

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).8945 OF 2013

K. NAMADEVAN (DEAD)
THROUGH LRS.

APPELLANT(S)

VERSUS

VENKATESAN (DEAD)
BY LRS. AND ORS

RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). 8946/2013

O R D E R

CIVIL APPEAL NO.8945 OF 2013

1. Heard learned counsel for the parties and perused the relevant records.
2. In our opinion, the High Court was justified in partly allowing the appeal and passing a preliminary decree of partition in favour of the appellant(s) only to the extent of 1/16 share in reference to the release deed dated 28.08.1965.
3. From the evidence on record, it is obvious that the property was purchased by one

Abboy Maistry, who in turn sold it to Poothurammal @ Alamelu Ammal, A.Kesavalu Maistry and A. Munusamy Maistry, who, incidentally, happened to be his wife and two sons. The registered sale deed has not been challenged.

4. K. Namadevan, plaintiff (appellant herein), obviously, is claiming partition on the assertion that he would get share through his father, A.Kesavalu Maistry.

5. When the suit was instituted in March 1989, admittedly, A.Kesavalu Maistry was still alive. At the relevant point of time the question of granting relief of partition did not arise.

6. It has come on record that A.Kesavalu Maistry executed settlement deed dated 22.04.1978 in favour of K.Venkatesan, defendant No.2 (respondent No.1 herein). That settlement deed has not been challenged.

7. In this backdrop, no fault can be found with the High Court to have granted limited relief to the appellant(s) on the basis

of the arrangement directed in the release deed executed by A. Munusamy Maistry and his wife and four sons.

8. Hence, this appeal fails and the same is dismissed. No order as to costs.

9. All pending applications are also disposed of.

CIVIL APPEAL NO(S). 8946/2013

As we have dismissed the companion appeal i.e. C.A. No.8945/2013, we see no reason to entertain this appeal and it must follow the same suit.

Hence, disposed of accordingly.

All pending applications are also disposed of.

....., J.
(A.M. KHANWILKAR)

....., J.
(DINESH MAHESHWARI)

NEW DELHI
AUGUST 20, 2019.

ITEM NO.102

COURT NO.9

SECTION XII

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). 8945/2013

K. NAMADEVAN (DEAD) THROUGH LRS.

Appellant(s)

VERSUS

VENKATESAN (DEAD) BY LRS. AND ORS

Respondent(s)

WITH

C.A. No. 8946/2013 (XII)

Date : 20-08-2019 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Parties :

Mr. M.N. Rao, Sr. Adv.
Mr. Sri Ram J. Thalapathy, Adv.
Mr. V. Adhimoolam, Adv.
Mr. Shilp Vinod, Adv.
Mr. Pushkin Rajkumar, Adv.
Ms. Shobha Ramamoorthy, AOR

Mr. M. A. Chinnasamy, AOR
Ms. C. Rubavathi, Adv.
Mr. V. Senthil Kumar, Adv.
Mr. P. Rajaram, Adv.

Mr. Preetam Shah, Adv.
Mr. K. Krishna Kumar, AOR

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

C.A. No. 8945/2013

The appeal is dismissed in terms of the signed order.
All pending applications are also disposed of.

C.A. No. 8946/2013

The appeal is disposed of in terms of the signed order.
All pending applications are also disposed of.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

(Signed order is placed on the file.)