



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.06.2026

WEB COPY

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

S.A.No.819 of 2000

Rajeswari

...Appellant

Vs.

1.Peria Madappan (Died)

2.Radhamma

3.Madesh

4.Madappa

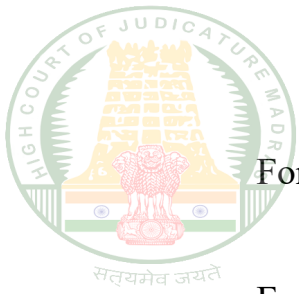
Rep. by guardian father, 1st Respondent

(1st Respondent had died. Respondents 2 to 4 are recorded as legal representatives of the deceased 1st Respondent viz., Peria Madappan vide Order of Court dated 23.01.2019 made in S.A.No.819 of 2000 as per Memo dated 03.01.2019 in USR No.331 of 2019 is recorded)

(The 4th Respondent is declared as major. His father, 1st Respondent viz., Peria Madappan is discharged from the guardianship vide Order of Court dated 29.01.2019 made in C.M.P.No.22419 of 2018 in S.A.No.819 of 2000)

...Respondents

Prayer: This Second Appeal is filed under Section 100 of C.P.C praying to set aside the Judgement and Decree dated 25.06.1997 made in A.S.No.163 of 1996 on the file of Sub Court, Hosur reversing the Judgement and Decree dated 12.04.1996 made in O.S.No.844 of 1993 on the file of District Munsif Court, Denkanikottai.



For Appellant : Mr.P.Mani
for Mr.K.Selvaraghavan

For Respondent – 1 : Died

For Respondents – 2 & 3: Mrs.V.Srimathi

For Respondent – 4 : Refused

JUDGMENT

This Second Appeal has been preferred by the Appellant seeking to set aside the Judgment and Decree dated 25.06.1997 in A.S.No.163 of 1996 passed by the Sub Court, Hosur, reversing the Judgment and Decree dated 12.04.1996 in O.S.No.844 of 1993 passed by the District Munsif Court, Denkanikottai.

2. The brief facts of the case are as follows:

The Plaintiff in the suit is the Appellant herein and Defendants 1 to 4 in the suit are Respondents 1 to 4 herein. For the sake of convenience, the parties are arrayed in the same rank as in the Trial Court. The 1st Defendant had two wives viz., Rajamma (1st wife) and Radhamma (2nd wife). The 1st Defendant had a daughter viz., Rajeswari (Plaintiff) through his 1st wife Rajamma. After the demise of said Rajamma, 1st Defendant married Radhamma (2nd Defendant). The 1st Defendant had two sons viz., Madesh (3rd Defendant) and Madappa (4th Defendant) through his 2nd wife, Radhamma (2nd Defendant). On 09.02.1990, the Plaintiff married one Kuppusamy at Sri Murugan Koil, Kattinayanapalli



Village, Krishnagiri as per the Hindu rites and customs. Her marriage was registered with the District Registrar Office, Krishnagiri under Sl.No.39/90 and the Marriage Certificate bearing No.32168 was also issued by the District Registrar, Krishnagiri.

3. The properties comprised in S.Nos.118/3, 92/3-A, 92/3-C, 95/2-B2, 95/53, 96/2-D, 96/2-H, 104/3-B and 106/4-B measuring a total extent of 1.26.2 Hectares situated at Dharmapuri District, Krishnagiri, R.D.Denkanikottai Taluk and Rayakottai Sub R.D., Echanahally Village (hereinafter referred to as “suit properties”) are the ancestral properties of 1st Defendant. The Plaintiff and the Defendants 1, 3 & 4 are entitled to 1/4th share each. As per the provisions of Hindu Succession (Tamil Nadu Amendment Act, 1989) Act 1 of 1990, Plaintiff claimed her legitimate share in the joint family suit properties. In the Panchayat which was held on 18.09.1993 in Echanahally Village, 1st Defendant agreed to allot 1/3rd share to the Plaintiff in all joint family properties. The said Panchayat Award was reduced into writing as Panchayat Muchalika which was also signed by the 1st Defendant. In this background, on 11.11.1993, Plaintiff demanded the Defendants to allot her share in the suit properties, but, they refused to allot any share to her. Aggrieved by the same, the Plaintiff has filed an original suit in O.S.No.844 of 1993 before the District Munsif Court, Hosur for the following reliefs:



