

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 4749/2011

P.P.RATHI

APPELLANT(S)

VERSUS

ARULMIGU MALLIGESWARAR THIRUKOIL AND ORS.

RESPONDENT(S)

O R D E R

1. We have heard the learned Senior counsel appearing for the appellant and the learned counsel appearing for the respondent.
2. The appellant before us is the defendant in the suit. The suit has been filed by the respondent for possession based upon a registered will dated 14.12.1950 executed by the testator - Ponnuvel, Mudaliar. The testator passed away on 10.01.1951
3. The aforementioned registered will states that the suit properties shall be bequeathed in favour of the only son of the testator and in the event of his death, to his daughter. If both of them die unmarried and issueless, the suit properties would devolve upon the respondent-temple. The will further provides that the concubine of the testator, Lakshmikanthammal, who was, incidentally, the mother of the testator's children, shall continue to enjoy life interest over the suit properties. It is only after her death, that the respondent-temple would get to enjoy the said properties. The

testator had a son and a daughter, but both of them passed away after the death of the testator. The appellant got the properties from Lakshmikanthammal through a sale deed dated 17.06.1982 and a will dated 03.11.1982 which are Exhibits A3 and A4 respectively.

4. The Trial Court while considering the other issues, held that Exhibits A3 and A4 are not genuine and have not been proved. On appeal, the High Court has primarily concerned itself with the scope and applicability of Section 124 of the Indian Succession Act, 1925 (for short, 'the 1925 Act'), vis-à-vis the will dated 14.12.1950. The issues pertaining to Exhibit A3 and A4 have not been gone into. While the law is quite settled that no specific issue is required to be framed, the First Appellate Court being the final Court of fact and law, is expected to consider the findings of the Trial Court, especially when a specific challenge has been raised with reference to Exhibits A3 and A4.
5. Though the learned Senior counsel appearing for the appellant took pains at length to convince this Court on the scope and applicability of Section 124 of the 1925 Act, we refrain from going into the same and remit the matter to the High Court to decide the issue(s) on facts with respect to Exhibits A3 and A4.
6. Incidentally, we also request the High Court to consider the legal issues raised and decide the same, including the scope and applicability of Section 14 and 14(2) of the Hindu

Succession Act, 1956 when read with Section 124 of the 1925 Act.

7. The appeal before the High Court is of the year 1997. Thus, we request the High Court to make an endeavour to dispose of the same - A.S. No.284/1997, within a period of six months from the date of receipt of a copy of this order.
8. The appeal is disposed of, in the above terms.
9. Pending application(s), if any, shall also stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[NONGMEIKAPAM KOTISWAR SINGH]

NEW DELHI;
18th MARCH, 2026

ITEM NO.106

COURT NO.5

SECTION XII-B

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

Civil Appeal No(s). 4749/2011

P.P.RATHI

Appellant(s)

VERSUS

ARULMIGU MALLIGESWARAR THIRUKOIL AND ORS.

Respondent(s)

Date : 18-03-2026 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Appellant(s) Mr. S.S. Sundar, Sr. Adv.
Mr. V Balachandran, Adv.
Mr. Siddharth Naidu, Adv.
Mr. Saurabh Bharadwaj, Adv.
Mr. V. Balachandran, AOR

For Respondent(s) D. R. Sivakumar, Adv.
Mr. Krishnakumar R.S., Adv.
Mr. Rajesh Kumar, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the signed order.

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

(SWETA BALODI)
ASTT. REGISTRAR-cum-PS

(POONAM VAID)
ASSISTANT REGISTRAR

(Signed order is placed on the file)