
(1959) 09 MAD CK 0035
In the Madras High Court

Santha by next friend D.B. Purushothama Chettiar and
Another

APPELLANT

Vs

T.K. Natarajan Pillai and Others

RESPONDENT

Date of Decision : 25-09-1959

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 22 Rule 3
Hindu Succession Act, 1956 — Section 14

Citation : (1959) 72 LW 804 : (1940) 72 LW 804 : (1960) 1 MLJ 318

Hon'ble Judges : Ramachandra Iyer, J

Bench : Single Bench

Judgement

Ramachandra Iyer, J.—One Bangaru Ammal filed a suit for recovery of possession of certain properties from the respondents on the ground

that the properties were inherited by her from her deceased husband and that she was entitled to possession of the same. The contesting

respondents claimed title to the properties under one Andalammal, daughter of Bangaru Ammal. Their case was that the husband of Bangaru

Ammal had executed a will bequeathing the properties in favour of Andalammal, who, in turn, sold it to the contesting respondents. Bangaru

Ammal died pending her suit for possession, and the petitioners, claiming as the universal legatees under a will executed by Bangaru Ammal, filed

an application under Order 22, rule 3 , Civil Procedure Code, to bring them on record in the place of the deceased Bangaru Ammal. The learned

District Munsiff dismissed the Application.

2. I am unable to understand the judgment of the learned District Munsif. At the present moment the only question for consideration by the Court is

whether the petitioners are the legal representatives of the deceased Bangaru

Ammal. The Court is not interested in adjudicating at this stage what exactly was the extent of the interests possessed by Bangaru Ammal, and, whether the suit as laid against the alienee of Andalammal, was sustainable. On this question, viz., whether the petitioners are the legal representatives of the deceased Bangaru Ammal, there can be no doubt. It is not disputed that there is a will in their favour. It is not stated that the will is not genuine, or, that they were not universal legatees. Under the circumstances, it would follow that the petitioners would be legal representatives entitled to be brought on record.

3. Mr. Jagadisa Ayyar, the learned Counsel for the respondents, however, raised the contention that the right to sue did not survive to the petitioner after the death of Bangaru Ammal. His argument was that Bangaru Ammal, even if her case were true, held only a Hindu woman's interest in the properties, and, that on her death, there would be nothing left for any testamentary disposition of hers to take effect. It was, therefore, contended that there can be no legal representatives in respect of the suit filed by Bangaru Ammal in regard to her properties inherited by her from her husband.

4. Bangaru Ammal died after the coming into force of Act XXX of 1956. If she was in possession of the properties of her husband as an heir, she would be entitled to get her absolute title in regard thereto by virtue of Section 14 of the Act. That would enable her to dispose of the properties by a will.

5. It was contended that Section 14 of the Act would not apply to the present case as the widow was not in possession of the properties.

According to Bangaru Ammal they were in the possession of trespassers as Andalammal had no right to dispose of the properties. Whether, in these circumstances, Bangaru Ammal would be disentitled to the benefit of Section 14 of the Hindu Succession Act, need not be decided here. It would be open to the respondents, if so advised, to raise all these questions in the suit itself. But, that would be no answer to the application for impleading the petitioners as legal representatives in the place of the deceased Bangaru Ammal. The learned District Munsif was, therefore, in error in refusing to implead them as legal representatives.

6. The Civil Revision Petition is allowed and the petitioners are directed to be

impleaded as legal representatives of the deceased Bangaru Ammal.
There will be no order as to costs.