

(2016) 12 MAD CK 0054

In the Madras High Court

Case No : C.M.A(MD)No.1397 of 2006 and M.P(MD)No. 1 of 2006

Yashodha

APPELLANT

Vs

Chellammal

RESPONDENT

Date of Decision : 15-12-2016

Acts Referred:

Hindu Succession Act, 1956 — Section 24

Hindu Widows Remarriage Act, 1856 — Section 2

Citation : (2017) 1 CTC 244

Hon'ble Judges : Mr. N. Kirubakaran, J.

Bench : Single Bench

Advocate : Mr. R. Sundar, Advocate, for the Appellant; Mr. S.K. Mani, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Mr. N. Kirubakaran, J.—The appellant is the widow of one Jeyaraman, who was employed in Hotel Sangam at Trichy. During his service, he was contributing for the Provident Fund Scheme. Later, he died on 28.05.2001. Thereafter, the respondent filed Succession O.P.No.10 of 2004 before the Principal Subordinate Court, Trichy, seeking a Certificate in favour of the respondent empowering her to obtain the amount lying with the Provident Fund authorities. The said petition was allowed, against which, the widow preferred this appeal.

2. Heard the learned Counsel for the appellant and the learned Counsel for the respondent.

3. The contention of the learned Counsel for the appellant is that there is no bar for the appellant to remarry after the death of her husband, which she had done rightfully. The bar under Section 24 of the Hindu Succession Act, 1956, to inherit the properties of her husband as his legal representative has been deleted and therefore, there is no bar for the appellant to claim her share in the Provident Fund amount as a legal representative.

4. Mr. S.K. Mani, learned Counsel for the respondent agreed with regard to the legal point raised by the learned Counsel for the appellant. In fact, he very fairly produced the judgment of this Court in Selvi v. K.Alagarsamy reported in 2010 (2) TN MAC 328, wherein, after discussing various provisions of Hindu Succession Act, 1956 and Hindu Widows Re-marriage Act, 1856, the right of the widow not only to remarry, but also to inherit the property of the late husband has been declared and the women including widows are treated as co-parcener on par with the males.

5. Paragraph 24 of the said judgment is extracted hereunder:

"24. The Honourable Supreme Court in Cherotte Suganthan (Died) through LRs. and others v. Cherotte Bharathi and others, 2008 (2) LW 102 analysed the overriding effect of Hindu Succession Act (1956) on Hindu Widows Remarriage Act, 1856. It was held that Section 2 of the Hindu Widows Remarriage Act, 1856 would not prevail over the provisions of the Hindu Succession Act, 1956 Act having regard to Sections 4 and 24 thereof. It is further held that Hindu Widows were brought on equal footing in the matter of inheritance and succession along with the male heirs. Section 14(1) of the Act, stipulates that any property possessed by a female Hindu, whether acquired before or after the commencement of the Act, will be held by her as a full owner thereof. All the aforesaid Acts namely, Hindu Widows Remarriage Act, 1856, Hindu Succession Act, 1956, Hindu Widow Remarriage (Repeal) Act, 1983 and Act 39 of 2005 which deleted Section 24 of Hindu Succession Act with effect from 09.09.2005, recognise the right of the widows not only in remarriages but also in inheriting the properties of the late husband. In nut-shell, the women including widows are treated as co-parcener on par with the males."

6. It is very disheartening to note that the appellant lost her second husband within fifteen days of the remarriage and her position has not been improved any more.

7. As stated above, she is entitled to a share in the Provident Fund amount on par with the respondent, who is the mother of the deceased husband.

8. Therefore, the order passed in Succession O.P.No.10 of 2004 by the learned Principal Subordinate Judge, Trichy, dated 25.04.2006, is set aside and this Civil Miscellaneous Appeal is allowed, holding that the appellant/widow is equally entitled to a share on par with the respondent/mother of the deceased husband in the Provident Fund amount in all other dues. No costs.

9. Consequently, the connected miscellaneous petition is closed.