(1955) 09 MAD CK 0001

In the Madras High Court

Neelambal Ammal and Others — APPELLANT

Vs

Rajarathnam Pillai and Others — RESPONDENT

Date of Decision : 06-09-1955

Acts Referred:

Citation : AIR 1956 Mad 336 : (1956) 1 MLJ 245

Hon'ble Judges : Govinda Menon, J

Bench : Division Bench

Judgement

Govinda Menon, J.—No hard and fast rule can be laid down as to whether a Hindu widow in possession of very little property left by her

husband can or cannot sell the same for her future maintenance. The principle of law is well established that a widow can alienate her husband''s

property for necessity of the estate. No authority is needed for that proposition. As stated in the order of reference, Venkata subba Rao, J., in

Ramalinga Iyer Vs. Parvathathammal and Others, and Devadoss, J., in Kuthalinga v. Shanmuga (1925) 50 M.L.J. 234, took a liberal view that

where there is compelling necessity the widow can sell the entire property of her husband for the purpose of her future maintenance. A different

view seems to have been taken by Raghava Rao, J., in Ratnam Pillai and Others Vs. Ganapathi Subramaniya Aiyar, , on the observations of Chief

Justice Beaumont in Gyanu Kashiba Dhangar Vs. Sarubai Biru Dhangar, that a widow has no power to sell the properties for her future

maintenance.

2. In our opinion it is difficult to say with exactitude that she has no power. Everything will depend on the facts of the case. Suppose for example, a

Hindu widow is left with Government promissory notes or other securities to the extent of a few hundred rupees and nothing more, can it be said

that she has no right or authority to collect the money but could collect only the very meagre interest arising on that and starve herself? The question

answers itself.

3. In the present case, there is no doubt whatever on the findings of the lower Courts that when the husband died, all that was left was a small

thatched house, situated in the suburb of Trichy town consisting of two rooms and nothing more. It was sold by the widow under Exhibit B-7 in

favour of one Rathnasabapathy for Rs. 300, the consideration being Rs. 100 for her maintenance already borrowed and Rs. 200 for her future

maintenance and funeral expenses. The learned District Munsif who saw the widow, who was the first defendant, in the witness-box was

impressed with her evidence and came to the conclusion that what she was deposing was true. The learned appellate Judge does not say that no

money was borrowed or that there were other properties from which the widow could have maintained herself. In these circumstances we have to

take it that the widow was left with this small house and nothing more. The circumstance that Rathnasabapathy sold the house under Exhibit B-8 to

the husband of the second defendant and the father of the third defendant for a sum of Rs. 280 shows conclusively that the consideration for

Exhibit B-7 was adequate. Such being the case, the presumption can be drawn that the house was sold for a proper price. We are of opinion that

it was perfectly legitimate for the widow to sell the property, especially since she has already got herself indebted to the extent of Rs. 100 and

utilise the balance amount for her future maintenance. There is no obligation upon her to starve herself and keep this small property for the benefit

of the reversioners. The decision of the lower appellate Court is therefore reversed and that of the District Munsif restored with costs.