



S.A.(MD)No.90 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11.09.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

S.A.(MD)No.90 of 2025
and
C.M.P.(MD).No.2166 of 2025

S.Manohari

... Appellant/Appellant /
1st Defendant

Vs.

1.R.Saraswathi

2.Minor.R.Kanishka

... Respondents/Respondents/
Plaintiffs

3.Minor.R.Nivetha

... Respondents/Respondents/
2nd Defendant

4.The District Collector,
Sivagangai Town,
Sivagangai.

5.The Thasildar,
Manamadurai,
Manamadurai Taluk,
Sivagangai District.

... Respondents/Respondents/
Defendants 3 & 4

PRAYER:- Second Appeal is filed under Section 100 of Code of Civil



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Procedure, to set aside the judgment and decree of the Subordinate Court, Manamadurai, dated 08.11.2023 passed in A.S.No.6 of 2022 confirming the judgment and decree of the District Munsif cum Judicial Magistrate Court, Thiruppuvanam, dated 27.11.2020 passed in O.S.No.10 of 2020 and allow this appeal.

For Appellant : Mr.J.John

For Respondent : Mr.T.Vadivelan for R1 & R2

: Mr.M.Muthumanikkam
Government Advocate (Civil Side) for R4 & R5
: R3 – *Ex parte* before the trial Court

J U D G M E N T

The appellant/first defendant in O.S.No.10 of 2020 on the file of the the District Munsif cum Judicial Magistrate Court, Thiruppuvanam, has filed this second appeal challenging the judgment and decree passed in A.S.No.6 of 2022 on the file of the Subordinate Court, Manamadurai, confirming the decree granted in favour of the respondents 1 & 2/ plaintiffs in O.S.No.10 of 2020.

2. For the sake of convenience and brevity, the parties herein after shall be referred to as per their status/ranking before the trial Court.

3. The brief averments made in the plaint are as follows:-



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The first defendant is the mother and the second defendant is the daughter of the first wife of the deceased Rajasekar. The deceased Rajasekar was working as Junior Assistant in Government Higher Secondary School, Thiruppachethi, Sivagangai District. He married the first plaintiff on 27.11.2014 at Sivan Temple, Melur. After marriage, they started their matrimonial life at Melur, South Street, and subsequently, they shifted their residence from Melur to MGR Nagar, Madapuram Vilakku, Sivagangai District, since they faced some inconvenience to travel. When the first plaintiff was carrying the second plaintiff in her womb, the said Rajasekar committed suicide on 07.09.2016 and subsequently, the second plaintiff was born on 08.11.2016. Since the first plaintiff is the legally wedded wife of the deceased, she required a legal heir certificate in order to get terminal benefits of the deceased. Hence, she filed an application before the fourth defendant seeking legal heir certificate and the same was objected by the defendants 1 & 2 stating that they only are the legal heirs of the deceased Rajasekar and the marriage said to have happened between the first plaintiff and the deceased is void.

Therefore, the plaintiffs filed suit in O.S.No.10 of 2020 to declare them



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and the defendants 1 & 2 are the legal heirs of the deceased Rajasekar.

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4. The brief averments made in the written statement are as follows:-

4.1. The first defendant filed a written statement disputing the marriage and the relationship between the first plaintiff and the deceased and also, stating that the first plaintiff without getting legal divorce from her first husband developed illegal relationship with the deceased and continued to live without valid marriage. Therefore, the plaintiffs are not entitled for declaration of status as wife and daughter.

4.2. She also stated that her husband was working as teacher in the Government School and while he was in service, he died in the year 1994. In his Service Register, her name was mentioned as nominee. After the demise of her husband, the deceased was appointed as Junior Assistant in the Government Higher Secondary School, Thiruppachethi, Sivagangai District, on compassionate ground. Hence, she and the second defendant are the original legal heirs of the deceased Rajasekar and hence, prayed for dismissal of the suit.



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5. Based on the above said pleading, the trial Court has framed the following issues:-

1. Whether the plaintiffs are entitled for declaration that the plaintiffs and defendants 1 and 2 are legal heirs of deceased Rajasekar?

2. To what other relief?

6. Before the trial Court on the side of the plaintiff, the plaintiff examined herself as P.W.1 and other witnesses were examined as P.W.2 to P.W.6 and Exs.A1 to A17 were marked. On the side of the defendants, the first defendant was examined as D.W.1 and others were examined as D.W.2 & D.W.3 and Ex.B.1 to Ex.B.9 were marked.

7. After analyzing the evidence adduced on both sides, the trial Court has held that the marriage pleaded by the first plaintiff with the deceased Rajasekar has been proved and the birth of the second plaintiff was also proved and hence, both are entitled for declaration of the legal status as prayed for in the suit. Aggrieved over the said judgment and decree, the first defendant filed an appeal before the Subordinate Court,



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Manamadurai, in A.S.No.6 of 2022. The learned First Appellate Judge dismissed the appeal by confirming the judgment and decree passed by the trial Court in favour of the plaintiffs.

