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SA No. 626 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-01-2026

CORAM

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

SA No. 626 of 2025

and

CMP NO. 21833 OF 2025

Ranganathan,
S/o. Lakshmana Gounder, Palampatty Village,
Veerapandi Post, Salem South Taluk, Salem
District.

..Appellant

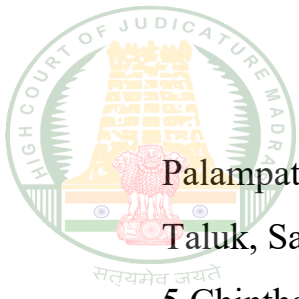
Vs

1.Uma,
D/o. Ranganathan,
Palampatti Village, Veerapandy Post, Salem South
Taluk, Salem District.

2.Ponmani,
D/o. Ranganathan,
Palampatty Village, Veerapandy Post, Salem South
Taluk, Salem District.

3.Selvam,
W/o. Ranganathan,
Palampatty Village, Veerapandy Post, Salem South
Taluk, Salem District.

4.Patchiammal,
W/o. AnaikuttiGounder,



Palampatti Village, Veerapandy Post, Salem South
Taluk, Salem District.

5.Chinthamani

W/o. Thangavelu,

Palampatti Village, Veerapandy Post, Salem South
Taluk, Salem District.

6.Anjalidevi,

W/o. Ranganathan,

Palampatti Village, Veerapandy Post, Salem South
Taluk, Salem District.

..Respondents

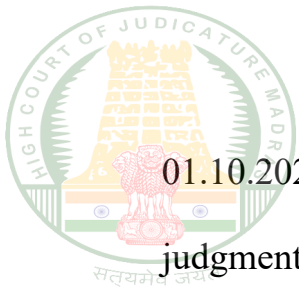
Prayer: Second Appeal filed under section 100 of CPC against the Judgement and Decree dated 01.10.2024 passed in A.S.No.46 of 2019 on the file of the II Additional District Judge, Salem, confirming the Judgement and Decree dated 20.12.2018 passed in O.S.No.446 of 1999 on the file of the II Additional Subordinate Judge, Salem and thus render justice.

For Appellant(s): Mr.S.Arjun

For Respondent(s): Mr.V.Subramaniam
for Mr.S.P.Yuvaraj, for R1 to R3
Mr.R.P.Ruban Chakravarthy, for R6
R4 And R5 - No Appearance

JUDGMENT

Aggrieved by the judgment and decree in A.S.No.46 of 2019 dated



01.10.2024 passed by the II Addl. District Judge, Salem, confirming the judgment and decree dated 320.12.2018 in O.S.No.446 of 1999 passed by the II

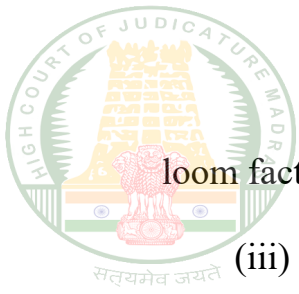
Additional Subordinate Judge, Salem, the appellant/1st defendant has preferred this Second Appeal.

2. Parties are indicated herein as per their litigative status and ranking before the Trial Court.

3. The averments contained in the plaint, as projected by the plaintiffs are as follows:

(i) According to the plaintiffs, the 3rd plaintiff is the wife of 1st defendant-Ranganathan. Out of their lawful wedlock, plaintiffs 1 and 2 were born to them. Defendants 2, 3 and 4 are the sisters of the 1st defendant. The defendants 1 to 4 are children of one Lakshmana Gounder and Perumayee.

(ii) The properties mentioned in the A schedule of the plaint are ancestral joint family properties of Lakshmana Gounder and by way of registered partition deed dated 11.12.1985, Lakshmana Gounder and his brother divided their ancestral properties. As per partition Deed, plaint B schedule properties were allotted jointly to Lakshmana Gounder and his son, the 1st defendant herein. From and out of joint family funds, Lakshmana Gounder purchased item 1 and 2 of plaint B schedule properties, but in the name of 1st defendant. Further, out of joint family funds, the first defendant has also put up a power



loom factory and the same is also running profitably.

