



S.A.No.1010 of 1996

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2026

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

S.A.No.1010 of 1996

1.Tmt.Sukhavani Devi (died)

2.T.V.Ravi Kumar

3.T.R.Haripriya

4.T.R.Upendra Kumar

.. Appellants

(sole appellant died. A2 to 4 are brought on record as LRS of the deceased sole appellant vide Court Order dated 10.10.2025 made in C.M.P.Nos.2109, 2129 & 2130 of 2020 in S.A.No.1010 of 1996)

Vs.

1.Chengamma (deceased)

2.Muni Krishnan

3.T.Jayachandran

4.T.Narasimhan (deceased)

5.T.Deenadayalan

6.T.Prameela



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7.Sriranjani

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8.Devika

(RR 2, 3, 5 to 8 recorded as LRS of the deceased R1 vide order of Court dated 15.07.2014 made in Memo presented in Court dated 14.07.2014 made in S.A.No.1010 of 1996)

9.D.Savithiri

.. Respondents

(Respondent 9 is recorded as LR of the deceased 4th respondent vide order of this Court dated 03.02.2026 made in C.M.P.No.756 of 2010)

Prayer: Second Appeal filed Section 100 of the Code of Civil Procedure against the decree and judgment of the Court of the City Civil Judge, (III Additional) Madras, made in A.S.No.268 of 1992, dated 16.04.1993, preferred against the decree and judgment of the Court of the City Civil Judge, (15th Asst. Judge) Madras, made in O.S.No.1063 of 1983, dated 17.07.1991.

For Appellants : Mr.T.V.Krishna Kumar

For Respondents: Mr.C.Ravichandran

ORDER

The present second appeal arises against the judgment and decree of the Court of the III Additional City Civil Court, Chennai, in A.S.No.268 of 1992, dated 16.04.1993 in reversing the



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judgment and decree of the XV Assistant City Civil Judge at Chennai in O.S.No.1063 of 1983, dated 17.07.1991.

2.The plaintiff is the appellant. For the sake of convenience, the parties shall be referred to as plaintiff and defendants.

3.The plaintiff presented a suit for declaration, recovery of possession, mesne profits and for costs.

4.The case of the plaintiff is that, the suit schedule mentioned property belongs to one Varadarajalu Chetty. Varadarajalu Chetty had married twice. The name of his first wife has not been disclosed. Through the first wife, he had a daughter by name, Cancherla Komalammal. He contracted a second marriage with one Ravu Komalammal. This marriage resulted in a birth of a daughter by name, Manoranjithammal. Manoranjithammal married one Pathi Subbarayalu Chetty. From this wedlock, there were no issues. The plaintiff claims she is the adopted daughter of Manoranjithammal and Pathi Subbarayalu Chetty.



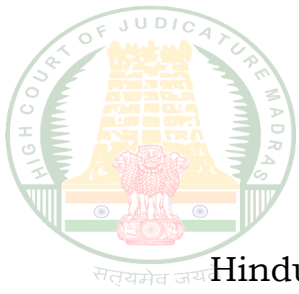
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5.Varadarajalu Chetty has executed a “WILL” on 23.01.1942. Under the said “WILL”, he divided his properties into three equal shares. One share was allotted to the daughter born to him through the first wife viz., Cancherla Komalammal and other two shares were allotted to Ravu Komalammal and Manoranjithammal. He gave absolute right of alienation to his present wife Ravu Komalammal. The daughters were given limited estate under the said testament.

6.Even at the time of writing the “WILL”, Cancherla Komalammal and Manoranjithammal were married. The name of their husbands were Perumal Chetty and Pathi Subbarayalu Chetty respectively. To Cancherla Komalammal and Perumal Chetty, a son by name Cancherla Manohar was born. He was given the vested remainder under the “WILL”. Varadarajalu Chetty passed away on 15.09.1943. Being a “WILL” executed within the city of Madras, an application was filed for grant of probate. This was taken in file in O.P.No.41 of 1944. This Court also granted a probate.

7.The plaintiff pleaded that on the coming into force of the



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Hindu Succession Act, the limited estate granted to Manoranjithammal, bloomed into an absolute estate, by virtue of Section 14(1) of the Hindu Succession Act.

