

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. 6552 OF 1999

Ammasi Kounder (Dead) By L.Rs.  
llant (s)

Appe

Versus

Govindammal & Ors.  
ndent (s)

Respo

(With appl(s) for recording compromise and with office report)

Date: 26/04/2005 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. K.K. Mani, Adv.  
Mr. K.B. Sandeep, Adv.

For Respondent(s) Mr. B. Sridhar, Adv.  
Mr. K. Ram Kumar, Adv.

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

The appeal stands disposed of in terms of the signed order, with no  
order as to costs.

(J.S. Rawat)  
ngh)  
Court Master  
t Master

(Kanwal Si  
Cour

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6552 OF 1999

Ammasi Kounder (Dead) By L.Rs.

Appellant (s)

Versus

Govindammal & Ors.

Respondent (s)

O R D E R

Defendant-the appellant herein has filed this appeal against the judgment dated 17th February, 1998 passed by a Single Judge of the High Court of Madras in S.A. No. 1191/84. By the impugned order, the learned Single Judge has set aside the judgment and decree passed by the first appellate Court and restored that of the trial court. The trial Court had decreed the suit filed by the plaintiffs-the respondents herein, some of whom have died and are now represented by their legal representatives.

The dispute is in a very narrow compass.

The property in dispute belonged to one Ramu Reddiar s/o. Muthu Reddiar. On 1st of February, 1951 Ramu Reddiar executed a registered Settlement Deed in favour of his daughter Pachai Ammal who became the absolute owner of the entire property. On 27th June, 1953, Pachai Ammal executed three Settlement Deeds. By the first Settlement Deed, she settled 1.15 cents of land in favour of her eldest daughter-Govindammal (1st plaintiff in the suit); by the second Settlement Deed, she settled 1.16 cents of land in favour of her younger daughter-Muthalammal (2nd plaintiff) and her husband-Ranganathan (3rd plaintiff); and by the third Settlement, she settled 0.58 cents of land in favour of her brother's

son, i.e., Ramu alias Jeyaraman (4th plaintiff).

The defendant-appellant was in possession of the suit land.

Respondents filed a suit being OS No. 148/77, seeking declaration of their

title to the suit land as well as its possession. The defence put up by the

appellant was that Pachai Ammal after cancelling the first two Settlement

Deeds in favour of her (i) eldest daughter and (ii) younger daughter and

her husband, executed registered Sale Deed in favour of Vallaisami

Gounder for a sum of Rs.600/- in respect of two acres of land. It

was also claimed that Aiyasami Gounder son of Vallaisami Gounder

was in possession of the land in pursuance to the usufructuary

mortgage executed by Ramu Reddiar under two "Mortgage" documents

dated 2nd of June, 1949 and 5th June, 1950 in respect of the two acres of

land.

The trial Court found that Pachai Ammal had duly executed the

three Settlement Deeds and the same were valid. It was held that neither

the Settlement Deeds had been revoked nor the property was sold by

Pachai Ammal in favour of the appellant. The plea taken by the appellant

that the property had been mortgaged to him by Ramu Reddiar was also

not accepted and the suit was ordered to be dismissed. Aggrieved against

the judgment and decree passed by the trial Court, the appellant filed

appeal being AS No. 110/82 in the Court of the Sub-ordinate Judge at

Vridhachalam, which was allowed. The first appellate Court set aside the

judgment and decree passed by the trial Court and dismissed the suit filed

by the respondents.

Being aggrieved against the order of the first appellate Court, the respondents filed Second Appeal in the High Court which has been accepted by the impugned order. Govindammal and Ramu @ Jeyaraman who got the property under the 1st and the 3rd Settlement Deeds respectively have entered into a settlement with the appellant. They have filed an affidavit in this Court to the effect that they have settled the dispute with the appellant and the suit filed by them against the appellant to the extent of their share be dismissed.

So far as the second Settlement Deed, by which 1.16 cents of land was settled by Pachai Ammal in favour of her younger daughter Muthalammal and her husband-Ranganathan is concerned, learned counsel for the appellant contends that he cannot challenge the judgment of the High Court as it stands. That the same is in accordance with law and the evidence on record. He urged that he be permitted to take additional grounds which had not been taken by him in the suit. He has filed IA No. 1/98 seeking permission to take the additional grounds, which was allowed and taken on record.

In our considered opinion, the appellant cannot be permitted to take the additional grounds at this stage of the proceedings, as it would necessitate the amendment of the pleadings as well as taking of additional evidence. The case shall have to be remitted back to the Trial Court for

amendment of the pleadings, framing of fresh issues in the light of the amendment of the pleadings and the taking of the additional evidence.

The dispute relates to a very small piece of land and the parties cannot be relegated to undergo a fresh trial for such a small piece of land.

The appeal insofar as it relates to the second Settlement Deed is dismissed. Judgment of the High Court and the courts below are set aside so far as they relate to the 1st and the 4th plaintiff, namely, Govindammal and Ramu @ Jeyaraman and the suit filed by them against the appellant is dismissed. The appeal stands disposed of in the above terms. However, there shall be no order as to costs.

.....J.  
(ASHOK BHAN)

New Delhi;  
April 26, 2005.

.....J.  
(A.K. MATHUR)