extension Street,  
No.2, Rangasamudiram,  
Sathyamangalam – 638 402,  
Erode District.

... Respondent-1/Plaintiff

2. The Market Committee Superintendent,  
Regulated Market Committee,  
Erode Market Committee,  
Erode – 638003.

... Respondent/2<sup>nd</sup> Defendant

**Prayer in A.S.No.12 of 2021:** Appeal Suit filed under Section 96 read with Order 41 Rule 1 of C.P.C, 1908, to set aside the judgment and preliminary decree passed in O.S.No.1 of 2015 by the III Additional District cum Sessions Court, Gobichettipalayam at Erode District, dated 20.07.2018 by allowing the present appeal.

For Appellants : Mr.M.Sushanth

For Respondents : Mr.M.Roshan Atiq, for R1  
: Mr.G.Nanmaran,  
Special Government Pleader.

**A.S.No.13 of 2021:**

Ranganayaki, (Died)  
Wife of late. S.P.Kandasamy,  
Residing at No.12, Thelkaradu Street,  
No.5, Rangasamudram,  
Sathyamangalam – 638 402  
Erode District

... Appellant/Plaintiff



S.A.No.497 of 2017 and A.S.Nos.12 & 13 of 2021

A-2 A.S.Senthil Nathan,  
S/o.S.P.Shanmugam,

A-3 A.S.Sivakumaran,  
S/o.S.P.Shanmugam,

A2 and A3 residing at:  
No.74, Thelkaradu Street,  
Rangasamuthiram,  
Sathyamangalam Taluk,  
Erode District.

... Appellants

A1 died A2 & A3 brought on record as LR's of deceased 1<sup>st</sup> Appellant viz., Ranganayaki vide order of Court dated 26.07.2023 made in C.M.P.Nos.11454 and 11455 of 2021 in A.S.Nos.12 and 13 of 2021 [RSMJ and RKMJ]

**/versus/**

K.Parimala,  
Wife of Panneerselvam,  
Residing at No.35, Extension Street,  
No.2, Rangasamudiram,  
Sathyamangalam – 638 402,  
Erode District.

... Respondent/Defendant

**Prayer in A.S.No.13 of 2021:** Appeal Suit filed under Section 96 read with Order 41 Rule 1 of C.P.C, 1908, to set aside the common judgment and decree passed in O.S.No.24 of 2015 by the III Additional District cum Sessions Court, Gobichettipalayam at Erode District, dated 20.07.2018 by allowing the present appeal.

For Appellants : Mr.M.Sushanth

For Respondent : Mr.M.Roshan Atiq

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## **COMMON JUDGMENT**

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The Second Appeal and two Appeal Suits centre around late S.P.Kandasamy and the properties held by him during his lifetime. The contesting parties are:

(i) K.Parimala. claiming herself as a daughter of deceased S.P.Kandasamy and;

(ii) K.Ranganayaki, who is admittedly the wife of late S.P.Kandasamy.

2. The dispute got triggered when K.Parimala filed O.S.No.256 of 2010 on the file of District Munsif Court, Sathyamangalam, seeking declaration that three items of the property, morefully described in the schedule to the plaint, belong to S.P.Kandasamy which he inherited from his ancestors through a registered partition deed dated 10.07.1975 and by virtue of a registered *Will* dated 30.07.1988 executed by S.A.Palaniappa Gounder, the father of S.P.Kandasamy. The fourth item of the suit property was acquired by S.P.Kandasamy through a sale deed.