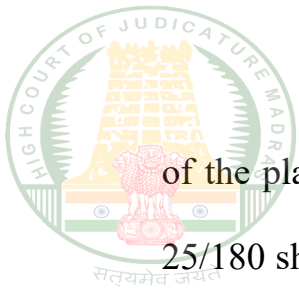
(iii) It is averred in the plaint that the 3rd plaintiff and 1st defendant have also begot a male child by name Rajkumar on 31.05.1983. On the advice of Doctors that begetting further children will develop further complications to 3rd plaintiff, she was sterilized. When the male child Rajkumar was about 4 1/2 years, due to brain fever, he died on 01.01.1993.

(iv) After the death of male child, the 1st defendant began to live with one Anjali Devi who is his concubine. Unable to met out the harassment and ill-treatment given by the said Anjali Devi to the 3rd plaintiff and her children, she went to her father's house and, she for herself and on behalf of her minor children as guardian, caused legal notice on 30.06.1999 calling upon the defendants 1 to 4 and their mother Perumayee to effect partition of the joint family properties, for which, a reply was sent by the 1st defendant.

(v) Lakshmana Gounder died intestate about two years ago and his wife Perumayee also died intestate on 17.06.1999. The 3rd defendant, who is the sister of 1st defendant also died intestate and un married.

(vi) Due to the death of Lakshmana Gounder and Perumayee, their shares devolved upon plaintiffs and defendants. The 3rd defendant died un married, as epr the provisions of Hindu Succession Amendment Act, she is a co-parcener along with the 1st defendant and their father.

(vii) Thus the first defendant has become entitled to 100/180 shares out of the first defendant's share, the plaintiffs are entitled to each 1/4th share and each



of the plaintiffs become entitled to 25/180th shares and the first defendant to a 25/180 shares. The 2nd defendant Pachaiaammal is entitled to 10/180 share and the 4th defendant is entitled to 40/180th shares.

(viii) Hence, the plaintiffs seeks for the following reliefs:

(a) directing the division of the suit properties into 180 equal shares and allot 75 shares to the plaintiffs by making provision for appointment of Commissioner and passing of final decree.

(b) pass a final decree allotting 75 such divided shares to the plaintiffs;

(c) to give direction to delivery of separate possession of 75 such separates shares to the plaintiffs and for costs of the suit.

4. The averments contained in the written statement filed by 1st and 5th defendants are as follows:

(i) It is false to state Lakshmana Gounder purchased item No.1 of B schedule properties out of the joint family funds, but the same are self acquired properties of 1st defendant, hence, no one has got any right and title over the same. The power loom are not running profitably and for the past two or three years, due to slump in textile market, they were kept idle for the past one year, due to which, he suffered heavy loss and no income was derived from that. This defendant never begot a male child by name Rajkumar on 31.03.1983. The plaintiffs 1 and 2 are the only two female children born to 1st defendant



and 3rd plaintiff. The 3rd defendant has been living unmarried, but she is not in a good mental health condition. She is under the care and custody of this

defendant and he has been looking after her daily affairs with great difficulty.

Hence the plaintiffs 1 and 2 are not entitled to any share in the properties. Only

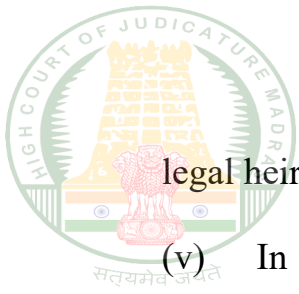
the 3rd defendant is entitled to a share in the suit A schedule properties and this

defendant becomes a heir to 3rd defendant's right as per Hindu Succession Act.

(ii) It is further averred that only under the compulsion of the 3rd plaintiff, this defendant married Anjali Devi, on the fond hope that a male child will be born through the said Anjali Devi. Thereafter two male child were born to 1st defendant through Anjalidevi. Anjali Devi is not a concubine as alleged by the 3rd plaintiff. The 3rd plaintiff left the 1st defendant's house on her own accord and free will in the month of October 1998 taking the children with her.

(iii) This defendant purchased the property in the name of the third plaintiff on 01.07.1998 from one Mariappan out of his self earnings. He replied to the legal notice issued by the 3rd plaintiff. The proposition of shares pleaded is not correct and the plaintiffs are not entitled to get any share in the suit properties. The properties standing in the name of 3rd plaintiff and her father absolutely belonged to this defendant.

