

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 12-03-2026

PRONOUNCED ON: 18-03-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

SA No. 768 of 2010
and M.P.No.1 of 2010

Vijayalakshmi

... Appellant/3rd Defendant

Vs.

1. Kalaiselvi

... 1st Respondent/Plaintiff

2. The State of Tamil Nadu
Rep By The District Collector,
Cuddalore.

... 2nd Respondent/1st Defendant

3. The Superintendent of Police
Cuddalore Dist, Cuddalore.

... 3rd Respondent/2nd Defendant

PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure against the Judgment and Decree of the learned Subordinate Judge, Chidambaram, dated 18.07.2006 in A.S. No.44 of 2005 as partly allowed and partly dismissed the Judgment and Decree of the learned District Munsif-cum-Judicial Magistrate, Kattumannarkoil, dated 23.06.2005 in O.S. No.142 of 2001.

For Appellant:

Mr.T. Girish

For Respondents:

R1- Dismissed
vide Court Order Dt. 15/03/2024

Mr.P.Gurunathan (for R2 & R3)
Additional Government Pleader (CS)

Judgment

The second appeal has been filed by the 3rd defendant in O.S.No.142 of 2001 filed by the 1st respondent herein on the file of learned District Munsif-cum-Judicial Magistrate, Kattumannarkoil.

2. For sake of convenience, the parties are described as per their rank before the Trial Court.

3. The facts leading to the filing of the second appeal are as follows:

(a) The plaintiff/1st respondent herein claiming to be the wife of one Kasithevar, who was a retired police constable had filed a suit in O.S.No.142 of 2001 on the file of the District Munsif-cum-Judicial Magistrate, Kattumannarkoil, for the following reliefs:

(i) to declare that the plaintiff is the legally wedded wife of the said Kasithevar;

(ii) to declare that the plaintiff is the absolute owner to the suit 'A' schedule property and for permanent injunction restraining the 3rd defendant from interfering in the plaintiff's possession;

(iii) for a declaration that the 3rd defendant is not the

wife of said Kasithevar and for a permanent injunction restraining the 3rd defendant from claiming right over the property and retirement benefits of the said Kasithevar; and

(iv) for an injunction against the 1st and 2nd defendants from paying the retirement benefits and the family pension to the 3rd defendant.

(b) The 3rd defendant filed a written statement stating that though the plaintiff had married the deceased Kasithevar, the plaintiff had deserted the said Kasithevar on 21.08.1973; that thereafter the 3rd defendant had been living with the plaintiff's husband as wife; that in the year 1978 the said Kasithevar as per the customary practice divorced the plaintiff; that the said Kasithevar informed the said fact to the authorities concerned; and that therefore the plaintiff is not entitled to any of the reliefs.

(c) Before the trial Court, the plaintiff examined herself as PW1 and marked Ex.P1 to Ex.P7. The 3rd defendant examined two witnesses including herself and marked Ex.D1 to D3.

(d) The trial Court framed the following two issues:

- (i) Whether the plaintiff is entitled to the relief of declaration and permanent injunction, as prayed for?
- (ii) Is the plaintiff entitled to any other relief?

(e) After considering the evidence on record, the trial Court found that the plaintiff had established that she is the legally wedded wife of the deceased; that the 3rd defendant's case that the marriage of the plaintiff with the said Kasithevar was dissolved has not been established; and that hence even if the deceased had been living with the 3rd defendant, the marriage is invalid and decided the first issue in favour of the plaintiff and allowed the suit as prayed for by the judgment dated 23.06.2005.

(f). The lower appellate Court viz., the Subordinate Court, Chidambaram, on the appeal in A.S.No.44 of 2005 filed by the 3rd defendant confirmed the judgment of the trial Court substantially and allowed the appeal in part in relation to the prayer for family pension, in view of Section 4 of the Pension Act by the judgment dated 18.07.2006. The lower appellate Court dismissed the suit in respect of declaration that the plaintiff is entitled to the family pension and the mandatory injunction

to direct the defendants 1 and 2 to grant pension to her are concerned.

4. Though this appeal was filed in the year 2010, the appeal was not admitted and consequently, this Court had not framed any substantial question of law.

5. While so, during the pendency of the second appeal, the 1st respondent/plaintiff died. The appellant had not taken any steps to implead the legal representatives and consequently, the appeal as against the 1st respondent stood dismissed as abated on 15.03.2024.

6. As stated above, as against the remaining respondents viz., 2nd and 3rd respondents, the relief sought for by the 1st respondent herein/plaintiff was dismissed by the lower appellate Court and the appellant had succeeded to that extent. The 1st respondent has not challenged the said finding, which has become final.

7. The remaining prayers pertain to the 1st respondent herein. Since the appeal against the 1st respondent has been dismissed as abated, no

further adjudication is required in the above second appeal. Hence, the Second Appeal is dismissed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

18-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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SUNDER MOHAN J.

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To

1.The Subordinate Judge,
Chidambaram.

2.The District Munsif-cum-Judicial Magistrate,
Kattumannarkoil.

3.The District Collector,
Cuddalore.

4.The Superintendent of Police
Cuddalore Dist., Cuddalore.

**Pre-delivery judgment in
SA No. 768 of 2010**

18-03-2026