

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.2007 OF 1999

VENKATESA NAIDU (D) THR. LRS. & ORS.
Appellant(s)

Appella

VERSUS

PERUMAL(DEAD)

Respondent(s)

(With Office Report)

(With application for bringing on record Lrs. Of deceased sole
respondent and condonation of delay)

Date: 25/01/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE A.K.MATHUR

For Appellant(s)

Mr. R.Sundaravardan, Sr. Adv.

Mr. R.Nedumaran, Adv.

Mr. M.A. Chinnasamy, Adv.

For Respondent(s)

Mr. Mahabir Singh, Adv.

Mr. Balaji Srinivasan, Adv.

Mr. V.Sudeer, Adv.

Mr. MBRS Raju, Adv.

Ms. S.Sunita, Adv.

Mr. S.Sachin, Adv.

Mr. J.B. Ravi, Adv.

Mr. Riju Raj Jamawal, Adv.

Mr. M.Sailaja, Adv.

UPON hearing the Court made the following

O R D E R

Delay condoned. Application for Substitution is allowed.

The Civil Appeal is dismissed with no costs in terms of the signed order.

(Parveen Kr. Chawla)

Court Master

(Kanwal Singh)

Court Master

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2007 OF 1999

Venkatesa Naidu (D) Thr. Lrs. & Others

..Appellants

Versus

Perumal(Dead)

..Respondents

O R D E R

Defendants-appellants (hereinafter referred to as the 'appellants') being

aggrieved against the judgment of the High Court of Madras in Second Appeal No.

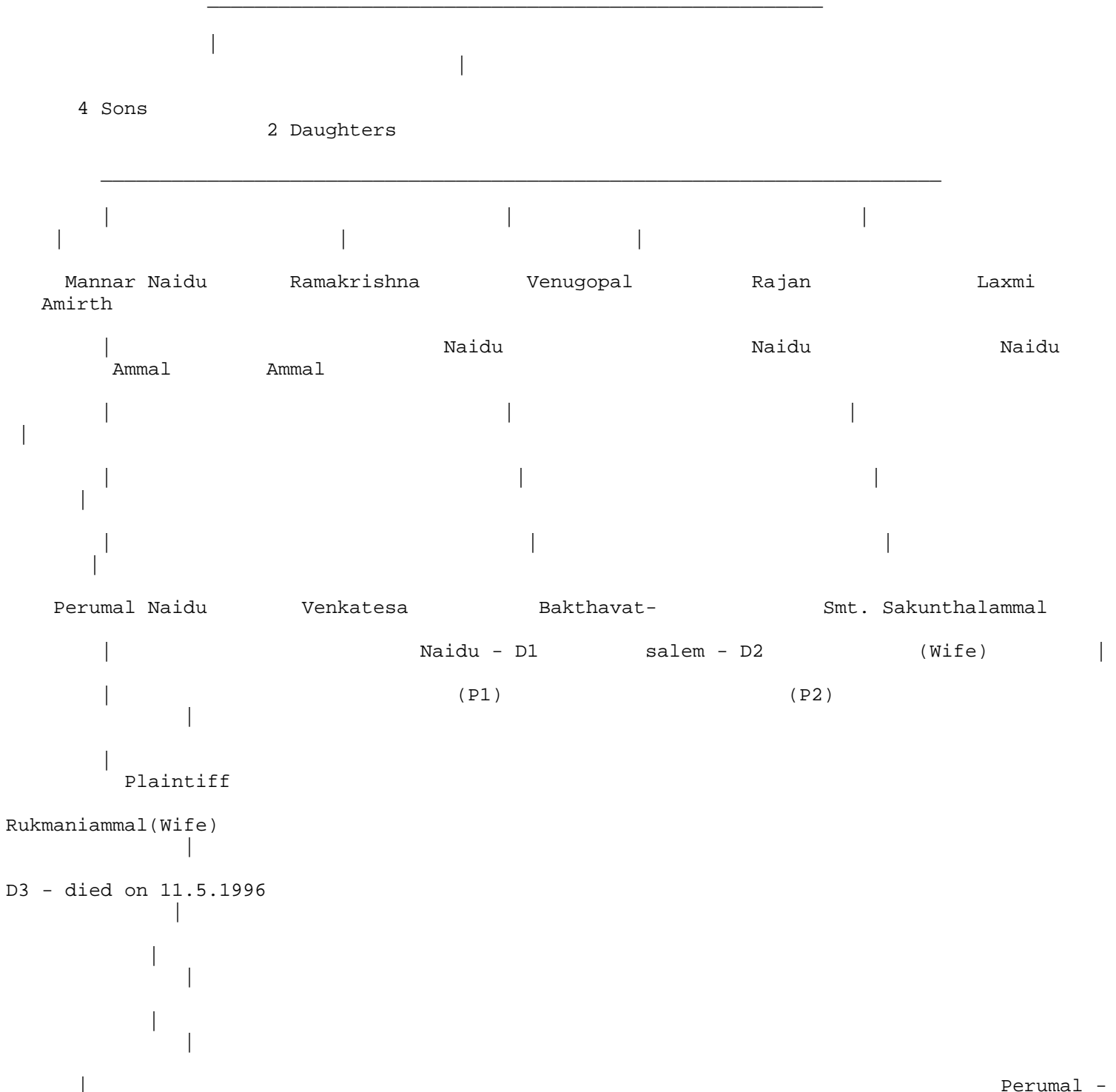
1161 of 1992 wherein the High Court has affirmed the findings of fact recorded by

