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A.S.No.532 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 15.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

A.S.No.532 of 2025 & CMP.No.8146 of 2025

1. R.Sudhakar
2. B.Pushpa
3. M.Bhuvaneswari

... Appellants

Versus

1. V.Ranganathan
2. Krishnammal
3. Dhamodharan
4. Dhanapackiyam
5. Dhanalakshmi
6. Purushothaman @ Maharaja
7. A.M.Karuppusamy
8. E.Ramahcnadran
9. A.Sudha

[Respondents 7 to 9 were impleaded as per the Order of this Court in CMP.No.9445 of 2016 in AS.SR.No. 2925 of 2016 dated 03.01.2020]

[Appellants 1 to 3, who were already on record are recorded as legal heirs of the deceased first respondent Order dated 01.08.2024 made in CMP.No.15342 of 2024 in AS.SR.No.29525 of 2016]

... Respondents



A.S.No.532 of 2025

PRAYER : Appeal Suit filed under section 96 of Code of Civil Procedure to set aside the decree and judgment passed on 25.08.2015 in O.S.No.11 of 2012 on the file of the District Court, Kancheepuram District at Chengalpet and allow the suit.

For Appellant : Mr..Lakshmi Narayanan

JUDGMENT

Challenge has been made to the decree and judgment of the trial Court dismissing the suit filed by the plaintiffs claiming partition of 3/9th share in the suit property, in the present appeal .

2. The parties are arrayed as per their own ranking before the trial Court.

3. It is the case of the plaintiffs that the suit property was acquired by one Veerabathira Naidu, the grandfather of the plaintiffs herein. He died intestate in the year 1978 leaving behind his 3 sons Krishnappa Naidu, Gopal @ Mohan Naidu and Ranganathan Naidu as his legal heirs. Krishnappa Naidu and his



A.S.No.532 of 2025

wife died issueless. Gopal @ Mohan died leaving behind his wife and two sons and two daughters, the defendants 3 to 6 herein, as his legal heirs.

Geneological Table

M.Veerabathiram Naidu [Deceased]

1. Krishnappa Naidu died issueless	2. Gopal @ Mohan Naidu [deceased]	3. V.Ranganathan Naidu [D1]
a. [Wife of Krishnappa Naidu deceased]	a. Krishnammal [D2] W/o.Late Gopal Naidu	a. Lakshmi [deceased] W/o.Ranganathan
	b. Dhamodharan [D3] S/o.Late Gopal Naidu	b. Sudhakara [P1] S/o.V.Ranganathan
	c. Dhanapackiyam [D4] D/o.Late Gopal Naidu	c. Pushpa, [P2] W/o.Balaji D/o.V.Ranganathan
	d. Dhanalakshmi [D5]	d. Bhuvaneswari [P3]
	e. Purushotaman @ Maharaja S/o.Late Gopal Naidu [D6]	W/o.Murali D/o.V.Ranganathan

The plaintiffs being the grand children of Veerabathira Naidu, they are entitled to 3/9th share. They had already filed a suit in O.S.No.216 of 2011 on the file of



A.S.No.532 of 2025

the District Munsif's Court, Chengalpet for declaration that the settlement made by the first defendant in favour of his illegally wedded wife as null and void and the same is pending. As the plaintiffs were not given any share from the ancestral properties, they had issued a legal notice to the first defendant on 22.07.2011. Hence, the suit.

5. The first defendant denying the rights of the plaintiffs, it is his stand that the suit property is a self acquired property of the first defendant and his two brothers, viz., Krishnappa Naidu and Gopal Naidu and patta has also been issued in their name. The said Krishnappa Naidu died issue less and after his death, the first and the second defendants are entitled to a half share in the suit properties and they were allotted 'A' and 'B' schedule properties respectively.

6. In the written statement filed by the third defendant, which has been adopted by the defendants 2, 4 to 6, it is his stand that suit property has been acquired by the first defendant and his two brothers and hence, joint patta has been issued in their favour. It is his further contention that on 12.08.2011, the first defendant and the legal heirs of Gopal had partitioned the suit properties



A.S.No.532 of 2025

under a registered partition deed and in the said partition, 'A' schedule property has been allotted to the first defendant and 'B' schedule property has allotted to the legal heirs of the deceased Gopal.

7. On the basis of the above pleadings, the following issues have been framed by the trial Court :

1. Whether the suit properties are the ancestral properties of the plaintiffs as alleged by the plaintiffs [or] the self acquired properties of Ranganathan [D1] and Gopal as alleged by the defendants?

2. Whether the plaintiffs are entitled to get 3/9 shares in the suit property?

3. Whether the plaintiffs are entitled for permanent injunction as prayed for?

4. To what relief the plaintiffs are entitled?

8. On the side of the plaintiffs, first plaintiff examined himself as P.W.1 and Ex.A.1 to Ex.A.7 have been marked. On the side of the defendants, the first



A.S.No.532 of 2025

defendant examined himself as D.W.1 and the third defendant examined himself as D.W.2 and no documents have been marked on their side.

9. The trial Court, considering entire evidence, both oral and documentary, has dismissed the suit. Challenging the same, the unsuccessful plaintiffs have filed the present appeal.

10. It is relevant to note that the suit has been dismissed in the year 2015 and the appeal has now come before this Court. Be that as it may.

11. It is the main contention of the learned counsel appearing for the appellants that the suit properties belong to their grandfather. According to them, the property is originally grama nattham occupied by their grandfather and after his death, the plaintiffs are entitled to a share in the suit property. Hence, they assailed the judgment of the trial Court.

12. In the light of the above submissions, now the point that arise for consideration in this appeal is :



A.S..No.532 of 2025

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Whether the plaintiffs have any share in the suit property,
and the trial Court has committed error in dismissing the suit?

13. Point :

The very pleading in the plaint indicate that partition has been claimed on the ground that the property belonged to Veerabathira Naidu, the grandfather of the plaintiffs. It is not the case of the plaintiffs that the suit properties are ancestral in nature. When the property originally belonged to the grandfather and not an ancestral property, it has to held that it is only an individual property of their grand father. Though now it is contended by the learned counsel for the appellants that the property is originally classified as gram natham which was occupied by their grandfather and therefore, they are entitled to a share in the suit properties.

14. It is relevant to note that when a person in an individual capacity is in occupation of a grama natham land and patta has also been issued later, it has to be held that the property is an independent property, as long as there is no evidence to show that there was ancestral nucleus to acquire such property. In



A.S.No.532 of 2025

such view of the matter, it has to be necessarily held that the property is an independent property of the said Veerabathira Naidu and after his death, the property devolved upon his class-I legal heirs, as per Section 8 of the Hindu Succession Act. Such being the position, the first defendant is his class I legal heir and the plaintiffs being the grand children are not the class I legal heirs. As the father of the plaintiffs is very much alive, they are not class I legal heirs of their grandfather. In such view of the matter, I do not find any merits in this appeal. The point is answered accordingly.

15. In the result, this Appeal Suit is dismissed and the decree and judgment of the trial Court in O.S.No.11 of 2012 dated 25.08.2015 is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

15.04.2025

Index : Yes / No

Internet: Yes

Speaking/non speaking order

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Page 8 / 10



A.S.No.532 of 2025

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To,

1. The Principal District Judge, Chengalpet.
2. V.R.Section, High Court, Madras.



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A.S.No.532 of 2025

N. SATHISH KUMAR, J.

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A.S.No.532 of 2025

15.04.2025