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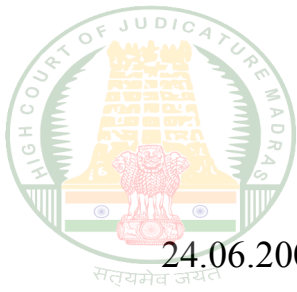
3. The case of K.Parimala is that her father, S.P.Kandasamy, initially married the 1<sup>st</sup> defendant/Ranganayaki. Since Ranganayaki had no issues, with her consent, he married Santhamani in the year 1970 and Parimala was born to Santhamani. In the year 1996, Santhamani went missing and her whereabouts could not be traced. Thereafter, Parimala was taken care by her father S.P.Kandasamy, who also solemnized the marriage of K.Parimala with one Paneerselvam. Out of love and affection, S.P.Kandasamy executed a settlement deed on 22.11.2006, settling a portion of his property in favour of Parimala declaring her as his only daughter. In the said settlement deed, the 2<sup>nd</sup> defendant/S.P.Shanmugam, brother of S.P.Kandasamy, is one of the attesting witness. While so, on the death of S.P.Kandasamy on 31.05.2010, the properties described in the plaint schedule opened for succession. The plaintiff/Parimala, as the daughter of S.P.Kandasamy and 1<sup>st</sup> defendant/Ranganayaki, being the widow of S.P.Kandasamy, are equally entitled for the estate left by S.P.Kandasamy. It is further alleged that the 1<sup>st</sup> defendant/Ranganayaki, due to old age, is suffering from loss of eyesight and hearing capacity. The 2<sup>nd</sup> defendant/S.P.Shanmugam taking advantage of 1<sup>st</sup> defendant incapacity, is trying to grab the properties and forcibly evict the plaintiff/Parimala. Therefore, stating that her mother Santhamani has not been



heard for more than seven years, the plaintiff sought for declaration of her status as the daughter of S.P.Kandasamy and permanent injunction restraining the 2<sup>nd</sup> defendant from interfering with her peaceful possession and enjoyment of the suit properties.

4. The claim of Parimala denied by the 1<sup>st</sup> defendant/Ranganayaki stating that she alone is entitled to inherit the estate of S.P.Kandasamy, as his legally wedded wife and sole legal heir. It is further contended that the plaintiff (Parimala) is not the daughter of S.P.Kandasamy. S.P.Kandasamy married the said Santhamani with the consent of the 1<sup>st</sup> defendant/Ranganayaki is false and denied.

5. The 1<sup>st</sup> defendant/Ranganayaki, in her written statement contended that Santhamani is not a person of virtue and she was leading life of a prostitute. Parimala was born to her even before S.P.Kandasamy came in contact with Santhamani. The 1<sup>st</sup> defendant/Ranganayaki had also made a specific allegation that S.P.Kandasamy was not a man of potency and there is no possibility of giving birth to a child. It was further contended by Ranganayaki that during his lifetime, S.P.Kandasamy executed a *Will* dated



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24.06.2009, bequeathing the suit property in her favour. She further contends that the plaintiff Parimala was never in joint enjoyment and possession of the property and her claim of protection from forcible dispossession is baseless.

6. Regarding the settlement deed alleged to have been executed by S.P.Kandasamy in favour of K.Parimala, declaring her as his daughter, the 1<sup>st</sup> defendant/Ranganayaki contended that the said settlement deed is not true and genuine. In support of this contention, the 2<sup>nd</sup> defendant/S.P.Shanmugam, brother of S.P.Kandasamy, has also filed written statement denying the claim of the plaintiff (Parimala).

7. Based on the pleadings, the trial Court has framed following three issues:

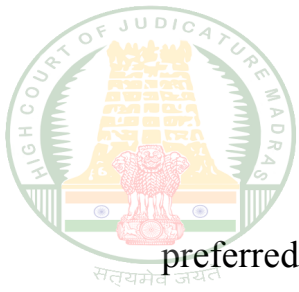
- (i) Whether the plaintiff is entitled for declaration as prayed?
- (ii) Whether the plaintiff is entitled for permanent injunction as prayed?
- (iii) What other relief?



**8.** To prove her case, the plaintiff, Parimala examined four witnesses (P.W1 to P.W4) and marked 31 documents as exhibits (Ex.A1 to Ex.A31). The 1<sup>st</sup> defendant/Ranganayaki examined as D.W.1 and no document marked as defendant's exhibit.