WEB COPY

“(a) To partition the suit properties into four equal shares and to allot one such share to the Plaintiff in good and bad soil by metes and bounds;

(b) To grant costs of the suit; and

(c) To grant such other relief.”

4. The Defendants filed their written statement in O.S.No.844 of 1993 stating as follows:

(i) It is not true that the Plaintiff married one Kuppusamy on 09.02.1990 at Sri Murugan Koil, Kattinayanapalli Village, Krishnagiri.

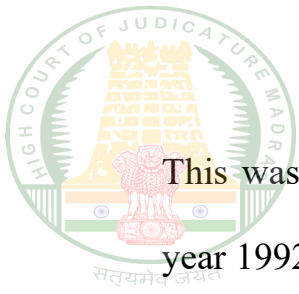
(ii) It is not true that the Plaintiff and her husband Kuppusamy got registered their marriage with the District Registrar Office, Krishnagiri. The Plaintiff is put into strict proof of the Certificate issued by the District Registrar, Krishnagiri.

(iii) It is not true that the Plaintiff is equally entitled to get her legitimate share in the joint family suit properties.

(iv) It is false that the Plaintiff and Defendants 1, 3 & 4 are all entitled for 1/4th share each in the suit properties.

(v) The 1st Defendant never agreed to allot 1/3rd share to the Plaintiff in all the joint family properties. The alleged Panchayat Muchalika is a fraudulent document created by the Plaintiff.

(vi) The Plaintiff had not given her correct age in the long cause title.



This was done in order to make it appear that the Plaintiff got married in the year 1992.

WEB COPY

(vii) The Plaintiff's marriage took place on 16.09.1985 at Pattalamman Temple in Marandahalli Village. The serial number given in the Ledger Extract for the Plaintiff's marriage with Kuppusamy is number 398 and page number is 197.

(viii) The Plaintiff got married in the year 1985. The Voter's list of the year 1988 shows that the Plaintiff was already married and she was living with her husband. Even in the year 1988 itself, the Plaintiff's age was shown as 21 years and she had successfully exercised her franchise. Further, the Ration Card also shows that the Plaintiff got married in the year 1985. Hence, at the time of filing of the suit, the Plaintiff was aged 25 years and not 21 years as stated in the long cause title.

(ix) The Marriage Certificate issued by the District Registrar, Krishnagiri is a sham and nominal document.

5. On the basis of the pleadings, the Trial Court had framed the following issues:

“(i) Whether the Plaintiff has married one Kuppusamy on 09.02.1990 at Murugan Koil, Krishnagiri? Whether the said marriage took place as per the Hindu rites and customs?”



WEB COPY

(ii) *Whether the Plaintiff and her husband registered their marriage at the District Registrar Office, Krishnagiri and obtained Marriage Certificate from the office of District Registrar, Krishnagiri?*

(iii) *Whether the Plaintiff is eligible to get a share in the joint family properties?*

(iv) *Whether the Plaintiff and the Defendants 1, 3 & 4 are entitled to 1/4 share each in the suit properties?*

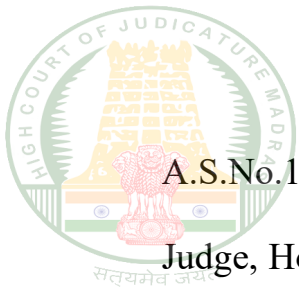
(v) *Whether the 1st Defendant (Plaintiff's father) has celebrated the Plaintiff's marriage on 16.09.1985 at Pattalamman Temple, Marandahalli Village?*

