



S.A. No.560 of 2024

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T.V. THAMILSELVI, J.

The respondent herein/plaintiff filed the suit before the II Additional Subordinate Judge, Coimbatore, in OS No. 1125 of 2010, against the appellants herein/defendants for relief of partition claiming 1/3 share in the Item No. 2 of the suit property, in which, the plaintiff claiming that the suit property is a ancestral property. The defendants/appellants herein contested the said suit. The plaintiff claimed that in respect of item No.1 of the suit property the panchayat was held on 21.04.1995 in which the plaintiff was allotted with B schedule property but the partition had been postponed in respect of other properties. Hence, the plaintiff claiming 1/3 share as per the panchayat partition in respect of item No.2 of the suit property. On the other side, the defendants claiming that the first item of the suit property was purchased by the first defendant through sale deed dated 10.06.1970 and 20.11.1974. Before the Trial Court the Transfer certificate, Admission application of the first defendant, Attendance Register of the Chettipalayam Government High School was marked as Ex.X1, Ex.X2, Ex.X3,



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respectively. In order to prove his claim the defendant produced the

Ex.A16. After considering the oral and documentary evidence, the Trial

Court held that on the date of purchasing the suit property the first

defendant was studying +12 hence it can be inferred that the first defendant

have no source of income at the time of purchasing the suit property.

Thereby, the second item of the property cannot be claimed as self acquired

property so also the first defendant have failed to prove the source of

income to purchase the second item of the suit property hence it deemed as

joint family property. Accordingly, the plaintiff is entitled to 1/3 share in

the suit property and the same was confirmed by I Additional District

Judge, Coimbatore, in As No. 142 of 2019 filed by the appellants

herein/defendants. Challenging the concurrent findings, the

appellants/defendants filed this second appeal.

3. Heard the learned counsel for the appellants.

4. On perusal of the records, the suit property stands in the name of the first defendant/appellant herein, who purchased the same through two sale deeds dated 10.06.1970 and 20.11.1974 . Hence, the defendants claiming absolute right over the suit property as it was self acquired. Before the Trial Court, Ex.X1, Ex.X2, Ex.X3 were marked, which shows that at the



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time of purchasing the second item of the suit property the first defendant was studying in the school as there is no evidence to prove the separate income of the first defendant. Hence, it is proved that his father purchased the property in the name of the first defendant. Hence, all the parties are entitled to 1/3 share. This court is not inclined to interfere with the concurrent findings of the Courts below. However, the learned counsel for the appellants submits that the appellant residing in the suit property and all the parties are close relatives. Hence, this court is inclined to refer this matter for mediation. Accordingly, both parties shall appear before the Mediation and Conciliation Centre, Coimbatore. The Mediator shall conduct the Mediation for not less than three sittings after issuing notice to the parties.

5. Post the matter on 15.10.2024.

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