
(2001) 09 AP CK 0075
In the Andhra Pradesh High Court
Case No : CCCA No. 118 of 1998

K. Sivarajamma

APPELLANT

Vs

State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 27-09-2001

Acts Referred:

Specific Relief Act, 1963 — Section 34

Citation : (2001) 6 ALD 721 : (2002) 1 ALT 43 : (2002) 2 CivCC 542 : (2002) 1 DMC 641 : (2002) 3 RCR(Civil) 766

Hon'ble Judges : L. Narasimha Reddy, J; Bilal Nazki, J

Bench : Division Bench

Advocate : M.L. Ali, for the Appellant; Government Pleader for M and H and D. Goverdhana Chary, for the Respondent

Judgement

Bilal Nazki, J.—Heard the learned Counsel for the parties. The plaintiff-appellant had filed a suit before the Family Court for a declaration that she was the legally wedded wife of the late K. Yadaiah. Defendant No.3 in the suit also claimed to be the wife of the deceased Yadaiah. On the basis of the pleadings the following issues were framed by the trial Court :

(1) Whether the plaintiff is entitled to be declared as the wife of late K. Yadaiah as prayed for?

(2) Whether the plaintiff is the nominee of her late husband K. Yadaiah to entitle for the service benefits as claimed for?

(3) To what relief?

2. The trial Court came to the conclusion that defendant No.3 Yadamma was the legally wedded wife of the late K. Yadaiah and dismissed the suit. We have gone through the judgment of the trial Court and the evidence and we find that the defendant No.3 had produced Ex.B3 a legal heir certificate issued by Mandal Revenue Officer on 12-9-1994 to substantiate her claim that she was the legally wedded wife of the deceased Yadaiah. On the other hand, the plaintiff had

produced various documents to substantiate her claim, which included a certificate issued by Arya Samaj regarding her marriage. She had also produced some voter lists and also record from the School regarding percentage of her children. She also produced service record of the deceased Yadaiah. She had also examined herself. But it appears that the learned trial Court was very much impressed by the certificate (Ex.B3) issued by the Mandal Revenue Officer and it brushed aside all other evidence and even stated that the evidence of PW2 cannot be believed for the simple reason that a full-fledged enquiry was conducted by the Mandal Revenue Officer. This certificate (Ex.B3) issued by the Mandal Revenue Officer is not a statutory certificate. The Mandal Revenue Officer was not examined even in the Court and as such the certificate issued by him styling as legal heir certificate would not be a conclusive proof of the status of either the plaintiff or the defendant No.3. We are informed that another application has been filed in this Court by the appellant being CMP No. 18199 of 2001 in which this Court has been requested to receive a document which is Photostat copy of another legal heir certificate issued by the same Mandal Revenue Officer in August, 1997. The learned Counsel for the appellant submits that a certificate being a legal heir was issued in favour of his client as well by the Mandal Revenue Officer. We are not passing any orders on this application as only uncertified Photostat copy is placed on record. But, needless to say that certificate issued by the Mandal Revenue Officer, at best, could be treated as relevant piece of evidence along with other evidence for coming to a conclusion as to whether the plaintiff or the defendant No.3 was the legally wedded wife of the deceased Yadaiah. Since the trial Court has misdirected itself by treating the certificate (Ex.B3) issued by the Mandal Revenue Officer as almost a conclusive proof of marriage of the defendant No.3 with the deceased Yadaiah, we allow this appeal, set aside the judgment of the trial Court and remand the case back to trial Court for fresh disposal by treating the certificate issued by the Mandal Revenue Officer as a piece of evidence and not conclusive proof of marriage between defendant No. 3 and the deceased Yadaiah. If the appellant wants to bring on record the certificate issued in her favour by the Mandal Revenue Officer, she may make necessary application before the trial Court in accordance with law. The matter be concluded within three months. No costs.