

Pappammal (Died) Through LR R. Krsna Murtii

v.

Jothi & Anr.

(Civil Appeal No. 3395 of 2025)

27 February 2025

[Sudhanshu Dhulia* and Prashant Kumar Mishra, JJ.]

Issue for Consideration

Issue arose as regards the order passed by the courts below allowing the application filed by the daughter of the deceased to implead herself as defendant in the suit for recovery of possession filed by her mother.

Headnotes[†]

Code of Civil Procedure, 1908 – Ord. I r.10(2) – Court may strike out or add parties – Impleadment of necessary parties – Suit for recovery of possession by the mother – During pendency, the mother died and the son sought substitution as the legal representative of the deceased plaintiff relying upon a registered Will executed by the deceased plaintiff in his favour with respect to her entire estate – Series of litigation – Pursuant to order by this Court, the appellant-son substituted as plaintiff in the suit – Thereafter application filed by the daughter of the deceased to implead herself as defendant in the suit – Impleadment application allowed by the courts below – Correctness:

Held: Entire purpose of a trial is to reach the truth of the matter and it is absolutely important that all necessary parties must be heard, before a decision is taken by the Court – Plea of the appellant that under no circumstance his sister was liable to be impleaded as a party defendant without any basis – It is based neither on logic nor on law – This Court in its Order had merely allowed the substitution of the appellant as a plaintiff – It did not say that no other person has the right to revise a claim before the Court or to contest the Will – Thus, the insistence of the appellant for non-impleadment of the sister as a defendant wholly erroneous – Order of the High Court and the trial court upheld. [Paras 11, 12]

* Author

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List of Acts

Code of Civil Procedure, 1908.

List of Keywords

Impleadment as defendant in the suit; Impleadment of necessary parties; Suit for recovery of possession; Substitution as legal representative; Impleadment application; Necessary parties to be heard.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3395 of 2025

From the Judgment and Order dated 30.01.2024 of the High Court of Judicature at Madras in CRP No. 1345 of 2023

Appearances for Parties

Advs. for the Respondents:

Proxy counsel, Raghunatha Sethupathy B.

Petitioner-in-person.

Judgment / Order of the Supreme Court

Judgment

Sudhanshu Dhulia, J.

1. Leave granted.
2. This appeal is at the instance of the Appellant, who appeared in-person, and is aggrieved by the judgment and order of the High Court of Madras in CRP No. 1345 of 2023 dated 30.01.2024. The Civil Revision Petition before the High Court was filed against the order dated 04.03.2023 in I.A. No. 6 of 2023 in O.S. No. 155 of 2017 passed by the Subordinate Judge, Perambalur.
3. Briefly stated, the facts of the case are that one Pappammal, the original plaintiff and the mother of Appellant and Respondent No. 1 herein, filed O.S. No. 155 of 2017, a civil suit for declaration and recovery of possession against Respondent no. 2 herein, R. R. Jagadesan. The suit was being prosecuted by the Appellant as

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the power agent of his mother Pappammal, aged around 97 years at the time. During the pendency of the suit, Pappammal died on 10.01.2020. Thereafter, the Appellant moved an application being I.A. No. 1 of 2020, seeking his substitution as the legal representative of the deceased plaintiff, relying upon a registered will dated 13.06.2016 executed by the deceased plaintiff in his favour with respect to her entire estate.

4. On 29.03.2021, the Trial Court dismissed I.A. No. 1 of 2020 on the grounds that even though the Appellant has produced a registered will in his favour executed by the deceased plaintiff, no legal heir certificate of the deceased plaintiff has been filed. Further, there are other legal heirs of the deceased Plaintiff and the genuineness of the will produced by the Appellant cannot be decided at this stage without impleading the other legal heirs of the deceased plaintiff. Appellant filed a revision petition against the above dismissal order of the Trial Court which was also dismissed vide order dated 26.05.2021 whereby the High Court upheld the Trial Court's order and granted liberty to the Appellant to bring on record the other legal heirs of the deceased Plaintiff. Thereafter, the Appellant moved this Court by filing Civil Appeal No. 4832 of 2022 [SLP (C) NO. 13332 of 2021] wherein this Court by its order dated 21.07.2022 set aside the orders and judgements of the High Court and Trial Court and restored the application for re-consideration by the Trial Court in accordance with law. This Court had observed that the Appellant's substitution application ought not to have been dismissed for the mere reason that he had not made other legal heirs a party and therefore, for this purpose the Trial Court had powers to proceed and hold an enquiry under Order XXII Rule 5¹ of the Civil Procedure Code, 1908 (hereinafter referred to as '**CPC**'). Pursuant to this Court's order, the Trial Court allowed I.A. No. 1 of 2020, and the Appellant was substituted as plaintiff in the suit.
5. Later an I.A. No. 6 of 2023 was filed by another legal heir of deceased Plaintiff, i.e., Respondent no. 1 daughter of the deceased and sister