(iv) The plaintiffs are neither co-owners, nor co-parceners as alleged and the defendants 2 to 4 are only entitled to share in the suit properties as the



legal heirs of Lakshmana Gounder.

(v) In the partition deed dated 11.12.1985, B Schedule property was allotted to father of this defendant. He and his father each are entitled to half share in the same which is described as A schedule in the plaint. The plaintiffs 1 and 2, being the members of the joint family along with this defendant, are entitled to 1/3rd share of this defendant in A schedule properties.

5. The averments contained in Written Statement filed by the 5th defendant is as follows:

i).Her husband, the 1st defendant herein has settled 56 cents of land in S.No.58/2 A of Palampatty Village and 29 ½ cents of land in S.No.41/8 through a registered settlement deed dated 22.02.1996 in her favour. The portions settled in her favour may be allotted to be 1st defendant in the final decree proceedings, so as to enable this defendant to retain the portion settled in her favour in equity.

ii)Before the trial court on the side of the plaintiff, witnesses PW1 and PW2 were marked and exhibits Ex.A.1 to Ex.A.6 were marked and on the side of the defendants, witnesses DW1 and DW2 were examined and exhibits Ex.B.1 was marked.

iii)The trial Court on consideration of the evidence both oral and documentary, has arrived at the conclusion that the plaintiffs are entitled to



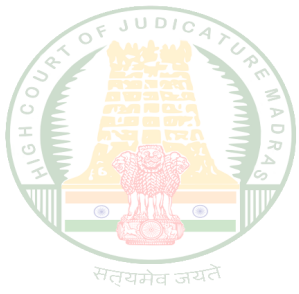
preliminary decree in respect of A schedule property, which was the ancestral property while in respect of B schedule property, the plaintiffs are not entitled to the same as the plaintiffs have not produced any documentary evidence to show that the B schedule property stands in the name of the 1st defendant and it was purchased in the name of the 1st defendant by utilizing the joint family funds and that it is a joint family property.

6. Aggrieved by the findings of the trial Court, the defendants have preferred appeal in A.S.No.46 of 2019 before the II Additional District Court, Salem.

7. The lower appellate Court, on appreciation of the findings of the trial Court while analyzing the evidence placed on record by both parties, confirmed the judgment and decree of the trial Court and accordingly, dismissed the appeal. Hence, the Second Appeal.

8. Now the substantial question of law that arise for consideration by this Court, are as follows:

- 1. Whether the Courts below were right in holding that A schedule of suit properties are ancestral in nature in the absence of documentary as well as oral evidence or the self acquired properties of the 3rd plaintiff's husband's grandfather?*



2. *Whether the Courts below were right in granting the relief to the plaintiffs?*

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9. The learned counsel for the appellants/defendants would contend that A schedule properties were separate and exclusively belonging to one Ramasamy Gounder, who is the grand father of the 1st defendant and the same was also admitted by the 3rd plaintiff as PW.1, who deposed that by virtue of sale deed, his father-in-law's son Ramasamy Gounder got the property and it is self acquired one, but the Courts below have not dealt with the issue in a proper perspective, but erroneously considered the admission of the 1st defendant which said to have been made in the additional written statement that the suit properties were ancestral joint family properties, but in fact, he only admitted that he and his father are entitled to half share in A schedule properties. He pointed out that absolutely, there was no documentary or oral evidence on record adduced by the plaintiffs to prove the nature of the suit properties i.e. ancestral property and thereby, the plaintiffs are not entitled to any share in the suit properties and the Courts below erred in holding that A schedule properties are ancestral in nature when the parties to the partition deed ExA1, dtd 11.12.1985 are only the Class I legal heirs of Ramasamy Gounder and their sons. He would also contend that the 5th defendant is not a concubine by the wife of the 1st defendant and the plaintiffs are not entitled to claim share in respect of B schedule suit properties since the same are his self acquired



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10. On the other hand, the learned counsel for the plaintiffs/respondents would contend that by virtue of Ex.A1 partition deed, suit A schedule properties were allotted to the 1st defendant and his father Lakshmana Gounder and the plaintiffs and defendants 1 to 4 being the family members and legal heirs of the 1st defendant and Lakshmana Gounder, they are entitled to claim share in the suit properties and even the 1st defendant has categorically admitted that the plaintiffs 1 and 2 are entitled to half share each and since his son Rajkumar died unmarried, his share devolved on the 3rd plaintiff and hence, she is also entitled to claim share in the suit A schedule properties. Therefore, the Courts below have rightly held that the A schedule suit properties are ancestral properties and the same shall be divided among the plaintiffs and defendants which require no interference.

