



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2026

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.360 of 2026
and C.M.P.No.12288 of 2026

Venkatalakshmiamma

... Appellant

vs.

1.Chinna Venkatamma

2.Puttamma

3.Subramani

4.Govindamma

5.Venkatraj

6.Premkumar

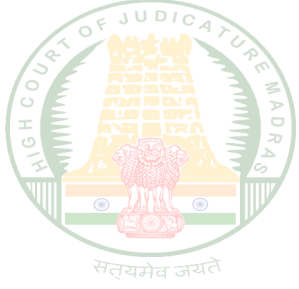
7.Govindappa

8.Thriveni

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside Judgment and Decree of the learned Additional District Judge, Hosur, dated 05.12.2023 made in A.S.No.68 of 2021 modifying that of the learned Additional Subordinate Judge, Hosur, dated 20.09.2021 made in O.S.No.198 of 2016.

For Appellant : Mr.S.Saravanakumar
for M/s.I.Abrar Mohamed Abdullah



J U D G M E N T

The unsuccessful plaintiff is the appellant. She filed a suit for partition of 1/5th share. The suit was dismissed by the Trial Court and the findings of the Trial Court were affirmed by the First Appellate Court. Aggrieved by the concurrent findings, the plaintiff has come before this Court.

2. The appellant/plaintiff is the daughter of 1st defendant. The defendants 2 to 4 are siblings of the plaintiff. The defendants 5 and 6 are sons of plaintiff's brother, the 3rd defendant. The 7th defendant is the purchaser of the suit property from father of the plaintiffs and his son-3rd defendant and grandsons-defendants 5 and 6. The 8th defendant is the purchaser of the suit property from the 7th defendant.

3. According to the appellant/plaintiff, the suit property is the ancestral property of her father-Ramaiah and after his death, the plaintiff and defendants 1 to 4 are entitled to 1/5th share each. Hence, she laid a suit seeking partition of 1/5th share.

4. The defendants 1 to 7 remained *exparte* and the suit was resisted only by the 8th defendant. She filed a written statement stating that even



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during the life time of the plaintiff's father, the suit property was sold to 7th defendant on 30.07.1986. The said Sale Deed was executed by the plaintiff's father-Ramaiah along with his son-3rd defendant and grandsons-defendants 5 and 6. After sale, the revenue documents mutated in the name of the 7th defendant in Patta No.1680 and he had been enjoying the same by paying kist to the Government. Later, the 7th defendant sold the suit property to 8th defendant for the valuable consideration of Rs.60,000/- on 13.04.2007 under the registered Document No.6464/2007 on the file of Sub-Registrar Office, Hosur and thereafter, the patta for the suit property was changed in the name of 8th defendant in Patta No.3754 and she has been paying kist to the Government. Thus, according to the 8th defendant, the suit property has been in possession and enjoyment of the 7th defendant and 8th defendant for more than 30 years and hence, the suit for Partition filed by the present plaintiff is not at all maintainable. It is further stated that the other family properties were divided between the defendants 1 to 4 under the registered Partition Deed dated 30.10.2013 and the plaintiff was paid a sum of Rs.1,50,000/- towards her share. The plaintiff suppressed the Partition Deed entered into between her and her siblings and came up with the present suit with the false averments. Hence, the 8th defendant sought for dismissal of the suit.

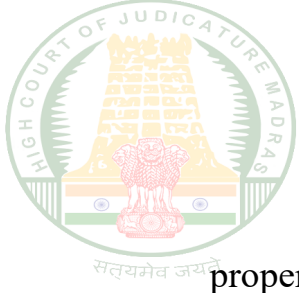


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5. Before the Trial Court, the plaintiff was examined as PW.1 and yet another witness was examined as PW.2. On behalf of the plaintiff, 5 documents were marked as Exs.A1 to A5. On behalf of the defendants, the 8th defendant was examined as DW.1 and one M.Gurusami was examined as DW.2 and 7 documents were marked as Exs.B1 to B7.

6. The Trial Court on appreciation of oral and documentary evidence available on record, came to the conclusion that the plaintiff was not entitled to decree for partition and dismissed the suit. Aggrieved by the same, the plaintiff preferred an appeal in A.S.No.68 of 2021 on the file of the Additional District Court, Hosur. The First Appellate Court also affirmed the findings of the Trial Court. Aggrieved by the concurrent findings, the plaintiff has come before this Court.

