



WEB COPY



A.S.No.535 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.03.2026

CORAM:

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

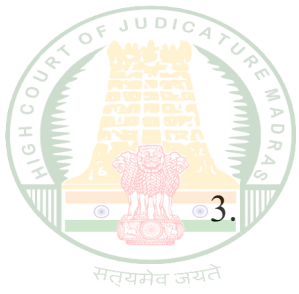
THE HON'BLE MR.JUSTICE K.RAJASEKAR

A.S.No.535 of 2017

1. Nanja Reddy
S/o.Jayarama Reddy
 2. Nandha
W/o.Sreenivasa Reddy
 3. Manju
W/o.A.Krishna Anjeneya Reddy
 4. Padmavathy
W/o.Mahadeva Reddy
 5. Amrutha
W/o.V.Ravikumar
 6. Sowbhagya
W/o.G.Murali Reddy
- .. Appellants

Versus

1. Puttamma
W/o.Nanja Reddy
2. Rudramma
W/o.Gnaneswara Reddy



A.S.No.535 of 2017

WEB COPY

3. Padmamma alias Padmavathy
W/o.Shivaram alias Padmanaba Reddy
4. Chinnappa alias Thimmarayappa
S/o.Venkataramanappa
5. Anandh
S/o.Chinnappa alias Thiammarayappa
6. Nagaraj
S/o.Chinnappa alias Thiammarayappa
7. Vijendran
S/o.Chinnappa alias Thiammarayappa
8. Ashwath
S/o.Chinnappa alias Thiammarayappa
9. Venkatesh
S/o.Chinnappa alias Thiammarayappa
10. Sulakshana
D/o.Chinnappa alias Thiammarayappa
11. Saraswathi
D/o.Chinnappa alias Thiammarayappa
12. Narayana Reddy
S/o.Chinnabaiah alias Boopali Reddy
13. Pedhakkai Amma
W/o.Narayana Reddy

.. Respondents

First Appeal filed under Section 96 of C.P.C., against the judgment and Decree of the learned Additional District Judge of Hosur dated 28.02.2017 passed in O.S.No.93 of 2008.



WEB COPY



A.S.No.535 of 2017

For Appellants : Mr.V.Nicholas
For Respondents : Mr.P.M.Jayachandran, for R2
For R4, R5, R6 to R9
and R11 – No appearance
R1, R3, R10, R12 and R13
dismissed vide Court order dated
10.02.2023

J U D G M E N T

[Made by **K.RAJASEKAR, J.,**]

The unsuccessful plaintiffs have filed the present appeal challenging the dismissal of the suit for partition.

2. The case of the appellants / plaintiffs is that the suit schedule properties originally belonged to one Thimma Reddy and his wife Kenjaguramma. They had a son, Nanja Reddy, who in turn, had one son and two daughters, namely, Jeyarama Reddy, Rudrammal and Venkatalakshmiamma. Nanja Reddy died in the year 1970. Thereafter, his wife Puttamma (first defendant herein) instituted a suit for partition in O.S.No.80 of 1990, which was decreed and she was allotted a 1/3rd share in the suit properties. Pursuant to the preliminary decree, a final decree was also passed and possession was delivered to the respective parties.



A.S.No.535 of 2017

3. It is further stated that one of the properties situated in Survey

No.242/2 was not properly included in the earlier suit though it had originally been purchased in the name of Kenjaguramma. However, it is seen that Survey No.242/2 was also considered along with the other properties and partition was effected.

4. The plaintiffs have filed the present suit seeking partition of the properties, including the property in Survey No.242/2. According to them, they were not impleaded as parties in the earlier suit despite having a share in the properties, which they claim to be ancestral in nature. Being coparceners by birth, they contend that the preliminary and final decrees passed in O.S.No.80 of 1990 are not binding on them and hence, they seek reopening of the partition.

5. The suit was resisted by the contesting defendants on the ground that the plaintiffs' parents had participated in the earlier partition proceedings and the suit was decreed on merits. Partition was already effected and therefore, the present attempt to reopen the same is not maintainable. It was further contended that properties in Survey No.242/2 are not ancestral properties and that the plaintiffs have no independent right over the suit properties, especially when their father is



A.S.No.535 of 2017

still alive.