8. Challenging the same, the present appeal has been preferred by the appellant.

9.1. The learned counsel for the appellant would submit that without proof of the marriage by legal evidence, the Courts below granted decree. No evidence was adduced to prove that the marriage between the first respondent and the deceased is a valid marriage and the same was performed as per Hindu customs and rituals.

9.2. The learned counsel for the appellant would further submit that the evidence of P.W.1, P.W.2, P.W.3, P.W.5 & P.W.6 are not *inter se* corroborated with each other and further, they are interested witnesses. However, the same was wrongly relied by both the Courts below.

9.3. The learned counsel for the appellant would also submit that



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no evidence was adduced to show that the first plaintiff legally got divorce from her first husband, who died in a road accident. Therefore, the marriage between the first respondent and the deceased is void and hence, she is not entitled to get a relief of declaration.

9.4. The learned counsel for the appellant would submit that the above aspects were not properly considered by both the Courts below. Therefore, he prayed to allow this appeal by setting aside the concurrent finding of the Courts below.

9.5. To support his contention, he relied upon the following precedents:-

i) Rathnamma and Others Vs. Sujathamma and Others reported in AIR 2020 SC 541

ii) Dolly Rani Vs. Manish Kumar Chanchal reported in 2024(3) CTC 551

iii) Irudhayaraj Vs. Indira Alias Indira Gandhi in SA(MD)No.1118 of 2009

10.1. The learned counsel for the respondents 1 & 2 would submit



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that the first husband of the first respondent died in a road accident on 06.08.2010 and the divorce between the first wife of the deceased Rajasekar was granted on 12.03.2014 as per HMOP.No.168 of 2014 on the file of the Family Court, Madurai. Thereafter, the first respondent and the deceased entered into marriage on 27.11.2014 at Melur, Sivan Temple and the same was properly considered by both the Courts below on the appreciation of oral and documentary evidence and there is no perversity in the said finding. Hence, it does not require any interference.

10.2. The learned counsel for the respondents 1 & 2 would further submit that the evidence of P.W.1 about the marriage is corroborated by the evidence of P.W.5, co-employee of the deceased Rajasekar and the evidence of the uninterested witness namely, P.W.6, the photographer, who had taken photographs at the time of marriage. P.W.2, the owner of the house clearly deposed that after marriage, they lived together happily as husband and wife. Apart from that, P.W.3, relative of both side clearly deposed about the betrothal held before the marriage. To prove the same, documents and photographs were marked and all these documents clearly proved that the marriage between the first respondent and the deceased



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was performed on 27.11.2014. During the pregnancy of the first respondent, the deceased committed suicide before the birth of the second plaintiff and the same was properly appreciated by both the Courts below and hence, he prayed for dismissal of the appeal.

11. This Court considered the rival submissions and perused the materials available on record and also the precedents relied upon by them.

12. This Court framed the following questions of law at the time of admission:-

i) Whether both the Courts below were correct in decreeing the suit without proof of marriage of the first respondent with the son of the appellant namely, deceased Rajasekar?

13. The husband of the appellant was working as teacher in the Government School and he died in the year 1994. Her one of the son, namely, deceased Rajasekar was appointed as Junior Assistant in the Government Higher Secondary School, Thiruppachethi, Sivagangai



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District, on compassionate ground. Thereafter, he married one Vani and during the wedlock, the third respondent herein was born. Due to difference of opinion, he got divorce from the said Vani by way of filing a petition before the Family Court, Madurai, in HMOP.No.168 of 2014 on 12.03.2014. After that, he married the first respondent on 27.11.2014 and started his matrimonial life at South Street, Melur. Since he was working in the Government Higher Secondary School, Thiruppachethi, Sivagangai District, he faced some inconvenience to travel to the said school. Therefore, he shifted his residence to M.G.R. Nagar, Madapuram Villakku, Sivagangai District and they lived together happily. Thereafter, the first respondent became pregnant. At the time of pregnancy, the deceased committed suicide on 07.09.2016.

14. To prove the said marriage, the first respondent examined herself as P.W.1 and she clearly deposed about the marriage solemnized between her and the deceased as per Hindhu customs at Melur, Madurai District. P.W.2, who had attended the betrothal function, was also examined and he specifically deposed that the first respondent and the deceased were living as husband and wife. P.W.5, co-employee clearly



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deposed that he participated in the marriage between the first respondent and the deceased, and after marriage, they were living as husband and wife. P.W.6, the Photographer, deposed that he had taken photographs of the marriage of the first respondent and the deceased and they were also marked as Ex.A4 & Ex.A.5 along with negatives. Both the Courts below appreciated the said evidence of witnesses and believed the evidence of the above witnesses and gave a finding that the marriage was solemnized on 27.11.2014.