**9.** The Trial Court, on considering the evidence particularly Ex.A24, the registered settlement deed executed by S.P.Kandasamy in favour of the plaintiff Parimala mentioning her as his only daughter and settled the property in her favour out of love and affection, along with other documents such as the Community Certificate, Voter ID, Family Card and photographs which substantiate the claim of Parimala as daughter of S.P.Kandasamy, allowed the suit by declaring that the plaintiff/Parimala and 1<sup>st</sup> defendant/Ranganayaki are the legal heirs of the deceased S.P.Kandasamy and the plaintiff Parimala is entitled for permanent injunction restraining the 2<sup>nd</sup> defendant his men and agents from interfering her peaceful possession and enjoyment of the common half share in the suit properties.

**10.** Aggrieved by the judgment and decree passed by the trial Court, both Ranganayaki and S.P.Shanmugam, the defendants in the suit jointly



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preferred Appeal Suit No.16 of 2014 before the Subordinate Court,  
Sathyamangalam.

**11.** The 1<sup>st</sup> Appellate Court framed the following points for determination:

1. Whether the trial Court was correct in confirming the enjoyment of the suit property by the plaintiff?
2. Whether the trial Court finding that the plaintiff (Parimala) was born to S.P.Kandasamy and Santhamani is proper?

**12.** The 1<sup>st</sup> Appellate Court, on appreciating the evidence and the documents such as school certificate, income certificate, community certificate and birth certificate had confirmed the findings of the trial Court in respect of paternity claimed by the plaintiff/K.Parimala.

**13.** Regarding the plea that Santhamani gone missing since 1996, the 1<sup>st</sup> Appellate Court relied upon the admission of the 2<sup>nd</sup> defendant/S.P.Shanmugam, in the cross examination about the birth of plaintiff



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K.Parimala at Vijaya Hospital and his subsequent contradicting his own statement has held the plea of the defendants that the plaintiff ought to have proved the paternity through DNA test is unsustainable especially when both S.P.Kandasamy and Santhamani who are the parents of Parimala not alive. Further, Ex.A24 to Ex.A31 proves that K.Parimala was born to S.P.Kandasamy. In all the official documents Parimala is shown as daughter of S.P.Kandasamy. Hence, her status as the daughter of S.P.Kandasamy as declared by the trial Court confirmed.

**14.** However, regarding the injunction restraining the 2<sup>nd</sup> defendant from interfering the peaceful possession of the plaintiff/Parimala, the 1<sup>st</sup> Appellate Court has held that the alleged attempt to dispossess Parimala on 28.07.2011 not been proved. Likewise, the defence taken by the 1<sup>st</sup> defendant, claiming that her husband Kandasamy had bequeath the suit property in her favour through the Will dated 24.06.2009 held not proved. Accordingly, the appeal was partly allowed in respect of the injunction relief and dismissed insofar as the declaration of the equal share in the suit property granted in favour of the plaintiff, Parimala.

**15.** S.A.No.497 of 2017 is directed against the judgment and decree



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passed by the 1<sup>st</sup> Appellate Court in A.S.No.16 of 2014 *vide* judgment dated 28.09.2015. The appellants contended that the judgment and decree of the 1<sup>st</sup> Appellate Court had given rise to substantial questions of law to be interfered under Section 100 of C.P.C.

**16.** This Court, before admitting the appeal and framing substantial question of law, had caused notice to the respondents, who have entered appearance through Counsel.

**17.** The Learned Counsel appearing for the appellants submitted that the Trial Court as well as the 1<sup>st</sup> Appellate Court failed to consider that the plaintiff/Parimala had not placed any legal evidence of impeccable sterling quality like DNA test to prove that she is the daughter of S.P.Kandasamy. He contended that the appellant had taken a specific plea denying that the plaintiff is not the biological daughter of S.P.Kandasamy. Ex.A24 to Ex.A31 are self serving documents, so they ought not to have been relied by the Courts below to hold that Parimala is the daughter of S.P.Kandasamy to inherit his property as a Class-I heir. Further, the finding of the Courts below that Santhamani had not been heard for more than seven years, tantamounts to civil



death, challenged stating that without discharging the burden of proof as mandated under Sections 107 and 108 of Indian Evidence Act, the Courts below had presumed Civil death of Santhamani therefore the judgment of the Courts below warrants interference under Section 100 of C.P.C.