(vi) *Whether the Plaintiff got married in the year 1985 and the Voter's list of the year 1988 indicates that the Plaintiff was living with her husband?*

(vii) *Whether the Panchayat Muchalika executed by the 1st Defendant in the name of Plaintiff, is a document fabricated by the Plaintiff?"*

6. During the course of trial, on the side of Plaintiff, Plaintiff examined herself as P.W.1 and 2 others were examined as P.W.2 & P.W.3 and 2 documents were marked as Exs.A1 & A2. On the side of the Defendants, 1st Defendant examined himself as D.W.1 and 2 documents were marked as Exs.B1 & B2.

7. On appreciation of the oral and documentary evidence produced before it, the Trial Court vide Judgment and Decree dated 12.04.1996, decreed the suit in O.S.No.844 of 1993 as prayed for. Aggrieved by the said Judgment and Decree passed by the Trial Court, the Defendants filed an Appeal Suit in



A.S.No.163 of 1996 before the Sub Court, Hosur. The learned Subordinate Judge, Hosur vide Judgment and Decree dated 25.06.1997, allowed A.S.No.163 of 1996 and set aside the Judgment and Decree dated 12.04.1996 in O.S.No.844 of 1993 passed by the Trial Court. Challenging the judgment passed by the First Appellate Court, the Plaintiff has preferred the present Second Appeal before this Court.

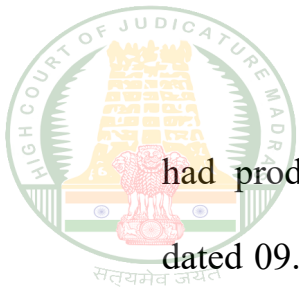
8. On 19.07.2000, this Second Appeal was admitted on the following substantial question of law:

“Whether the Lower Appellate Court erred in holding that the marriage took place in 1985 relying upon the Voters’ list, Ex.B-2 in coming to the conclusion as regard the date of marriage, when the Voters’ list is not a public document?”

8.1. Subsequently, on 11.02.2021, this Court has framed the following additional substantial question of law in this Second Appeal:

“Whether the Plaintiff is entitled to the benefit under the amendment effected by the Central Government to Section 6 of the Hindu Succession Act or not?”

9. Mr.P.Mani, learned counsel for the Plaintiff submitted that the Plaintiff’s marriage took place on 09.02.1990 at Sri Murugan Koil, Kattinayanapalli Village, Krishnagiri. In order to prove the same, the Plaintiff



had produced the documents viz., Ex.A1 (Marriage Registration Certificate dated 09.02.1990) and Ex.A2 (Payment Receipt issued by the office of District Registrar, Krishnagiri for registering the Plaintiff's marriage) before the Trial Court.

9.1. It is further submitted by the learned counsel for the Plaintiff that in the written statement filed by the Defendants, it has been stated that 1st Defendant has performed the Plaintiff's marriage on 16.09.1985 at Pattalamman Temple in Marandahalli Village. It is to be noted that in Ex.A1, the date of birth of the Plaintiff has been mentioned as 15.04.1969 and thus, it is clear that on 16.09.1985, the Plaintiff was a minor. Therefore, the Plaintiff's marriage could not have taken place on 16.09.1985. Except the document viz., Ex.B2 (Voter's List of the year 1988), the Defendants did not produce any evidence to prove that the Plaintiff's marriage took place on 16.09.1985. Hence, the Trial Court has rightly concluded that the Plaintiff has proved beyond all reasonable doubts that her marriage took place on 09.02.1990 and thereby, she proved that she is entitled to get 1/4th share in the suit properties.