15.The case of the appellant is that the deceased had illegal relationship with the first respondent and no marriage was solemnized and hence, she cannot be elevated to the status of the wife of the deceased. To prove her plea, no evidence was adduced and no circumstances were established through the evidence of P.W.1 to infer the said illegal relationship. It is inconceivable that any woman would voluntarily assert that she had married an unknown person and had begotten a child through him at the cost of her reputation and ignominy as held by the Hon'ble Thiru.Justice M.Srinivasan (as he than was) in the case of *K.Mathilalagan Vs. Mala Devi* reported in *I (1990) DMC 448*,



1989 2 LW 361 which read as follows:
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“11....The lower appellate Court is right in holding that no Hindu woman would come forward with a claim that she had been married to a stranger and that she had borne a child for him. There is no doubt that the respondent belongs to a respectable family. Her father is admittedly a man of high status in the society. He had been a public figure, having been contract with people in the high strata of society. There is no question of either the respondent or the members of her family suffering from any wants. They are sufficiently rich. They can take care of themselves without depending upon others. It is not as if the appellant is extraordinarily rich or a person of outstanding qualifications to hold whose hand women would vie with each other. It is not suggested at any stage in the case that the respondent is a woman of bad character or ill repute. When she was in the witness box, no suggestion was put to her that, she had illicit intimacy with any particular person as a result of which she became pregnant.”

16. In this case, apart from the evidence of P.W.1, P.W.3, P.W.5 and P.W.6 have deposed about the betrothal and also solemnization of the marriage. PW2, PW5 have clearly deposed that both were living as husband and wife. Even when P.W.1, P.W.2, P.W.3, P.W.5 and P.W.6 were



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subjected to incisive examination, nothing was elicited to disbelieve their evidence and the appreciation of the oral evidence by both the Courts below is in accordance with law and this Court finds no perversity on the appreciation of the evidence of P.W.1, P.W.2, P.W.3, P.W.5 and P.W.6. Their evidence are cogent and trustworthy and nothing was elicited to disbelieve their evidence. Apart from that there is no motive was implicated against them to give false evidence. Therefore this court accepts their evidence. It is settled principle as per law laid down ***Shantinath Ramu Danole and Another Vs. Jambu Ramu Danole and Others*** in ***1996 11 SCC 88***, the relative was the competent person to speak about the marriage and also their relationship as husband and wife.

The relevant paragraphs of the said judgment is as follows:-

“ 5. Testimony of witnesses cannot be rejected merely on the ground that they were relatives or friends. Marriage is attended only by the relatives and friends. The evidence of such relative and friends could not be thrown out only because they happened to be relatives and friends unless their testimony suffers from some inherent infirmity which is not to be found in the evidence of these two witnesses.

7. A witness who was a resident of the same village where the couple lived together as husband and wife and also belonged to the same community, had the means of



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special knowledge of the relationship between them. The said witness deposed the facts observed by hi and the opinion that he had formed on the basis of such observations. The evidence of general reputation for purpose of proof or disproof of a marriage is admissible. This is apparent from the illustration given in Section 50 itself of the Evidence Act. Therefore, the evidence given by such a witness is relevant in view of the provisions contained in Sections 50 and 51 of the Evidence Act.”

17. The precedents relied upon by the learned counsel for the appellant are not applicable to the facts of the present case for the reason that the Courts below have considered the oral and documentary evidence and gave a finding that the marriage was performed in accordance with law and the evidence of witnesses to prove the marriage are cogent and trustworthy without any infirmities and also found no material to reject the oral evidence of PW1 to PW5 and held that PW1's credibility about her plea of marriage stood reinforced and this Court also finds no perversity in the said concurrent finding.



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18. In view of the concurrent finding of both the courts below, this Court holds that the marriage between the first respondent and the deceased is clearly proved and hence, the respondents 1 & 2 are entitled to get the relief of declaration that they are the legal heirs of the deceased. Therefore, this Court finds no merit in the appeal and the question of law is answered against the appellant.

19. Accordingly, the Second Appeal is dismissed and the judgment passed by the Subordinate Court, Manamadurai, in A.S.No.6 of 2022 dated 08.11.2023 confirming the judgment and decree passed in O.S.No. 10 of 2020 on the file of the District Munsif cum Judicial Magistrate Court, Thiruppuvanam, dated 27.11.2020, is hereby confirmed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No
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To

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- 1.The Subordinate Court,
Manamadurai.
2. The District Munsif cum Judicial Magistrate Court,
Thiruppuvanam.
- 3.The Section Officer,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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