**18.** The Learned Counsel appearing for the appellants submitted that the Courts below had failed to properly appreciate the oral evidence of P.W.1 and D.W.1. He contended that the paternity claimed by the plaintiff ought to have been proved by scientific evidence and not by documentary evidence.

**19.** Per contra, the Learned Counsel appearing for the Plaintiff/respondent submitted that the specific case of the plaintiff is that her mother, Santhamani, married S.P.Kandasamy in the year 1970 and gave birth to her in the year around 1972. Santhamani went missing in the year 1996 and not heard for more than 7 years. S.P.Kandasamy, her biological father, had taken care of her, gave education and also solemnized the marriage to one Paneerselvam. During his lifetime, he gifted a portion of his property through a settlement deed. In the settlement deed, marked as Ex.A24, he specifically mentioned the plaintiff, Parimala, as his only daughter and he settle the



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property out of love and affection towards her. In addition, the birth certificate, school certificate, community certificate, voter ID as well as the settlement deed, mentioning S.P.Kandasamy as father of Parimala clearly prove the Daughter and father relationship between the plaintiff/Parimala and S.P.Kandasamy. While so, no further scientific evidence such as DNA test is required. The Courts below had rightly held that Ex.A24 to Ex.A31 are sufficient evidence to arrive at conclusion that Parimala is the daughter of Kandasamy. In this case, DNA test could not be conducted since both the father and mother of the plaintiff/K.Parimala were not alive on the date of instituting the suit. For the above said reason, the Courts below had rightly declined the above said plea raised by the 1<sup>st</sup> defendant.

**20.** Despite a conclusive finding given by the Courts below on facts. The second appeal has been filed without any substantial question of law for consideration.

**21.** It is contended by the respondent that the oral evidence adduced

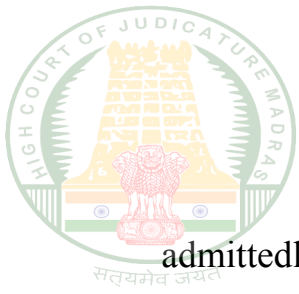


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on behalf of the plaintiff as well as the admission by the Defendants/Appellants herein that Santhamani, the mother of the plaintiff, had not been heard from 1996 leads to legal presumption of civil death, as contemplated under the Indian Evidence Act. In the absence of evidence to show that Santhamani was alive and heard within seven years, the presumption drawn by the Court below is legally sustainable.

**22.** Heard the Learned Counsels appearing on either side. Records perused.

**23.** Though the appellant has couched questions as substantial questions of law, they are, in fact, purely questions of fact and not questions of law. This Court has not admitted the second appeal, since no substantial question of law available for consideration. While the plaintiff has proved through oral and documentary evidence, the relationship between herself and S.P.Kandasamy as the daughter and father, the DNA test to prove the paternity is unwarranted. Even assuming that, to further strengthen the case of the plaintiff, she should have opted for DNA test, in the facts and circumstances that the mother of the plaintiff not heard for more than 7 years and the father



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admittedly died on 31.05.2010, drawing DNA samples to prove the parentage through DNA mapping does not arise.

**24.** Insofar as the presumption of civil death of Santhamani is concerned, Sections 107 and 108 of Indian Evidence Act read together clearly indicate that if anyone claims the civil death of a person, such person has to prove that the said person not heard for more than seven years. Contrarily, if anyone wants to draw presumption that the said person is alive, the burden of proof shifts on them to establish that the said person was heard within the said period.

**25.** In this case, the plaintiff has claimed that Santhamani had not heard been after 1996 and oral evidence has been introduced to prove the same. The appellant, who is the defendant in this case, if wanted to prove that Santhamani was alive, she ought to have adduced evidence to that effect. Under Section 108 of Indian Evidence Act, the burden of proof shifts on the defendant to prove the contrary. In this case, there is no evidence worth to reject the plea of K.Parimala that her mother, Santhamani, went missing in the 1996 and not been heard.