the first appellate court has filed the present appeal by grant of special leave.

Genealogy Tree of the family is as under:-

GANEALOGY TREE

Palani Naidu (1928)



R1

(contesting Respdt.)		
Ramesh	Jayachan-	Baskaran
	dran	
D4	D5	D6
(P3)	(P4)	(P5)

Plaintiff-respondent Smt. Sakunthammal (deceased and now represented through her LR) is the daughter of Amirthammal, daughter of Palani Naidu and wife of Rajan Naidu, son of Palani Naidu. She inherited 'A' schedule property from her husband and 'C' schedule property from her father i.e. husband of Amirthammal. 'B' schedule property is movable property valued at Rs. 250/-. She filed a suit for declaration of title and permanent injunction. Her case was that schedule properties mentioned in Schedules 'A', 'B' & 'C' belonged to her after the death of her husband. When she returned from Tirupathi about six months prior to the filing of the suit, the defendants-appellants removed her belongings and sold away the trees standing on the lands. That the defendants further attempted to sell the properties whereupon she issued a legal notice to them on 2nd November, 1983. Not being satisfied with the reply sent, she filed the suit, as stated above, for declaration of title to the schedule properties 'A' to 'C' and for permanent injunction restraining the defendants-appellants from interfering with her possession.

The case of the defendants-appellants in their written statement was that the plaintiff did not care for her husband i.e. their brother. He had executed a will

dated 20.11.1981 of 'A' Schedule properties in favour of Rukmaniammal, daughter-
in-law of his brother Mannar Naidu. Regarding 'C' schedule property, it
was
contended that Palani Naidu purchased the property on 2.1.1933 in the court auction
but got the sale deed executed in favour of Chakrapani Naidu, husband
of the
plaintiff-respondent late Smt. Sakunthalammal. 'B' schedule property which had
been assessed at the value of Rs.250/- was not seriously contested.

On these pleadings, the trial court framed relevant issues. On appreciation
of the evidence led by the parties, the trial court dismissed the suit
. Aggrieved

against the judgment and decree of the trial court, an appeal was filed which was
accepted. It was held that the alleged will executed by Rajan Naidu in fav
our of

Rukmaniammal was not genuine and valid. The case of the appellants that
their

brother had executed the will dated 20.11.1981 was not accepted. It was held that
the Chakrapani Naidu was the owner of 'C' schedule property and this property did
not belong to the family of the appellants and therefore the plaintiff-respondent had
succeeded to the 'C' schedule property. Accordingly, the judgment and decree of
the trial court was set aside and the suit filed by the plaintiff-respondent was decreed
in its entirety.

Aggrieved against the judgment of the First appellate court, the appellants
filed the second appeal which has been dismissed by the impugned judgment. High

Court on re-appreciation of evidence has concurred with the findings of fact

recorded by the first appellate court. According to the High Court a question of law did not arise from the findings recorded by the first appellate court and dismissed the second appeal.

We agree with the view taken by the High Court that the findings recorded by the first appellate court were on facts from which a question of law did not arise. The High Court did not commit any error in dismissing the appeal as concluded by findings of fact.

The Civil Appeal is dismissed. No costs.

.....J.

[Ashok Bhan]

New Delhi;

January 25, 2005. [A.K. Mathur]