

IN THE COURT OF DISTRICT MUNSIF, PALLADAM

Present: Tmt.S.Indulatha,B.A.,B.L.,

District Munsif, Palladam.

Monday the 3rd day of September 2018

O.S.No.1/2018

1. Tmt. Jerkirusthuv Mary,
2. Thiru. Ulaga Ratchakar,
3. Thiru. Thiruthuvaraj,
4. Tmt. Catherine Mary

.....Plaintiffs.

/Vs /

1. The state Rep. By The District Collector,
Tirupur,
2. The Tahsildar, Palladam.

.....Defendants

This suit coming on 29.08.2018 for final hearing before me and in the presence of Thiru.K.A. Palaniswamy, B.Sc., B.L., Advocates for the plaintiffs and Thiru. M. Ponnusamy, Advocate, the Additional Government Pleader for defendants and upon perusing the plaint, written statement and connected material papers and on hearing the arguments adduced by both side learned counsels and having stood over for consideration of this court till today the court delivers the following

JUDGMENT

Suit for declaration that the plaintiffs are the legal heirs of deceased Savariyar @ Sowrimuthu, son of Arokiasamy.

2) The brief contents of the plaint is as follows: The Plaintiffs contended that on 12.02.2004 Savariyar @ Sowrimuthu son of Arokiasamy died intestate at Kaikola Thottam, Malayampalayam, Pethampalayam, Ganapthypalayam Village, Palladam Taluk leaving behind his wife i.e., 1st plaintiff sons namely 2nd 3rd plaintiffs and daughter namely 4th plaintiff as his legal heirs. The plaintiffs grand

mother namely Savariyar W/o. Arokiasamy died in the year 1987 at Dindugal, but death certificate not obtained. The deceased Savariyar purchased the landed property to an extent of 4233.6 Sq.ft in S.F.No.75/3B of Vakkampatti Village, (Aathur S.R.D. Dindugal R.D) by virtue of Sale Deed dated 5.11.1999. After his demise the present legal heirs i.e., the plaintiffs are in possession and enjoyment of the properties till date. The 3rd plaintiff filed an application before the 2nd defendant's Office, Palladam for requesting to issue the legal heirs certificate of deceased Savariyar @ Sowrimuthu, son of Arokiasamy. The 2nd defendant issued a reply notice under Oo.Moo.No.4998/17/A3 dated 14.12.2017 stated that the plaintiffs are required to seek remedies through the appropriate court for getting Legal heirship certificate of deceased Savariyar @ Sowrimuthu, son of Arokiasamy. Since the 2nd defendant refused to issue legal heirship certificate in favour of the Plaintiffs, the plaintiff had no option except to file the suit for declaration. Hence the suit.

3) The brief contents of the written statement filed by the 2nd defendant and adopted by the 1st defendant is as follows: The 2nd defendant contended that the allegations made by the plaintiffs in the plaint have to be proved by them with strict oral and documentary evidence. The plaintiffs are Christians. Hence the plaintiffs are not entitled to get relief under the Hindu Succession Act. They ought to have filed the suit before the Hon'ble District Court of Tiruppur by invoking the Indian Succession Act. Hence this suit is barred by U/s.371 of Indian Succession Act. But they are wrongly filed this Suit before this Hon'ble Court in this ground alone, the suit is liable to be dismissed. Hence the plaintiffs have no relief in this suit against the defendants. The allegations made in Para 5 of the plaint that the application made by the plaintiffs and reply issued by this defendant are admitted as true. The plaintiffs have not approached the court with clean hands. The suit not properly valued and the correct court fee is not paid. On this ground also, the suit is liable to be dismissed in limine. No cause of action arose as on the dates and in the manner mentioned in para 7 of the plaint. There is no

truth, merit or Substance in the suit. The suit is an Abuse of Process of law and Court. Hence the 2nd defendant prays to dismiss the suit with costs.

4) Based on the pleadings of the parties the following issues were framed in this case:-

1. Whether the suit is maintainable before this court?
2. Whether the plaintiffs are entitled to the relief or declaration as prayed for in suit?
3. To what other relief ?

5) On the side of the Plaintiff PW1 and PW2 were examined and Exhibits A1 to A9 were marked. No witness was examined nor any document was marked on the side of the defendants.

6) Issue No.1: The plaintiffs had filed the suit seeking to declaration that the plaintiffs are the legal heirs of deceased Savariyar @ Sowrimuthu, son of Arokiasamy. The defendants have denied on the ground that the plaintiffs have not come up with true facts and it is a belated suit and state that the cause of action alleged is false and prays for dismissal of the suit. The burden is first on the plaintiff to establish their case. The plaintiffs to establish their case have examined as PW1, and PW2 and Ex.A1 to A9 marked. Ex.A1 is the true copy of Death certificate of Savariyar @ Sowrimuthu, son of Arokiasamy. Ex.A2 is the Certified copy of sale deed in favour of Savariyar @ Sowrimuthu, son of Arokiasamy. Ex.A3 is the Reply notice issued by the 2nd defendant. Ex.A4 is the Xerox copy of Aadhaar Card of 1st plaintiff. Ex.A5 is the Xerox copy of Aadhaar Card of 2nd plaintiff. Ex.A6 is the Xerox copy of Aadhaar Card of 3rd plaintiff. Ex.A7 is the Xerox copy of Aadhaar Card of 4th plaintiff. Ex.A8 is the Paper Publication of Mali Murasu. Ex.A9 is the Xerox copy of Aadhaar Card of Jayapal (PW2).