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**26.** In the said circumstances, we hold no substantial questions of law available for interfering under Section 100 of C.P.C. Hence, the Second Appeal No.497 of 2017 is stands dismissed.

**A.S.Nos.12 & 13 of 2021**

**27.** These two Appeal Suits are sequel of the earlier suit O.S.No.256 of 2010 on the file of District Munsif Court, Sathyamangalam. The judgment and decree passed in O.S.No.256 of 2010 challenged in A.S.No.16 of 2014 before the Sub Court, Sathyamangalam. While this Appeal Suit No.16 of 2014 was pending before the Sub Court, Sathyamangalam, Ranganayaki who lost Parimala in her declaration of status initiated O.S.No.90 of 2013 before the Sub Court, Sathyamangalam which was subsequently transferred to the III Additional District and Sessions Court, Gobichettipalayam and renumbered as O.S.No.24 of 2015. This suit was filed against K.Parimala seeking declaration in respect of three items of properties and for permanent injunction restraining the defendant K.Parimala and her agents from interfering with her peaceful possession and enjoyment.



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**28.** In this suit, Ranganayaki pleaded that S.P.Kandasamy had executed a *Will* on 24.06.2009 in her favour, in a sound and good state of mind. She being his wife and legatee under the said Will, she is entitled absolutely to the properties described under the schedule. The suit properties been enjoyed by her husband during his lifetime and after his death, Ranganayaki continue to cultivate the same along with S.P.Shanmugam the brother of her late husband. It was further alleged that the defendant/K.Parimala was making a false claim that she is the daughter of S.P.Kandasamy and trying to interfere with her peaceful possession of the property, owned by her husband and bequeathed to her under the *Will* dated 24.06.2009.

**29.** The suit in O.S.No.90 of 2013 contested by K.Parimala stating that she being the daughter of S.P.Kandasamy born through his second wife, Santhamani, entitled to have a share in the properties as one of the legal heirs of S.P.Kandasamy. She further contended that being in joint possession of the properties, the plaintiff cannot seek injunction against the co-owner.

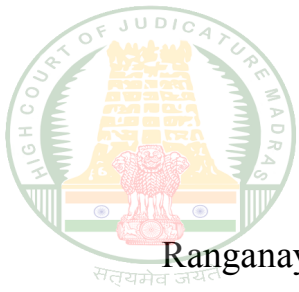
**30.** Pending O.S.No.90 of 2013, Parimala instituted a partition suit



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before the District Court, Erode, in O.S.No.198 of 2014, listing 5 items of properties. This suit was transferred to the III Additional District Court and Sessions Court, Gopichettipalayam and renumbered as O.S.No.1 of 2015. In the said partition suit, Parimala contended that, she being the daughter and Class-I heir of S.P.Kandasamy, she is entitled for half share in the suit property. She further contended that item Nos.1 to 4 of the scheduled properties, which are immovable properties held by Kandasamy and after his demise, being joint possession of the plaintiff Parimala and the 1<sup>st</sup> defendant Ranganayaki. Accordingly, she claimed half share in the said properties.

**31.** Insofar as the 5<sup>th</sup> item which is the sale proceeds accrued from the sale of turmeric through the 2<sup>nd</sup> defendant in the Marketing Committee, Erode. Parimala has claimed half share in the sale proceeds. She has prayed for preliminary decree of division, ascertaining her share in the suit properties and for the division of item Nos.1 to 4 of the properties by metes and bounds through final decree. Both the suits one filed by Ranganayaki, renumbered as O.S.No.24 of 2015, seeking declaration and injunction as well as the partition suit filed by Parimala, renumbered as O.S.No.1 of 2015 were taken up for joint trial and common evidence recorded in O.S.No.24 of 2015, the suit filed by



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Ranganayaki.