8.The plaintiff pleaded that the defendants' predecessors one Nakuliah was a tenant under Manoranjithammal. Since his actions attracted the provisions of Section 10 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, Manoranjithammal filed RCOP.No.2031 of 1969. Eviction was ordered. The appeal preferred therefrom came to be dismissed. The civil revision petition preferred to this Court also came to be dismissed. Pending the proceedings, Manoranjithammal passed away and her husband Pathi Subbarayalu Chetty and the plaintiff were brought on record to continue the proceedings.

9.The tenant Nakuliah approached the aforesaid Pathi Subbarayalu Chetty and obtained a sale deed for a sum of Rs.20,000/- for the suit schedule mentioned property on 28.05.1979. Since the property belongs to Manoranjithammal and as Pathi Subbarayalu Chetty did not have any right over the same, the sale deed obtained by Nakuliah is of no value.



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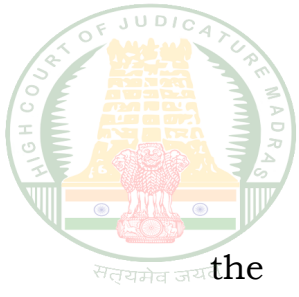
10.The plaintiff stated that on 05.06.1972, Manoranjithammal executed a “WILL” in her favour bequeathing the suit property to her. Soon thereafter, the testatrix passed away on 09.06.1972. On account of the “WILL”, the plaintiff has become the absolute owner of the property. She further pleaded that the “WILL” executed by Manoranjithammal also got a certificate of probate from this Court. The probate was granted in O.P.No.159 of 1982 on 07.10.1982.

11.Nakuliah had passed away in 1981 and the property was in possession and in enjoyment of his legal heirs, namely, the 1st defendant. She is a trespasser. The plaintiff issued the suit notice on 17.11.1982 seeking possession of the property. As the first defendant was attempting to alienate the property, the plaintiff came forth with the suit for the aforesaid reliefs.

12.Summons were served on the 1st defendant. She filed a written statement.

Gist of the Written Statement:-

13.The defendant challenged the plea of adoption made by



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the plaintiff. She pleaded that on 28.05.1979, Nakuliah purchased the property from Pathi Subbarayalu Chetty. She admitted the rent control eviction proceedings, but pleaded as Nakuliah had purchased the property, he became the owner of the same. She added that she and the other heirs of Nakuliah are in possession of the property in their own right and that she is entitled to alienate the property in that capacity. Insofar as the right of Pathi Subbarayalu Chetty in alienating the property is concerned, she pleaded that Cancherla Komalamal, Ravu Komalammal and Cancherla Manohar had executed a release deed in favour of Pathi Subbarayalu Chetty vide registered release deed on 03.06.1944. As Pathi Subbarayalu Chetty had obtained the rights of the aforesaid three persons, he was entitled to alienate the property in favour of Nakuliah on 28.05.1979.

14.Initially, the suit had been filed only against the wife of Nakuliah, namely the first defendant. Hence, the first defendant took a plea that as the children of Nakuliah and the first defendant have not been impleaded, the suit is liable to be dismissed.



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15. In order to get over the objection of non-impleading of necessary parties, the plaintiff filed an application to implead the children of Nakuliah in I.A.No.14657 of 1984. The said application was allowed and the children of Nakuliah were impleaded as defendants 2 to 8.

16. The defendants 2 to 8 filed a separate written statement. They adopted the statement filed by the first defendant. They too accepted the "WILL" executed by Varadarajalu Chetty and the division of 1/3rd as set forth above. They pleaded 2/3rd of the rights was released by the second wife of Varadarajalu Chetty, his daughter Cancherla Komalamal and her son Cancherla Manohar in favour of Pathi Subbarayalu Chetty on 03.06.1944. They pleaded that apart from Pathi Subbarayalu Chetty, Manoranjithammal did not have any legal heirs. They urged that Pathi Subbarayalu Chetty never considered the plaintiff as his adopted daughter. They added that the sale deed executed by Pathi Subbarayalu Chetty in favour of Nakuliah is valid and binding and sought for dismissal of the suit.