WEB COPY

6. The trial Court, upon considering the pleadings, framed the following issues:

(i) Whether the present suit is barred by the principle of *res judicata* in view of the judgement and decree passed in O.S.No.80 of 1990.

(ii) Whether the preliminary and final decrees passed in O.S.No.80 of 1990 are binding on the plaintiffs?

(iii) Whether the plaintiffs are entitled to a 54/64 share in the suit properties?

(iv) Whether the plaintiffs are entitled to the relief sought for?

(v) To what other reliefs are the plaintiffs entitled?

7. Before the trial Court, the first plaintiff was examined as P.W.1 and another witness was examined as P.W.2. Twelve documents were marked as Exs.A1 to A12. On the side of defendants, Rudhramma was examined as D.W.1 and no documents were marked.



A.S.No.535 of 2017

8. The trial Court, on appreciation of the evidence and materials on

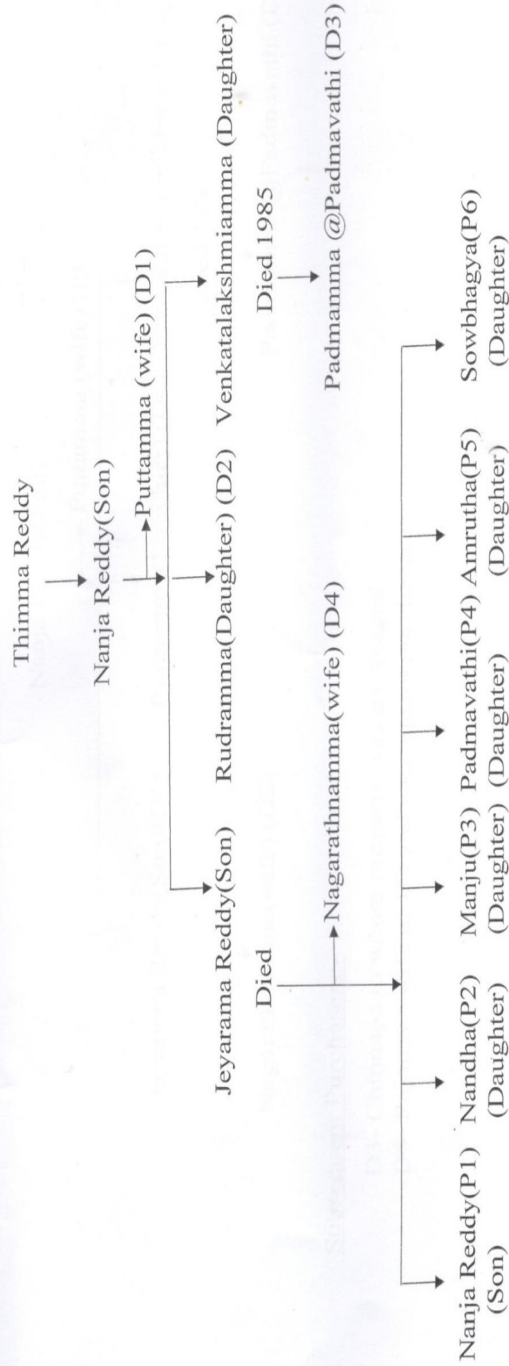
record, held that the judgment and decree in O.S.80 of 1990 were passed on merits and are binding on the plaintiffs. The trial Court, further held that the present suit is barred by the principle of *res judicata* and accordingly, dismissed the suit.

9. Aggrieved over the same, the plaintiffs have preferred the present appeal.

10. The learned counsel for the appellants contended that the suit properties including Survey No.242/2 are ancestral in nature and that the plaintiffs, being *co parceners* by birth, are entitled to a share. It was argued that since they were not impleaded as parties in the earlier suit, the preliminary and final decrees passed are not binding on them and the principle of *res judicata* would not apply. Reliance was also placed on the Genealogy to claim a large share. The Genealogy Tree is as follows:



Genealogy in O.S.No: 93 of 2008 in the file of The Additional District Judge, Hosur



D5- Subsequent Purchaser's Husband
D6 to 12 – Sons and Daughters of D5 and Subsequent Purchaser
D13 Narayana Reddy is also Subsequent Purchaser and also Brother of D1.
D14 Wife of D13 and also Subsequent Purchaser.