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**32.** Based on the pleadings the following issues were framed in  
O.S.No.24 of 2015 (Suit by Ranganayaki)

1. Whether the *Will* dated 24.06.2009 propounded by Ranganayaki is genuine and valid?
2. Whether the plaintiff Ranganayaki is entitled for the relief of declaration?
3. Whether the plaintiff Ranganayaki is entitled for the relief of permanent injunction?
4. Whether the suit is barred by limitation?
5. What other relief?

Issues in O.S.No.1 of 2015 (Suit by Parimala)

1. Whether the plaintiff (Parimala) was born to S.P.Kandasamy and Santhamani?
2. Whether S.P.Kandasamy married Santhamani and the plaintiff Parimala was born to them?
3. Whether the plaintiff/Parimala is entitled for half share and separate possession in the suit properties item Nos.1 to 4?
4. Whether the plaintiff/Parimala is entitled



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for half share in item No.5?

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5. Whether the plaintiff/Parimala is entitled for any other relief?

**33.** On the side of the Ranganayaki, the plaintiff in O.S.No.24 of 2015 and 1<sup>st</sup> defendant in O.S.No.1 of 2015, five witnesses (P.W1 to P.W5) were examined. On the side of Parimala, the plaintiff in O.S.No.1 of 2015 and the defendant in O.S.No.24 of 2015, two witnesses (D.W1 & D.W2) were examined. 17 documents (Ex.P1 to Ex.P17) on the side of Ranganayaki and 39 documents (Ex.D1 to Ex.D39) on the side of Parimala were relied. That apart, the Forensic Report in respect of genuineness of the *Will* dated 24.06.2009 propounded by Ranganayaki, was marked as Court Ex.C1.

**34.** The Trial Court, after appreciating both oral and documentary evidence, dismissed the suit in O.S.No.24 of 2015 filed by Ranganayaki and passed a preliminary decree in favour of Parimala in O.S.No.1 of 2015 in respect of suit properties, item Nos.1 to 4. As far as 5<sup>th</sup> item, namely the sale proceeds of the agricultural produce i.e., Turmeric the claim of the plaintiff Parimala, seeking half share was dismissed.



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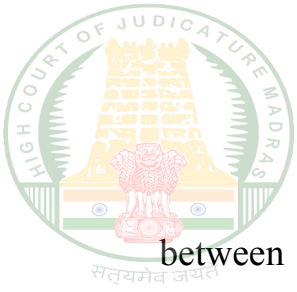
**35.** Being aggrieved by the dismissal of her suit in O.S.No.24 of 2015, Ranganayaki has filed A.S.No.13 of 2021. As against the preliminary decree passed in O.S.No.1 of 2015 in favour of Parimala, Ranganayaki has filed A.S.No.12 of 2021.

**36.** The common judgment and decree passed by the Court below, though challenged in two separate appeals, the sum and substance of the grounds raised by the appellants are as below:

1. The Court below ought not to have dismissed the suit for declaration filed by Ranganayaki on the ground that it is barred under Order II Rule 2 of C.P.C.

2. The Court below ought to have awaited the outcome of S.A.No.497 of 2017, pending on the file of High Court, which is previous suit instituted by Parimala for declaration of her status and injunction.

3. The Court below erred in drawing a presumption of valid marriage



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between S.P.Kandasamy and Santhamani, despite the absence of any proof of marriage.

4. The presumption of marriage based on long cohabitation can be drawn only if there is no other subsisting marriage, otherwise, such cohabitation is only a concubinage and not a valid marriage.

5. To claim the status of legitimate child, Parimala ought to have prove valid marriage between her mother, Santhamani and S.P.Kandasamy. Having failed to prove the existence of valid marriage, the Court below ought not to have allowed the suit filed by Parimala seeking partition. Further, the Court ignored the valid *Will* executed by S.P.Kandasamy during his lifetime in favour of his wife, Ranganayaki.

6. The Court below, relying upon the handwriting expert opinion disbelieved the genuineness of the *Will* marked as Ex.A1, ignoring the ocular evidence of attesting witnesses. The opinion of the expert cannot override the ocular evidence. Minor variation in the ocular evidence exaggerating by Court below to reject their evidence.