1 5. Determination of question as to legal representative.—Where a question arises as to whether any person is or is not the legal representative of a deceased plaintiff or a deceased defendant, such question shall be determined by the Court:

Provided that where such question arises before an Appellate Court, that Court may, before determining the question, direct any subordinate Court to try the question and to return the records together with evidence, if any, recorded at such trial, its findings and reasons therefor, and the Appellate Court may take the same into consideration in determining the question.

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of the Appellant herein, to implead herself as defendant in the civil suit. The proceedings arising out of this application are the subject matter of the Appeal before us.

6. Respondent no. 1 is admittedly the daughter of the deceased plaintiff. As mentioned above, she filed I.A. No. 6 of 2023 in O.S. No. 155 of 2017 on 07.01.2023 under Order I Rule 10 (2) of the CPC for impleading herself as a defendant Appellant herein opposed the impleadment application. Trial Court allowed the impleadment application filed by Respondent no. 1 vide order dated 04.03.2023.
7. Appellant challenged this order by way of a Civil Revision Petition before the Madras High Court. The High Court vide the impugned order dismissed Appellant's Revision Petition holding that the Trial Court had rightly allowed Respondent no. 1 to be impleaded as second defendant in the suit as there is a dispute between the Appellant and Respondent no.1 and both legal heirs of the deceased plaintiff, in respect to the title of the suit schedule property must be heard. The Appellant's reliance on the Will allegedly executed by the deceased plaintiff, which Respondent no.1 alleges to be forged and fabricated.
8. We have heard the Appellant who appears in person before us. The Appellant claims that the High Court has erred in upholding the order of the Trial Court in favour of Respondent no. 1 by allowing her impleadment as Defendant no.2 in the original suit. He would further argue that this Court in its Order dated 21.07.2022 had only allowed the present Appellant to be a plaintiff in the suit. This submission of the Appellant, however, is not correct.
9. This Court in Civil Appeal No. 4833 of 2022 passed an order dated 21.07.2022, which is as follows:

“...it would be relevant to point out that if any enquiry was required to be made, the Trial Court could have adopted the course envisaged by Rule 5 of Order XII of the Civil Procedure, 1908 but, in any case, the application made by the appellant could not have been dismissed altogether.

That being the position, we set aside the orders impugned and restore the said application for re-consideration by the Trial Court in accordance with law.”
10. The Respondent no.1 who has been impleaded as a party defendant in the suit is the real sister of the Appellant. The subject matter of

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contention between the two is the property held by their mother. It is indeed true that the Appellant has raised his claim on the property on the basis of the Will dated 13.06.2016 executed by their mother four years prior to her death. The mother, when she executed the will in the year 2016, was about 94 years of age.

11. However, we are not getting into the merits of the case but the contention of the Appellant that under no circumstance his sister was liable to be impleaded as a party defendant is without any basis. This Court in its Order dated 21.07.2022 had merely allowed the substitution of the Appellant as a plaintiff. It did not say that no other person has the right to revise a claim before the Court or to contest the will. The contention of the Appellant is based neither on logic nor on law.
12. The entire purpose of a Trial is to reach the truth of the matter and it is absolutely important that all necessary parties must be heard, before a decision is taken by the Court. Under these circumstances, the insistence of the Appellant for non impleadment of Respondent no.1 as a defendant is wholly erroneous. We, therefore, uphold the Order of the High Court and the Trial Court and dismiss this appeal.
13. Pending applications, if any, shall stand disposed of.

Result of the case: Appeal dismissed.

[†]Headnotes prepared by: Nidhi Jain