A.S.No.535 of 2017

WEB COPY

11. Per contra, the learned counsel for contesting second respondent submitted that suit properties had already been partitioned and allotted and some portions were even alienated by the plaintiffs' mother. Having enjoyed the benefits of the earlier decree, the plaintiffs cannot now reopen the partition. It was further contended that the properties were not ancestral but were the separate properties of Thimma Reddy and Kenjaguramma, devolving subsequently by succession. Hence, the learned counsel for the contesting second respondent sought for dismissal of the present appeal.

12. We have considered the submissions made on either side and perused the materials available on record.

13. The following points arise for consideration :

(i) Whether the suit properties are ancestral or separate in nature and whether the plaintiffs are entitled to any share?

(ii) Whether the trial Court was right in holding that the suit is barred by the principle of *res judicata*?

(iii) Whether the judgment and decree in



WEB COPY



A.S.No.535 of 2017

O.S.No.80 of 1990 are binding on the plaintiffs?

(iv) Whether the appeal deserves to be allowed?

14. It is an admitted fact that the suit properties were originally purchased in the name of Thimma Reddy and his wife Kenjaguramma. There is no material placed on record to establish that the properties are ancestral in nature. The specific averments made in the plaint clearly shows that the suit properties are separate properties as some of the properties were purchased in the name of Thimma Reddy and other properties in the name of Kenjaguramma.

15. The property in Survey No.242/2, stated to have been purchased in the name of Kenjaguramma in 1937, is clearly her separate property. Upon the death of Kenjaguramma, the said property devolved upon her son Nanja Reddy as his separate property. Thereafter, upon the death of Nanja Reddy, the property devolved upon his son Jeyarama Reddy, the plaintiffs' father. Since Jeyarama Reddy is still alive, the plaintiffs cannot claim any share during his lifetime.

16. With regard to the other properties, it is not in dispute that they were the subject matter of the earlier suit in O.S.No.80 of 1990. The said

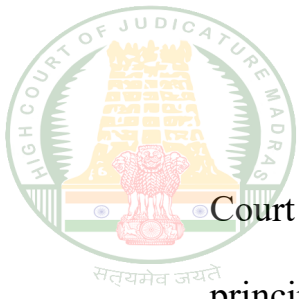


A.S.No.535 of 2017

suit was contested and decided on merits. A preliminary decree was passed, followed by final decree proceedings and the parties were put in possession of their respective shares. In the earlier suit, it is stated that the properties belonged to Thimma Reddy, the plaintiffs' great-grandfather. Consequently, the plaintiffs cannot claim a share in these properties while other rightful heirs are present. No material has been produced to substantiate the claim that the properties in Survey No.242/2 are ancestral properties. In such circumstances, the plaintiffs cannot claim right over the said properties.

17. Furthermore, it is evident that the plaintiffs' parents were parties to the earlier proceedings, and the matter was adjudicated on merits. It is also admitted that the plaintiffs' mother has even alienated some of the properties pursuant to such allotment.

18. Therefore, the contention that the earlier decree is not binding on the plaintiffs cannot be accepted. The issues relating to the rights of the family members were conclusively determined in the earlier suit and the same operates as *res judicata* against the present claim. Even otherwise, the plaintiffs have failed to establish any independent right in the properties so as to seek reopening of a concluded partition. The trial



A.S.No.535 of 2017

Court has therefore, rightly held that the present suit is barred by the principle of *res judicata* and that the plaintiffs are not entitled to any relief.

19. We do not find any perversity or infirmity in the reasoning adopted by the trial Court warranting interference by this Court.

20. In fine, the appeal fails and is liable to be dismissed.

21. Accordingly, the appeal is dismissed. There shall be no order as to costs.

(C.V.K.,J.) (K.R.S.,J.)
17.03.2026

Index : Yes/No
Internet: Yes/No
Speaking order/ Non-Speaking order

mk

To

1. The Additional District Judge,
Additional District Court,
Hosur.
2. The Section Officer,
V.R.Section,
High Court, Madras



WEB COPY



A.S.No.535 of 2017

**C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.**

mk

A.S.No.535 of 2017

17.03.2026