11. Heard the learned counsel for both parties and perused the entire materials placed on record.

12. It is not in dispute that the 3rd plaintiff is the legally wedded wife of the 1st defendant and the plaintiffs 1 and 2 were their children and the defendants 1 to 4 are the children of Lakshmana Gounder and Perumayee. The parents of the defendants died intestate. 5th defendant, according to the



plaintiffs, is a concubine of the 1st defendant, while according to the 1st defendant, she is also his legally wedded wife. There was a partition between

Lakshmana Gounder and his brothers on 11.12.1985, as per which, plaint A schedule properties were allotted jointly to Lakshmana Gounder and his only son, 1st defendant herein. Originally, the plaintiffs claimed 75 shares out of 230 shares, however, one of the sisters of the 1st defendant died as spinster, they claimed 75/180 shares. It is pertinent to note that initially the 1st defendant denied the claim of the plaintiffs' share in the suit properties, however, later, he admitted that the plaintiffs 1 and 2 who are his daughters, are entitled to 1/3 share. The 1st defendant and the 3rd plaintiff also gave birth to one Raj Kumar, who died due to ill health at young age and hence the 3rd plaintiff claims his share in her favour. One of the sisters of the 1st defendant, namely, Seerangayee, 3rd defendant died unmarried. Therefore, the properties held by Lakshmana Gounder by virtue of partition deed, were devolved upon his children, viz., defendants 1, 2 and 4. Already stated above, the suit A schedule properties were allotted to Lakshmana Gounder and the 1st defendant and the Lakshmana Gounder is none other than the grand father of the plaintiffs 1 and 2 and he died intestate. Generally, a property becomes ancestral when it is inherited through at least four generations of male lineage, viz., father, grandfather, great-grandfather) without being divided or partitioned. Under Hindu Law, this undivided, inherited property allows descendants to gain coparcenary rights by birth. It is pertinent to note that the plaintiffs 1 and 2's



grandfather Lakshmana Gounder who got the suit A schedule properties by virtue of partition which took place in the year 1985 among his brothers and he died intestate and hence, the said property shall be considered as ancestral property and accordingly, being the Class I legal heirs, the plaintiffs 1 and 2 (grand daughters) and the 1st defendant (son), constitute a joint family and they are entitled to have a right over the said property and they are entitled to their respective shares. In fact, initially, the 1st defendant denied the share of the plaintiffs, the 1st defendant in his additional written statements has categorically admitted the shares of the plaintiffs 1 and 2 and also birth and death of his son Rajkumar. Since Rajkumar died unmarried at young age due to ill health, to whatever his share, the 3rd plaintiff is also entitled proportionately. As regards B schedule property is concerned, though the plaintiffs claimed that it was purchased from and out of surplus income derived from the joint family property. But the plaintiffs have not produced any documents to prove the same and it is not in dispute that B schedule property was purchased by Lakshmana Gounder and further, the plaintiffs have not produced the sale deeds or sale deeds to show that B schedule property stands in the name of the 1st defendant and hence, the plaintiffs are not entitled to claim share in the B schedule properties. The concurrent findings rendered by the Courts below have rightly held that the plaintiffs are entitled to 45/120 shares in total in suit A schedule properties while, the plaintiffs are not entitled to any share in B schedule property. This Court does not find any scope to interfere with the well



considered findings of the Courts below. Accordingly, the substantial questions of law 1 & 2 are answered in favour of the plaintiffs.

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13. In the result, the Second Appeal fails and it is dismissed. Consequently connected miscellaneous petition is closed. There shall be no order as to costs.

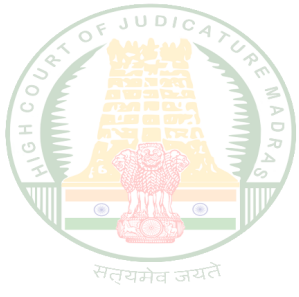
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Neutral Citation: Yes/No

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To

1. II Additional District Judge, Salem
2. II Additional Subordinate Judge, Salem



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T.V.THAMILSELVI J.

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