Karuppa Koundan and anr. Vs. Chinna Nallammal and ors.

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Court : Chennai

Decided On : Aug-01-1927

Reported in : AIR1927Mad1189

Appellant : Karuppa Koundan and anr.

Respondent : Chinna Nallammal and ors.

Judgement :

Srinivasa Aiyangar, J.

1. The appellant's vakil in these second appeals at first made an offer to the other side, the plaintiffs in the two cases and widows of the deceased coparcener claiming maintenance against the surviving coparcener, that he had no objection to the two widows taking the entire half-share in all the family properties allotable to the share of their deceased husband. This offer was made having reference to the complaint made by defendant 3 that the maintenance awarded by the lower Court was excessive. At one time we were inclined not only to regard this offer as very fair and reasonable, but also the refusal of it by the other side as extremely unreasonable. But, as has been pointed out by the learned vakil for the respondent, it seems to be fairly clear that this so-called offer of the appellant is merely intended to be a trap into which the widows might be led opening up the door for further litigation and making it absolutely impossible for them to secure any maintenance for themselves.

2. Then, as regards the quantum of maintenance awarded by the lower Courts: even taking the evidence adduced for the defendant himself the amount awarded is very fair and reasonable. There are 4 acres of nanja land, and in addition to it there is also punja land, and all that has been awarded by the lower Courts is 1 1'/4 pot his of paddy and 1 pothi of cholam. This, having regard to what may even be regarded as the probable yield from the land even when the land is let out to tenants, cannot be regarded as excessive. So far therefore as the quantum of maintenance is concerned, we see no reason to differ from the conclusions arrived at by the lower Courts.

3. One other point was also argued by the learned vakil for the appellants and that was that the lower Courts should have made the payment of the maintenance granted a charge not on the entire family property but only on what might be regarded as the share or interest of the deceased coparcener in the family and for this purpose the learned vakil referred to certain observations in the case of J. Subbiah v. Alamelu Mangamma [1904] 27 Mad. 45 No doubt, if the yield from what-may be regarded as the possible share of the deceased coparcener in the property should be the maximum of maintenance allowable to his widows the payment of such maintenance might reasonably be charged on such interest alone. That is only generally speaking. But if there are any special circumstances, there is no reason why the payment of

such maintenance should not be charged on the entire property in the hands of the coparcener. There are undoubtedly such reasons in this case. The entire family property has already been charged in favour co. defendant 1's wife for her maintenance, and if only a portion of the family property should now be charged for the payment of the maintenance now awarded to the plaintiffs, it follows that the defendant 1 might bring about a state of things in which the property which now may be charged might come to be sold at the instance of defendant 1's wife leaving nothing at all to the widows (plaintiffs) to proceed against in enforcement of the charge. We think that there were sufficient circumstances in this case which justified the Court charging the entire family property in the hands of the defendants with the payment of maintenance allowed. The second appeals therefore fail and are dismissed with costs.

Reilly, J.

4. I agree.