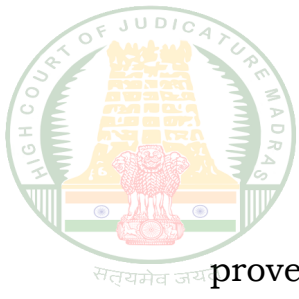


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17.On the filing of the statement, with the permission of the Court, the plaintiff filed a reply statement. She denied the averment that Manoranjithammal was entitled to only 1/3rd share in the suit property. She stated by virtue of the “WILL”, the suit property belonged to Manoranjithammal and that she had enjoyed it during her lifetime. She pleaded that in terms of Section 14 of the Hindu Succession Act, the limited estate granted to Manoranjithammal became her absolute estate. She pointed out that in the sale deed executed by Pathi Subbarayalu Chetty in favour Nakuliah, the “WILL” executed by Varadarajalu Chetty had been specifically referred to and hence, the defendants cannot take a contrary plea. She added that the mother and step sister of Manoranjithammal do not have any right over the property. Hence, the release deed executed by them in favour of Pathi Subbarayalu Chetty is not valid.

18.She pointed out that had Manoranjithammal died without executing a “WILL”, Pathi Subbarayalu Chetty would have got a right over the same. Since she had executed a testament in favour of plaintiff, Pathi Subbarayalu Chetty has no right over the property. She pointed out that the “WILL” had been



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proved before the High Court in O.P.No.159 of 1982 and a decree had been passed by this Court on 07.10.1982. Consequently, she pleaded the suit to be decreed as prayed for.

19.The first defendant filed an additional written statement. In this additional written statement, she pleaded even assuming Manoranjithammal has right, it is confined only to 1/3 of the suit property. The remaining 2/3 devolves upon Komalammal and Cancherla Komalammal. As they had released their rights in favour of Pathi Subbarayalu Chetty, Pathi Subbarayalu Chetty became the owner of 2/3rd share in the property. As Manoranjithammal did not leave any issues or descendants, except her husband, he became the absolute owner of the 1/3rd share of Manoranjithammal on her demise. This is because, the plaintiff is not the adopted daughter of the aforesaid couple. Hence, she prayed for dismissal of the suit.

20.The learned Trial Judge on the basis of the pleadings, framed the following issues:-

“(1) தாவா சொத்தில் வாதிக்஑ு ஁ரிமையுள்ளதா?



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(2) 5-6-72 தேதியிட்ட உயில் மதிப்புறத்தக்கதா?

(3) இவ்வழக்கு கால வரம்பு , சட்டத்தால் பாதிக்கப்பட்டுள்ளதா?

(4) தாவா சொத்தை வாதி திரும்ப அடைய தகுதி உடையவரா?

கூடுதல் எழுவினா:-

(1) வாதிக்கு வழக்கிடைய சொத்தில் 1/3 பாகம் தான் என்று சொல்வது சரியா?"

21.On the side of the plaintiff, one Srinivasan, her power agent, had been examined as P.W.1. He marked Exs.A1 to A9. On the side of the defendants, Exs.B1 to B10 were marked.

22.On the basis of the evidence, the learned Judge came to the conclusion that by operation of Section 14(1) of the Hindu Succession Act, 1956, the limited estate given to Manoranjithammal bloomed into absolute estate. She further concluded that the adoption is true and genuine. On the basis of these findings, she decreed the suit as prayed for. She left it open to the plaintiff to initiate separate proceedings for mesne profits.



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23. Aggrieved by the said judgment and decree, the defendants preferred an appeal in A.S.No.268 of 1992 on the file of the III Additional City Civil Court, Chennai.

24. The Lower Appellate Court held that the release deed executed by Ravu Komalammal and Cancherla Manohar in favour of Pathi Subbarayalu Chetty is valid. He held that Manoranjithammal did not get absolute right by virtue of Section 14(1) of the Hindu Succession Act, 1956, and that all that the plaintiff was entitled to her 1/3rd share in the suit property. He came to this conclusion as there were no documentary or oral evidence to show that the properties of Varadarajalu Chetty were divided into three shares and Manoranjithammal obtained the properties as her share.

25. Aggrieved by the same, the plaintiff preferred the present second appeal.

26. This Court admitted the second appeal on the following substantial questions of law:-



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“1. Whether Manoranjithammal acquired absolute right to the suit property under the Will of her father Varadarajalu Chetty under Sec.14(1) of the Hindu Succession Act?

2. Whether Subbarayalu Chetty – the Vendor of the defendants and husband of Manoranjithammal who had attested the Will in favour of the plaintiff was estopped from questioning the title of Manoranjithammal?