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**37.** The Learned Counsels appearing for the respective parties have made their submissions both orally and in writing.

**38.** The Learned Counsel appearing for the appellant/Ranganayaki submitted that the appellant was forced to file the subsequent suit for declaration and injunction in view of the fact that, in the earlier suit instituted by Parimala, though the *Will* of S.P.Kandasamy been pleaded, it was not produced before the Court in the earlier suit in O.S.No.256 of 2010. Hence, the trial Court left open the issue of inheritance open. This has forced the appellant to file separate suit for declaration and injunction by producing the *Will* marked as Ex.A1. It was further contended that the opinion of the handwriting expert is not a conclusive proof. While the plaintiff Ranganayaki, had proved the *Will* (Ex.A1), through attesting witness, P.W.2. However, the Court below disbelieved the Will on the basis of minor contradictions in the testimony of the attesting witness. Therefore, it was emphatically contended that the appellant being the natural heir of the deceased S.P.Kandasamy and in view of the fact that the *Will* which has been executed to avoid confusion in the family, the Court below ought to have allowed the suit filed for declaration and injunction.



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**39.** Per contra, the Learned Counsel appearing for the respondent submitted that Parimala through oral and documentary evidence, had clearly established that she is the sole daughter of S.P.Kandasamy. In the earlier suit O.S.No.256 of 2010, Parimala had obtained a declaration of her status which was subsequently confirmed by the First Appellate Court. While so, the suit by Ranganayaki for a relief diagonally opposite, to the Civil Court decree in which she is a party is legally not sustainable.

**40.** The Court below, taking note of the fact that the decree and judgment passed in O.S.No.256 of 2010 being the subject matter of the pending S.A.No.497 of 2017 dehors of the observations and findings in the earlier proceedings, had independently gone into the documents relied on either side and had arrive at a firm conclusion that the Parimala is the daughter of S.P.Kandasamy. To arrive at the said conclusion, the proof of long cohabitation been taking into account.

**41.** The settlement deed marked as Ex.B39 in the present case, the



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attestation of S.P.Shanmugam, the brother of S.P.Kandasamy as attesting witness. The recitals in the said settlement deed were taken into consideration for arriving at just conclusion about the status of Parimala. That apart, Ex.P19, Family Card issued in the year 1998 disclosing S.P.Kandasamy as father, Santhamani as mother and Parimala as daughter residing at Door No.168, Nehru Nagar, West Street. The community certificate marked as Ex.P27 issued in the year 1990 showing S.P.Kandasmy as the father of Parimala. These documents which are nearly 30 years old, were relied by the trial Court to ascertain the parentage of K.Parimala. That apart, through scientific examination of the *Will* propounded by Ranganayaki also proved to be a forged document. Therefore, the Learned Counsel submit that the appeal suits filed by Ranganayaki deserve to be dismissed.

**42. Point for determination:-**

*Whether the appellants, Ranganayaki, is the sole legal heirs of deceased S.P.Kandasamy and whether she is entitled for declaration of title in respect of the suit properties based on the Will dated 24.06.2009, marked as Ex.A1?*

**43.** While K.Parimala, through oral and documentary evidence, had



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proved her case that she is daughter of S.P.Kandasamy. Whereas the appellant

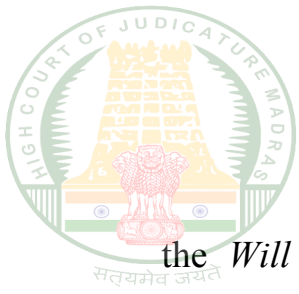
in her suit O.S.No.90 of 2014 had reagitated the same issue already heard and decided in the earlier suit O.S.No.256 of 2010. However, in the subsequent suit the trial Court taking into consideration the pendency of the appeal had revisited the issue and arrived rightly the same conclusion. The case of appellant is that Santhamani led a life of prostitute and Parimala was born through her even before S.P.Kandasmy came in contact with her. It was contended that Santhamani was working as a housemaid with S.P.Kandasamy and subsequently came and joined along with her daughter Parimala, who was born to someone else. This plea has been analysed by the trial Court in the light of oral and documentary evidence particularly, testimony of Ranganayaki, during the cross examination who admits that she had no issue and the relatives were trying to arrange for second marriage to S.P.Kandasamy. She admits that, she heard her husband married Santhamani. She admits that her husband arranged for the marriage of Parimala. She also admits that her husband settled some of his properties in favour of Parimala. Thus, without any pale of doubt, the fact that S.P.Kandasamy was living with Santhamani and Parimala was born to him through Santhamani is established not only through multiple documents which are nearly 30 years old but by own admission of Ranganayaki



