

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 3872 OF 2009

**KAREDLA PARTHASARADHI (D)...APPELLANT (S)
THR. LRS.**

VERSUS

**GANGULA RAMANAMMA (D)
THR. LR. & ORS. ...RESPONDENT(S)**

O R D E R

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1. This is an appeal by the plaintiff assailing the correctness of the judgment and order dated 19.12.2008 passed by the High Court of Andhra Pradesh at Hyderabad allowing the Appeal Suit No.1842 of 1996 preferred by defendant no. 1, after setting aside the judgment and decree of the Trial Court decreeing Original Suit No.15/1985 for relief of possession and accordingly dismissed the suit.
2. In brief, a civil suit was instituted with the allegations that one Karedla Satyanarayana had purchased the suit schedule property

under a registered Sale Deed dated 15.12.1975. The said Satyanarayana, after demolishing the old house, had raised a new construction on which an assessment was made by the local municipality. The said Satyanarayana died on 19.12.1983. It was alleged that at the time of Satyanarayana's death, the defendant no. 1 Gangula Ramanamma was in possession of the said suit schedule property to which she had no right to retain the possession as she was only working as a cook with Satyanarayana. Further, according to the plaint allegations, Satyanarayana was a bachelor. The plaintiff and the defendant no.2 were the legal heirs of Satyanarayana being brother and sister, and as such, were entitled to recover the possession of the suit schedule property.

3. Defendant no. 1 contested the suit. According to her case, she was the legally wedded wife of late Satyanarayana and had been residing with him for more than three decades. After the death of her husband, she was the only legal

heir to his estate as Satyanarayana had died without any issues. Both the parties led evidence, both oral and documentary. The Trial Court, vide judgment dated 15.03.1996, did not accept the defence of defendant no. 1 and decreed the suit for possession.

4. On appeal, the High Court, after considering the evidence on record, allowed the appeal and after setting aside the judgment of the Trial Court, dismissed the suit vide impugned judgment. The High Court found, on the basis of material on record that, defendant no. 1 was residing with Satyanarayana for more than three decades. Neither the plaintiff nor defendant no.2, the brother and sister of Satyanarayana, had any contact with Satyanarayana for more than 20 to 25 years. The defendant no. 1 examined herself as DW1 and produced DW2 who was the neighbour, DW3 who was an officer of Andhra Bank, DW4 who was an officer of Sub-Collector's Office, DW5 who was the postman of the locality, DW6 who was an ex-Corporator of the

Vijayawada Municipality and DW7 who was the adopted son of defendant no. 1. They all deposed in favour of defendant no. 1 in order to establish that she had been living with Satyanarayana for 30 years and that, even in the bank accounts, Satyanarayana had registered that after his death, payment be made to defendant no. 1. In the voter list, the name of defendant no. 1 was recorded as the wife of Satyanarayana. The High Court finally, vide order dated 19.12.2008, held that the defendant no. 1 was the legally wedded wife of Satyanarayana and would, therefore, be Class I heir entitled to inherit the suit schedule property.

5. It would be relevant to mention that during the pendency of the appeal before the High Court, defendant no. 1 had died and was substituted by one K. Sanjiva Rao (DW7), claiming to be the adopted son of Satyanarayana and defendant no. 1.

6. The plaintiff preferred this appeal against the High Court's order dated 19.12.2008 which came up for hearing on 4th December, 2014. This Court, vide judgment of the said date, confirmed the finding that the defendant no. 1 was the legally wedded wife of Satyanarayana. However, this Court was not convinced that the High Court was justified in allowing the application filed by K. Sanjiva Rao under Order XXII Rule 4 of the Code of Civil Procedure to be substituted as legal heir of defendant no. 1, the appellant before the High Court. This Court, applying the provisions of Order XXII Rule 5 remitted the matter to the Trial Court for determination as to whether K. Sanjiva Rao was the legal representative of defendant no. 1 or not. The appeal was directed to be listed on receipt of the finding from the Trial Court.
7. In the evidence led before the Trial Court, even K. Sanjiva Rao had been examined as DW7 and the other witnesses produced by defendant no. 1 had confirmed that Satyanarayana and defendant no. 1 had adopted a child who was

the son of defendant no. 1's sister and they had brought him up as their child. It was not for the first time before the High Court that K. Sanjiva Rao had appeared and staked his claim as legal heir and representative of defendant no. 1. K. Sanjiva Rao had also produced a Will in his favour duly executed by defendant no. 1 on 01.02.1984. There was enough material for the High Court to have impleaded K. Sanjiva Rao to pursue the appeal on behalf of defendant no. 1 as a legal heir. This application had been allowed in the year 2000 but the said order was never challenged.

8. Even otherwise, the question whether K. Sanjiva Rao was an adopted son of Satyanarayana and defendant no. 1 or that he had inherited the property from defendant no. 1 on the basis of the Will could have been determined in a regular proceeding either in a suit for a Declaration that K. Sanjiva Rao was not the adopted son of Satyanarayana and defendant no. 1 or that the Will dated 01.02.1984 was not a valid Will.

9. In any case, K. Sanjiva Rao having been continuing in possession of the suit schedule property, once the High Court and this Court had confirmed the finding that defendant no. 1 was the wife of Satyanarayana, the plaintiff could not have evicted K. Sanjiva Rao without bringing in a fresh suit against K. Sanjiva Rao challenging his right to continue in the suit schedule property. On the record, we do not find any final report submitted by the Trial Court. However, some orders have been filed of the year 2016 to show that the proceedings were continuing and the Trial Court had granted opportunity to K. Sanjiva Rao to lead evidence.

10. In our opinion, this exercise would be in futility. We, accordingly, are not inclined to continue this appeal any further. The same is dismissed leaving it open for the appellant to initiate appropriate proceedings before appropriate forum seeking appropriate reliefs with respect to the suit schedule property.

11. The appeal stands finally dismissed with the aforesaid observations.
12. We make it clear that any observations made by us in this order will not come in the way of any proceedings initiated by the appellant for any relief being claimed against K. Sanjiva Rao.
13. No order as to costs.

.....J.
(VIKRAM NATH)

.....J.
(SATISH CHANDRA SHARMA)

.....J.
(PRASANNA BHALACHANDRA VARALE)

NEW DELHI

SEPTEMBER 05, 2024

ITEM NO.103

COURT NO.7

SECTION XII-A

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(s). 3872/2009

KAREDLA PARTHASARADHI (D) THR. LRS. Appellant(s)

VERSUS

GANGULA RAMANAMMA (D) THR. LR. . & ORS. Respondent(s)

(IA No. 259666/2023 - PERMISSION TO PLACE ON RECORD
SUBSEQUENT FACTS)

Date : 05-09-2024 This matter was called on for
hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA
HON'BLE MR. JUSTICE PRASANNA BHALACHANDRA VARALE

For Appellant(s) Mrs. Anjani Aiyagari, AOR

For Respondent(s) Mr. D. Bharat Kumar, Adv.
Mr. Aman Shukla, Adv.
Mr. Bhounik Nayyar, Adv.
Ms. Yatika Gupta, Adv.
Mr. Amit Kumar, Adv.
Mr. M. Chandrakanth Reddy, Adv.
Mr. Abhijit Sengupta, AOR

UPON hearing the counsel the Court made the following

O R D E R

**The appeal is dismissed in terms of the
signed order.**

**Pending application(s), if any, shall
stand disposed of.**

**(SONIA BHASIN)
COURT MASTER (SH)**

**(RANJANA SHAILEY)
COURT MASTER (NSH)**

[Signed order is placed on the file]