3. Whether the Lower Appellate Court erred in reversing the well considered Judgment of the Trial Court – on facts – a practice deprecated by the Supreme Court in A.I.R. 1951 S.C. page 120.

4. Whether Section 14(2) of the Succession Act will not apply to the Will of Varadarajalu Chetty in favour of Manoranjithammal on 23-1-1942 long before coming into force of the Hindu Succession Act?”



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27. Pending the appeal, the original plaintiff passed away and her legal heirs were brought on record as appellants 2 to 4.

The first defendant, wife of Nakuliah passed away and respondents 2, 3, 5 to 8 were recorded as her legal heirs. The fourth defendant, son of Nakuliah, passed away pending the appeal. The 9th respondent was brought on record as his legal representative.

28. I heard Mr.T.V.Krishna Kumar for the appellants and Mr.C.Ravichandran for the respondents.

29. Mr.T.V.Krishna Kumar urged that by virtue of Section 14(1) of the Hindu Succession Act, 1956, the limited estate granted to Manoranjithammal bloomed into an absolute estate. He points out as Manoranjithammal got the property absolutely, the sale deed executed by Pathi Subbarayalu Chetty in favour of Nakuliah is invalid. Hence, he pleads that the Lower Appellate Court erred in holding that only 1/3rd share belonged to Manoranjithammal and consequently it ought not to have reversed the decree of the Trial Court.



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30.Mr.C.Ravichandran urged that the plaintiff is not the adopted daughter of Manoranjithammal. He further states as Nakuliah had got the sale deed from Pathi Subbarayalu Chetty, the plaintiff is not entitled to make an absolute claim over the property.

31.Before I go into the aspect of section 14 of Hindu Succession Act, I would like to deal with the objection raised by Mr.C.Ravichandran that the deceased plaintiff is not the adopted daughter of Manoranjithammal.

32.What is meant by 'adoption'? Adoption is a legal process by which the adopted child becomes the lawful child of his / her adoptive parents. Once the process of adoption is completed, the child enjoys all rights and privileges which are enjoyed by a biological child born to the adoptive parents. The right to challenge an adoption lies with persons who have a legal interest in the child's status or in the family property. In regular context, the biological parents or the adoptive parents can challenge the adoption. They can plead that there is no valid consent for adoption or the child was taken in adoption by

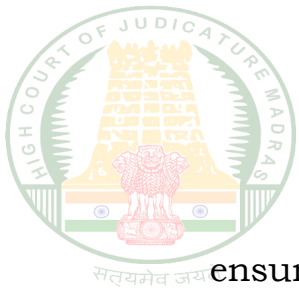


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practicing guile, fraud or coercion. Apart from these two categories, any person interested in the property devolving on the adopted child can deny the status.

33.The admitted facts in this case are Nakuliah, the predecessor of the defendants was a tenant of the property held by Manoranjithammal. The rent control petition had been initiated by Manoranjithammal through her power of attorney Mr.Srinivasulu Naidu. The rent control petition ended in an order of eviction on 28.06.1971 in HRC.No.2031 of 1969 on the file of VI Small Causes Court, Chennai. An appeal was filed by Nakuliah in HRA.No.606 of 1971. Pending the appeal, an application in MP.No.2716 of 1972 was filed to bring on record his vendor, Pathi Subbarayalu Chetty and the plaintiff herein as the legal representative of the deceased Manoranjithammal. Even at that stage, Nakuliah had shown the plaintiff only as a minor represented by her natural guardian, her biological father.

34.It is settled position of law that where a person is impleaded as a legal representative, it is not an admission of family relationship or heirship. It is a mere procedural step to



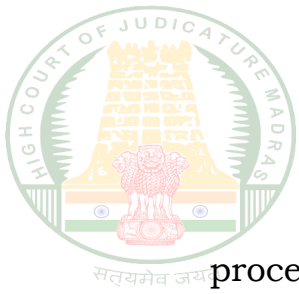
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ensure that the proceedings do not abate. It is only for the limited purpose of continuing the litigation and to ensure the estate of the deceased is represented, so that a Court can render a final verdict. In fact, if a person is brought on record as a legal representative, it will not operate as a *res judicata* on the Court to decide the issue of heirship. The actual right to inherit a property left behind by the deceased must be proved independently.