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**44.** Apart from oral evidence, this Court of the view that the conduct of S.P.Kandasamy during his lifetime need to be taken into account to decide the case in hand. He had settled properties in favour of Parimala, explicitly declaring that she is his only daughter. He had also solemnized the marriage of Parimala as a responsible father. Further, the Family Card, Community Certificate and Educational Certificates of Parimala reflects that her father is S.P.Kandasamy. While so, no more evidence is required to declare the status of Parimala as the daughter of S.P.Kandasamy. The plea of the appellant, made out of frustration to deprive the right of Parimala has to be ignored. More so, when the appellant had projected a forged *Will*, Ex.P.1, which has been scientifically proved to be a forged document and the attesting witness examined on her behalf had given evidence demolishing her case particularly, the witness had deposed that the *Will* was handwritten. It was written by a document writer and registered. S.P.Kandasamy signed before the Sub Registrar. Whereas, Ex.A1 relied by the appellant is a computer typed *Will* and not a registered Will but unregistered document. Nowhere in the Will, presence of Sub-Registrar is recorded.

**45.** This Court also take note of the fact that though the existence of



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the *Will* was pleaded by Ranganayaki while defending the earlier suit in O.S.No.256 of 2010, she did not choose to produce the *Will* during the trial of the said suit. *Will* (Ex.A1) had surfaced only in the year 2013, despite there was every opportunity and necessity for Ranganayaki to produce the *Will* earlier when she was defending O.S.No.256 of 2010. The belated introduction of the *Will* and contradictory testimony of the attesting witnesses, in addition the opinion of expert about the *Will* put together would clearly show that Ranganayaki who is the appellant herein, has miserably failed to prove the *Will* Ex.A1 as well as failed to disprove the case of Parimala that she is the daughter of S.P.Kandasamy.

**46.** In the light of the above discussions:

(i) S.A.No.497 of 2017 is dismissed. The judgment and decree passed in O.S.No.256 of 2010 on the file of District Munsif Court, Sathyamangalam and confirmed in A.S.No.16 of 2014 on the file of Sub Court, Sathyamangalam, are hereby confirmed.



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(ii) A.S.No.12 of 2021 is dismissed. The judgment and preliminary decree passed in O.S.No.1 of 2015 on the file of III Additional District Court and Sessions Court, Gopichettipalayam, is hereby confirmed.

(iii) A.S.No.13 of 2021 is dismissed. The judgment and decree passed in O.S.No.24 of 2015 by the III Additional District and Sessions Court, Gopichettipalayam, is hereby confirmed.

Considering the relationship between the parties, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions closed.

**(Dr.G.J, J.) & (M.S.K, J.)**  
**10.10.2025**

Index :Yes/No.  
Internet :Yes/No.  
Neutral Citation :Yes/No.  
bsm



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To,

1. The III Additional District cum Sessions Court, Gobichettipalayam.
2. The District Munsif Court, Sathyamangalam.
3. The Sub Court, Sathyamangalam
4. The Market Committee Superintendent, Regulated Market Committee,  
Erode Market Committee, Erode – 638003.



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**Dr.G.JAYACHANDRAN, J.**  
**&**  
**MUMMINENI SUDHEER KUMAR, J.**  
bsm

Pre-delivery common judgment made in  
S.A.No.497 of 2017 & A.S.Nos.12 & 13 of 2021

**10.10.2025**