9.2. However, without considering all these aspects, placing reliance on Ex.B2, the First Appellate Court has erroneously held that the Plaintiff's marriage took place in the year 1985. Even if assuming that the Plaintiff's



marriage took place in the year 1985 as alleged by the 1st Defendant, the said marriage is illegal and void as per the Hindu Marriage Act, 1955 since the Plaintiff was a minor in the year 1985. When there was no sufficient evidence to prove that the Plaintiff's marriage took place in the year 1985, the First Appellate Court ought not to have allowed the Appeal Suit.

9.3. That apart, the learned counsel for the Plaintiff submitted that a daughter has the rights of a coparcener by birth as sons and she can claim a share in ancestral property with effect from 09.09.2005, even if her father was not alive as on that date. In support of his submission, the learned counsel has referred to the judgment passed by the Hon'ble Supreme Court in the case of ***Vineeta Sharma Vs. Rakesh Sharma & Ors.*** reported in ***(2020) 9 SCC 1***, wherein, it has been held as follows:

"137.1. The provisions contained in substituted Section 6 of the Hindu Succession Act, 1956 confer status of coparcener on the daughter born before or after the amendment in the same manner as son with same rights and liabilities.

137.2. The rights can be claimed by the daughter born earlier with effect from 9-9-2005 with savings as provided in Section 6(1) as to the disposition or alienation, partition or testamentary disposition which had taken place before the 20th day of December, 2004.

137.3. Since the right in coparcenary is by birth. It is not necessary that father coparcener should be living as on 9-9-2005.

137.4. The statutory fiction of partition created by the proviso to Section 6 of the Hindu Succession Act, 1956 as originally enacted did not

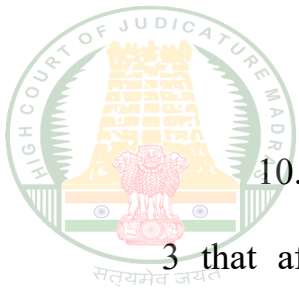


WEB COPY

bring about the actual partition or disruption of coparcenery. The fiction was only for the purpose of ascertaining share of deceased coparcener when he was survived by a female heir, of Class I as specified in the Schedule to the 1956 Act or male relative of such female. The provisions of the substituted Section 6 are required to be given full effect. Notwithstanding that a preliminary decree has been passed, the daughters are to be given share in coparcenery equal to that of a son in pending proceedings for final decree or in an appeal.”

Therefore, the learned counsel for the Plaintiff submitted that the Plaintiff as a coparcener has the right to claim 1/4th share in the suit properties.

10. On the other hand, Mrs.V.Srimathi, learned counsel appearing on behalf of the Respondents 2 & 3 submitted that the Plaintiff's marriage took place on 16.09.1985 at Pattalamman Temple in Marandahalli Village and the same had not taken place on 09.02.1990 at Sri Murugan Koil, Kattinayanapalli Village, Krishnagiri as alleged by the Plaintiff. The Ex.B1 (Marriage Invitation indicating that the Plaintiff and one Kuppusamy got married on 16.09.1985) produced by the 1st Defendant shows that the Plaintiff's marriage took place on 16.09.1985. Further, Ex.B2 (Voter's List of the year 1988) shows that the Plaintiff was living with her husband and the said aspect was also deposed by D.W.1 (1st Defendant) in his evidence. In order to claim a share in the joint family suit properties along with co-parceners as per Hindu Succession (Tamil Nadu Amendment Act, 1989) Act 1 of 1990 which came into force on 25.03.1989, the Plaintiff said that her marriage took place on 09.02.1990.



10.1. It is also submitted by the learned counsel for the Respondents 2 & 3 that after analyzing the facts and evidence on record, the learned First Appellate Judge has held that since the Plaintiff did not come forward to cross examine D.W.1 (1st Defendant) and prove that Exs.B1 & Ex.B2 are fabricated documents, Exs.B1 & B2 are accepted as true documents and has also held that the Plaintiff's marriage took place in the year 1985 and hence, the Plaintiff is not entitled to the relief of partition which she sought in the suit. Therefore, the judgment and decree passed by the learned First Appellate Judge does not warrant any interference.