35.It is not in dispute that Manoranjithammal had executed a “WILL” in favour of the plaintiff. The said “WILL” is dated 05.06.1982. The “WILL” underwent the process of probate before this Court in O.P.No.159 of 1982. The probate was ordered by the Court on 18.11.1982. The certificate granted by this Court had been produced before the Courts below and exhibited as Ex.A3.

36.Further, the defendants had filed two applications in Application No.2865 of 1987 and Application No.2866 of 1987 in O.P.No.159 of 1982. The reliefs in these applications were to revoke the probate granted by this court and to stay all further



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proceedings in OS.No.1063 of 1983, which is the present suit.

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The application came up for disposal before Hon'ble Mr.Justice M.Srinivas (as he then was) on 27.07.1989. This Court dismissed those applications holding that the question answered in O.P.No.159 of 1982 was whether the "WILL" executed by Manoranjithammal is true and genuine and that had been held in favour of the plaintiff. The learned Judge held that Nakuliah and his legal heirs are not entitled to have the probate revoked and consequently dismissed the applications. The only issue that was left open to the applicants / defendants herein was to decide whether the deceased Manoranjithammal was the absolute owner of the property or not.

37.The purpose of writing a "WILL" is to interfere with the normal line of succession. By writing a "WILL", the testator ensures that the property devolves on the person to whom the property is bequeathed and the strict rules of statutory devolution in case of intestate succession do not take place.

38.The argument of Mr.C.Ravichandran whether the plaintiff, Sukhavani Devi, is the adopted daughter of



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Manoranjithammal is irrelevant, because a perusal of Ex.A3 shows that the plaintiff was bequeathed the right to enjoy the suit schedule mentioned property absolutely with the power of alienation, such as gift, exchange, sale, etc.,.

39.Hence, the issue of adoption and the submission of Mr.C.Ravichandran on this aspect are irrelevant. If Manoranjithammal was the owner of the property, by virtue of Ex.A6, the plaintiff is entitled to succeed to the same. The purpose for writing the “WILL” by Manoranjithammal was to ensure that the other legal heir, namely, Pathi Subbarayalu Chetty does not succeed to the estate. The judgment of a probate Court is a judgment *in rem*. It conclusively determines the legal status of a “WILL” and the estate itself, rather than settling a dispute between two persons as is done in the case of a regular civil suit. Once a Court of competent jurisdiction grants a probate, as in this case, it is a certification of the authenticity and valid execution of the “WILL”. This decision binds everyone including the heirs, debtors, creditors, or any person claiming through them and third parties also. It is because of this legal position, that Section 41 of the Indian Evidence Act, treats a



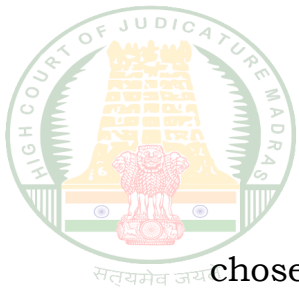
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certificate of probate granted by a Court as “**a conclusive proof**”.

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40.If a judgment is required for this proposition, it is the case of **Surinder Kumar and others Vs. Gian Chand and others, AIR 1957 SC 875**. The Supreme Court held the judgment of the probate Court must be presumed to have been obtained in accordance with the procedure prescribed under law and it is a judgment *in rem*. It pointed out that even if persons were not parties to it, by the very nature of the probate judgment, it is binding on them.

41.Better is the situation in the present case, probate had been granted under Ex.A3. The defendants moved applications under Ex.A8 and Ex.A9, the same had been dismissed and it has become final. As the plaintiff was armed with a certificate of probate granted by this Court, the plea of adoption need not have been entertained by the Courts below at all. It is for the testator to decide as to how the property should devolve to any person. She had bequeathed the property in favour of the plaintiff. She had absolute discretion to write the property in favour of anyone, including Pathi Subbarayalu Chetty. She has



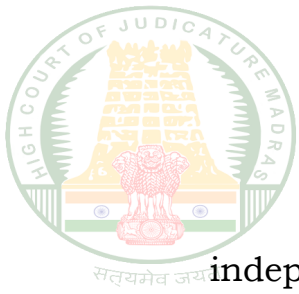
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chosen plaintiff. The defendants cannot question on this aspect.