7. The learned counsel appearing for the appellant would submit that the suit property is an ancestral property and plaintiff being a coparcener is entitled to share in the suit property and any alienation by the other coparceners without adding the plaintiff would not bind her and the said position has not been taken into consideration by the Courts below.



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8. It is seen from the typed-set of papers the patta for the suit property originally stood in the name of the plaintiff's father-Ramaiah under Ex.A1. The Courts below found that the plaintiff has not produced any evidence to show that suit property is an ancestral property except production of Ex.A1. In the absence of any acceptable evidence to show that the suit property is ancestral property, the plaintiff is not entitled to maintain a suit as if, he is a coparcener.

9. Even assuming that the plaintiff case is accepted and the suit property is treated as a coparcenary property, it is seen from the Trial Court judgment, the suit property was sold by plaintiff's father Ramaiah along with his son-3rd defendant and grandsons-defendants 5 and 6 to 7th defendant as early as 30.06.1986 under Ex.A2. In the year 1986, when the suit property was sold, the Tamil Nadu Act 1 of 1990 was not enacted, therefore, at that point of time, the plaintiff could not be treated as a coparcener. Therefore, there was no need for the then coparceners, namely plaintiff's father-Ramaiah, his son-3rd defendant and grandsons-defendants 5 and 6 to join plaintiff as vendor in the Sale Deed executed by them. The alienation of the suit property had taken place in the year 1986, when the plaintiff was not coparcenar of the property, the property was mutated in the name of



purchaser namely the 7th defendant, he enjoyed it for several years.

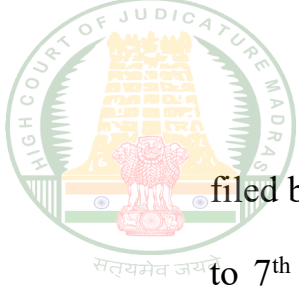
Thereafter, he sold it to 8th defendant under Ex.A3 on 13.04.2007.

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Therefore, it is clear that the suit property has been enjoyed by the defendants 7 and 8 for nearly 30 years immediately preceding presentation of the plaint.

10. Since the suit property was alienated in the year 1986 itself, the plaintiff is not entitled to take advantage of subsequent enactment Act 1 of 1990 and 2005 Amendment to Indian Succession Act and lay a claim over the suit property which was already alienated by the family by way of registered document. The said alienation were acted upon by mutation of revenue records (i.e., public documents). The Courts below rightly appreciated the said position and non-suited the plaintiff. I do not find any error in the conclusion reached by the Courts below.

11. Further, when the plaintiff was examined as PW.1, she clearly admitted that at the time of filing the present plaint, she was accompanied by her brother-3rd defendant to the Advocate's Office and 3rd defendant instructed her counsel for preparation of the pleadings. Relying on the said admission of PW.1, the Trial Court also found that the present suit has been



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filed by the plaintiff at the instigation of 3rd defendant, who sold the property to 7th defendant along with other sharers. The suit filed by the plaintiff is appeared to be filed at the instigation of the 3rd defendant, which is to harass the defendants. In these circumstances, the Courts below by proper appreciation of oral and documentary evidence available on record, rightly came to a conclusion that the plaintiff was not entitled to decree for partition. The said finding requires no interference in the absence of any perversity. Finding no substantial question of law arising for consideration in this second appeal, the same is dismissed.

12. In Nutshell:-

- (i) The Second Appeal stands dismissed.
- (ii) Consequently, the connected civil miscellaneous petition is closed.
- (iii) In the facts and circumstances of the case, there will be no order as to costs.

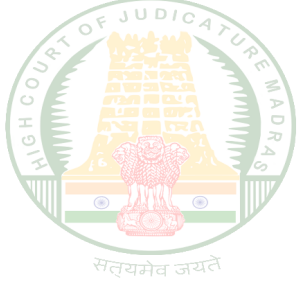
05.06.2026

Index : Yes
 Speaking order : Yes
 Neutral Citation : Yes
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To

1.The Additional District Court, Hosur.

2.The Additional Subordinate Court, Hosur.



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S.SOUNTHAR, J.

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