11. Heard the learned counsel for the Appellant/Plaintiff and the learned counsel for the Respondents 2 & 3/Defendants 2 & 3.

12. Admittedly, in the present case, 1st Defendant had two wives viz., Rajamma and Radhamma. The 1st Defendant had a daughter viz., Rajeswari (Plaintiff) through his 1st wife Rajamma. The 1st Defendant had two sons viz., Madesh (3rd Defendant) and Madappa (4th Defendant) through his 2nd wife, Radhamma (2nd Defendant).

13. According to the Plaintiff, she married one Kuppusamy on 09.02.1990 at Sri Murugan Koil, Kattinayanapalli Village, Krishnagiri as per



the Hindu rites and customs. Her marriage was registered with the District Registrar Office, Krishnagiri. As per the provisions of Hindu Succession (Tamil Nadu Amendment Act, 1989) Act 1 of 1990, she is entitled to 1/4th share in the joint family suit properties. The 1st Defendant vide Panchayat Muchalika dated 18.09.1993, agreed to allot 1/3rd share to the Plaintiff in all joint family properties. On 11.11.1993, when the Plaintiff demanded the Defendants to allot her share, but, they refused to allot any share to her. Hence, the Plaintiff has filed a suit in O.S.No.844 of 1993 before the District Munsif Court, Hosur for the relief of partition.

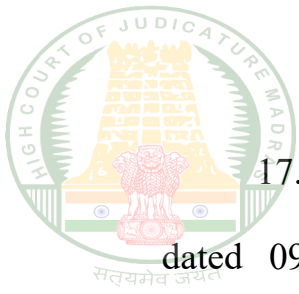
14. In the Written Statement of the Defendants, it has been stated that the Plaintiff's marriage took place on 16.09.1985 at Pattalamman Temple in Marandahalli Village and the same was not held on 09.02.1990 at Sri Murugan Koil, Kattinayanapalli Village, Krishnagiri as contended by the Plaintiff. Further, the Marriage Certificate which is stated to be issued by the District Registrar, Krishnagiri is a sham and nominal document. It has also been stated that the 1st Defendant never agreed to allot 1/3rd share to the Plaintiff in all the joint family properties and the alleged Panchayat Muchalika is a fraudulent document created by the Plaintiff. That apart, it has been stated that the Voter's list of the year 1988 shows that the Plaintiff was already married and she was living with her husband.



WEB COPY

15. Though Ex.B2 (Voter's List of the year 1988) produced on the side of the Defendants shows that the Plaintiff was living with her husband and the said aspect was deposed by the 1st Defendant in his evidence, the Trial Court held in its findings that mere production of Voter's List is not sufficient; the person who prepared the said Voter's List has to be examined as a witness in this case and the Voter's List cannot be accepted as a document since the same is not a public document under Section 74 of the Indian Evidence Act. Relying on Ex.A1 (Marriage Registration Certificate dated 09.02.1990) produced by the Plaintiff, the Trial Court came to the conclusion that the Plaintiff has proved that her marriage took place on 09.02.1990 and thus, she is entitled to get 1/4th share in the suit properties.

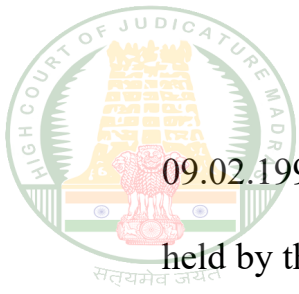
16. Since the Plaintiff did not come forward to cross examine D.W.1 (1st Defendant) and prove that Ex.B1 (Marriage Invitation indicating that the Plaintiff and one Kuppusamy got married on 16.09.1985) and Ex.B2 (Voter's List of the year 1988) are fabricated documents, the First Appellate Court has accepted the Exs.B1 & B2 as true documents and concluded that the Plaintiff's marriage took place in the year 1985 and the Plaintiff is not entitled to the relief of partition. Challenging the findings of the First Appellate Court, the Plaintiff has preferred this Second Appeal.