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42.Hence, I conclude this issue holding that since the probate Court had declared that the “WILL” executed by Manoranjithammal is true and genuine, it is binding on the defendants and if the Court were to conclude that Manoranjithammal was the owner of the property, the plaintiff would take the property by virtue of the probate, irrespective of the fact whether adoption stands proved or not.

43.Moving to the point urged by Mr.T.V.Krishnakumar that, by virtue of Section 14(1) of the Hindu Succession Act, the limited estate that was given by Varadarajalu Chetty to Manoranjithammal had bloomed into absolute estate is concerned, I am not in agreement with the said submission. The very issue whether a limited estate granted under a “WILL” would automatically be converted into an absolute estate was the subject matter of consideration in **Jogi Ram Vs. Suresh Kumar and others, (2022) 4 SCC 274**. Justice Kaul speaking for himself and Justice M.M.Sundresh, held that a restricted estate can be created in favour of a female, so long as it is a new and



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independent right and does not amount to the recognition of a pre-existing right as per the principle laid down in

V.Tulasamma and others Vs. Sesha Reddy, (1977) 3 SCC 99.

The Court held that the objective of Section 14(1) is to create an absolute interest, in case, where such limited estate owes its origin to the law as it stood then. It held that Section 14(1) cannot be stretched to hold that a self property of a Hindu male, giving limited estate to a wife, if all other aspects including maintenance are taken care of, blooms into absolute estate.

44.It is on record, by virtue of Ex.A4, on the date Varadarajalu Chetty wrote the “WILL”, Cancherla Komalammal was married to Perumal Chetty and Manoranjithammal was married to Pathi Subbarayalu Chetty and was residing with her husband at Cuddappah, presently in Andhra Pradesh. The obligation of a father to maintain a daughter ceases on her marriage, as from then on, it is her husband, who would have to maintain her. The “WILL” written by Varadarajalu Chetty was not on account of any pre-existing right that Manoranjithammal had in the estate of Varadarajalu Chetty, but a voluntary provision made by him to his daughter. Hence, applying the judgment



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aforesaid, I have to reject the submission.

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45.Under the “WILL” of Varadarajalu Chetty, he gave absolute estate to his wife Ravu Komalamma and limited estate to his two daughters, Cancherla Komalammal, wife of C.Perumal Chetty and Manoranjithammal, wife of Pathi Subbarayalu Chetty. It is the case of the defendants that by virtue of Ex.B1, dated 03.06.1944, the defendants’ vendor Pathi Subbarayalu Chetty got a release deed from Ravu Komalammal, Cancherla Komalammal and Manohar and thereby, their rights over the suit schedule mentioned property. It is their plea that the said Pathi Subbarayalu Chetty by virtue of the document under Ex.B1 became the absolute owner of the property and in that right executed Ex.A7, in favour of the defendants. It is here that the document filed in C.M.P.No.1181 of 2007 becomes essential.

46.I should point out that though this application was served and filed as early as on 22.03.2007, none of the respondents / defendants filed a counter to the said application. Mr.T.V.Krishna Kumar placing reliance on the document filed along with this petition pleads that this document was executed,



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on the same day by the same parties, who had executed Ex.B1.

This document is anterior in point of time. By this document, the suit schedule mentioned property was absolutely given to Manoranjithammal.

47.I should point out that there is no plea in the plaint with respect to this document. However, I am not dealing with a suit for injunction for me to leave upon the question of title and directing the parties to workout their right independently in a separate suit for title. The present suit is one for title and for recovery of possession. The learned Appellate Judge had after coming to the conclusion that the plaintiff is entitled to 1/3 share in the property, dismissed the suit for title. Hence, the question, is it permissible in a suit for title to show different roots to the title so pleaded.

48.The plea of the plaintiff was one based entirely on Section 14(1) of the Hindu Succession Act. Today, she has been able to produce a registered partition document in Document No.508 of 1944. This document precedes the document under Ex.B1. Ex.B1 bears the number 509 of 1944. The document filed



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along with C.M.P.No.1181 of 2007 points out that Ravu Komalammal, Cancherla Komalammal, Cancherla Manohar had released their rights in favour of Manoranjithammal, with respect to the suit schedule mentioned property. Under this document, after narrating the manner in which the property was acquired by Varadarajalu Chetty and the “WILL” executed by him and the probate proceeding, it points out that four beneficiaries of Varadarajalu “WILL” had decided that schedule ‘B’, ‘C’ and ‘D’ could be allotted to the parties of the first, second and third parties namely, Ravu Komalammal, Cancherla Komalammal and Manoranjithammal.