7) The plaintiff contended that on 12.02.2004 Savariyar @ Sowrimuthu son of Arokiasamy died intestate at Kaikola Thottam, Malayampalayam, Pethampalayam, Ganapathypalayam Village, Palladam Taluk leaving behind his wife i.e., 1st plaintiff sons namely 2nd 3rd plaintiffs and daughter namely 4th plaintiff as his legal heirs. The plaintiffs grand mother namely Savariyar W/o. Arokiasamy died in the year 1987 at Dindugal, but death certificate not obtained. The deceased Savariyar purchased the landed property to an extent of 4233.6 Sq.ft in S.F.No.75/3B of Vakkampatti Village, (Aathur S.R.D. Dindugal R.D) by virtue of Sale Deed dated 5.11.1999. After his demise the present legal heirs i.e., the plaintiffs are in possession and enjoyment of the properties till date. The 3rd plaintiff filed an application before the 2nd defendant's Office, Palladam for requesting to issue the legal heirs certificate of deceased Savariyar @ Sowrimuthu, son of Arokiasamy. Since the 2nd defendant refused to issue legal heirship certificate in favour of the Plaintiffs, the plaintiff had no option except to file this suit. Ex.A1 the true copy of Death certificate shows that the said Savariyar @ Sowrimuthu, son of Arokiasamy died on 12.02.2004. Ex.A3 the Reply notice issued by the 2nd defendant shows that the said Sowrimuthu @ Savariyar died on 12.02.2004. As per Indian Succession Act the plaintiffs are the only legal heir of deceased Savariyar @ Sowrimuthu, son of Arokiasamy who died on 12.02.2004. Hence the plaintiffs are the only legal heirs to the said Savariyar @ Sowrimuthu, son of Arokiasamy who died on 12.02.2004. Except the Plaintiffs there is no other legal heirs to the deceased Savariyar @ Sowrimuthu, son of Arokiasamy who died on 12.02.2004. Nothing strong enough has been put forth in the cross examination of PW1 by the defendants. Hence the evidence of PW1 is natural and believable and this court believes the evidence of PW1. Another witness PW2 also clearly corroborated the evidence of PW1, and he had categorically deposed that the deceased Savariyar @ Sowrimuthu, son of Arokiasamy who died on 12.02.2004. The crystal clear evidence of PW2 also not shattered by any strong cross examination on the side of the defendants. Hence this court believes the crystal clear evidence of PW2. Further on the plaintiff's side the

paper publication issued and no objection has been received regarding the same.

8) On the whole reading of the evidence of PW1 and PW2 read with Ex.A1 to A9 unambiguously establishes that Savariyar @ Sowrimuthu, son of Arokiasamy who died on 12.02.2004 leaving behind the plaintiffs. Further paper publication was also issued calling upon any objections to the plaintiffs claim. But no one appeared to object the plaintiffs claim. No contra evidence was also adduced on the side of the defendants. Hence this court believes the evidence of PW1 and PW2 read along with Ex.A1 to Ex.A9 and hold that the plaintiffs have established that Savariyar @ Sowrimuthu, son of Arokiasamy who died on 12.02.2004 leaving behind the plaintiffs and the plaintiffs are the only legal heirs of the deceased Savariyar @ Sowrimuthu, son of Arokiasamy who died on 12.02.2004.

9) Issue No.3: In view of the findings in issue No.1 and 2 the Plaintiff is entitled to the decree of declaration as the plaintiffs are the only legal heirs of the deceased Savariyar @ Sowrimuthu, son of Arokiasamy who died on 12.02.2004 as prayed for.

10) In the result the suit is decreed in favour of the plaintiffs declaring that the plaintiffs are the only legal heirs of deceased Savariyar @ Sowrimuthu, son of Arokiasamy. No cost.

Dictated to the Steno - Typist and typed by him directly in the court computer, corrected and pronounced by me in the open court this the 3rd day of September 2018.

Sd/-
District Munsif,
Palladam.

Plaintiff side documents :

Ex.A1- 01.03.2004 True copy of Death certificate of Savariyar @ Sowrimuthu, son of Arokiasamy.

Ex.A2- 05.11.1999 – Certified copy of sale deed in favour of Savariyar @ Sowrimuthu, son of Arokiasamy.

Ex.A3- 14.12.2017 – Reply notice issued by the 2nd defendant – True copy.

Ex.A4 - Xerox copy of Aadhaar Card of 1st plaintiff – Compared with original.

Ex.A5 – Xerox copy of Aadhaar Card of 2nd plaintiff – Compared with original.

Ex.A6 – Xerox copy of Aadhaar Card of 3rd plaintiff – Compared with original.

Ex.A7 - Xerox copy of Aadhaar Card of 4th plaintiff – Compared with original.

Ex.A8 – 21.02.2018 - Paper Publication of Mali Murasu – Original.

Ex.A9 - Xerox copy of Aadhaar Card of Jayapal (PW2) – Compared with original.

Plaintiff side witnesses:

PW1 - Thiruthuvaraj,

PW2 - Jayapal

Defendant side witnesses and documents: Nil

Sd/-
District Munsif,
Palladam.

/True Copy/