17. It is to be noted that in Ex.A1 (Marriage Registration Certificate dated 09.02.1990), the Plaintiff's date of birth has been mentioned as 15.04.1969 which means in the year 1985, the Plaintiff would have been 16 years. Before the Trial Court, the Defendants had produced two documents viz., Ex.B1 (Marriage Invitation indicating that the Plaintiff and one Kuppusamy got married on 16.09.1985) and Ex.B2 (Voter's List of the year 1988). The Ex.B1 shows that the Plaintiff's marriage took place on 16.09.1985. The Ex.B2 shows that the Plaintiff was living with her husband Kuppusamy in the year 1988. Except the documents viz., Ex.B1 & Ex.B2, 1st Defendant did not adduce any documentary evidence to prove that the Plaintiff got married in the year 1985.

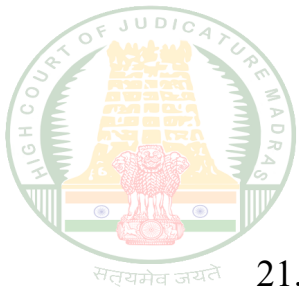
18. In the present case, the Plaintiff is claiming 1/4th share in the joint family suit properties under the provisions of Hindu Succession (Tamil Nadu Amendment Act, 1989) Act 1 of 1990. But, the specific contention of the Defendants is that the Plaintiff's marriage took place in the year 1985 when she was 16 years minor and hence, she is entitled to claim any share in the suit properties.

19. As far as the dispute regarding the Plaintiff's marriage date is concerned, it is evident from Ex.A1 (Marriage Registration Certificate dated



09.02.1990) that the Plaintiff's marriage took place on 09.02.1990. As rightly held by the Trial Court that Ex.B2 (Voter's List of the year 1988) is not a public document and thus, the same cannot be considered as a sufficient evidence produced by the Defendants to establish their case. However, without considering these aspects, the First Appellate Court has placed reliance on Ex.B2 (Voter's List of the year 1988) and erroneously held that the Plaintiff's marriage took place in the year 1985. Accordingly, the first substantial question of law is answered.

20. So far as the second substantial question of law is concerned, it is pertinent to discuss about the judgment cited by the learned counsel for the Plaintiff. In the case of *Vineeta Sharma Vs. Rakesh Sharma & Ors.* reported in (2020) 9 SCC 1, the Hon'ble Supreme Court has clarified that a daughter is conferred the rights of a coparcener by birth, just like sons and she can claim a share in ancestral property with effect from 09.09.2005, even if her father was not alive as on 09.09.2005. Therefore, the marital status of a daughter has no bearing on her coparcenary right under the Hindu Succession (Amendment) Act, 2005. Hence, this Court is of the opinion that as per Section 6 of the Hindu Succession (Amendment) Act, 2005, the Plaintiff is entitled to claim 1/4th share in the suit properties. The second question of law is answered in favour of the Plaintiff.



WEB COPY

21. In the result, this Second Appeal is allowed and the Judgment and Decree dated 25.06.1997 in A.S.No.163 of 1996 passed by the Subordinate Judge, Hosur is set aside. As a sequel, Judgment and Decree dated 12.04.1996 in O.S.No.844 of 1993 passed by the learned District Munsif, Denkanikottai is confirmed. The Plaintiff and the Defendants 1 to 4 are entitled to 1/4th share each in the suit properties. Since the 1st Defendant is no more, the 1st Defendant's share goes to the Defendants 3 & 4. However, there shall be no order as to costs.

18.06.2026

mrr

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

To

1.Sub Court,
Hosur.

2.District Munsif Court,
Denkanikottai.



WEB COPY

S.A.No.819 of 2



T.V.THAMILSELVI, J.

mrr

S.A.No.819 of 2000

18.06.2026