49.Schedule ‘D’ allotted to Manoranjithammal on the following property:-

- (i)House and ground and premises at No.68, Audiappa Nayakan Street, George Town, Madras;
- (ii)No.16, Trevelian Basin Street, Madras, (suit property)
- (iii)No.4, Nagamuni Garden Street, George Town, Madras.

50.This shows that even prior to Ex.B1, the executants of the said document had given up their right in favour of



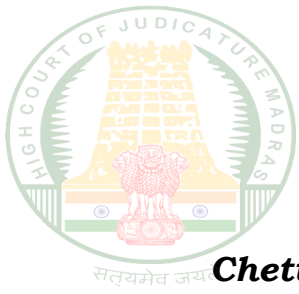
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Manoranjithammal. If they had already transferred their right in favour of Manoranjithammal, then, the release deed executed by them in favour of Pathi Subbarayalu Chetty, the vendor of the defendants, is not worth on the paper on which it is written upon and has no legal effect.

51.It is here I will refer to a judgment of this Court in ***Dhanapal Chettiar and others Vs. Govindaraja Chetty and others, (1961) 74 LW 261***. Justice G.R.Jagadisan, held it is permissible for a plaintiff to set up as many roots of title as possible, even if they are mutually conflicting and inconsistent. The root of the title set up initially was the route under Section 14(1) of the Hindu Succession Act. This route, as already held by this Court, fails. The route of title that had been set up by the plaintiff in the year 2007 was that Manoranjithammal, the testatrix had become the owner of the property by virtue of document No.508 of 1944 and hence, Document No.509 of 1944 is an empty document.

52.I should point out since there is no pleading as in the case of ***Dhanapal Chettiar and others Vs. Govindaraja***



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Chetty and others, set forth above, the plaintiff must be permitted to amend the plaint and to bring forth the plea of title based on document No.508 of 1944. I am doing so, because, the defendants must be given a right to file a written statement on this aspect of the case. This is because, even though I am receiving the document under Order XLI Rule 27(b) of the Code of Civil Procedure, 1908, namely, a substantial cause, to find out the root of the plaintiff's title, in terms of Order XLI Rule 28, the defendants must be given an opportunity to let in rebuttal evidence.

53.The parties have been litigating before the Courts from 1983 onwards. Hence, I am not inclined to remand the matter in its entirety. I invoke the provision under Order XLI Rule 25 of the Code of Civil Procedure, 1908, for the following issue:-

***“Whether the partition deed dated
03.06.1944 in Document No.508 of
1944 is true and genuine?”***

54.No other issue need to be gone into by the learned Trial Judge. The plaintiff will be permitted to amend the plaint to



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plead only with regard to this document. The defendants will also be entitled to file an additional written statement with respect to this document and let in rebuttal evidence. Since the scope of remand is limited, this Court is fixing the following schedule. This is in view of the fact the *lis* between the parties has been pending for the past 43 years:-

(i)The Registry shall send the records to the Trial Court forthwith.

(ii)Both the parties shall appear before the Trial Court on **17.02.2026**.

(iii)Two weeks time from that date is granted to the plaintiff to amend the plaint to bring in necessary averments as regards Document No.508 of 1944. On filing of the amendment application, the learned Trial Judge is requested to allow the same.

(iv)From the date of allowing the amendment application, the defendants are granted two weeks time to file additional written statement.

(v)The parties must commence their evidence on 01.04.2026. The evidence so let in must be confined



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with respect to Document No.508 of 1944. The same must be completed within a period of two weeks.

(vi)the learned Judge is requested to ensure that no unnecessary adjournments are granted to either side. The remand is for finding under Order XLI Rule 25 has been necessitated into, on account of Document No.508 of 1944 having surfaced pending this appeal and it is essential to render a judgment in the second appeal.

(vii)After hearing both sides, the learned Judge shall render a finding on the aforesaid issue and submit the same to this Court by **12.06.2026**.

55.Call the Second Appeal 'for arguments' on **15.06.2026**.

03.02.2026

krk

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

To

1.The III Additional Judge,
City Civil Court, Madras.

2.The XV Assistant Judge,
City Civil Court, Madras.



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V.LAKSHMINARAYANAN, J.

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03.02.2026