

Pappa Bai Vs. the State of Madras Represented by the Assistant Collector and anr.

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Court : Chennai

Decided On : Nov-26-1957

Reported in : (1958)1MLJ230

Appellant : Pappa Bai

Respondent : The State of Madras Represented by the Assistant Collector and anr.

Judgement :

ORDER

Ramaswami, J.

1. The dispute in this case is as regards the land acquisition compensation amount relating to a parcel of land in Tiruvarur. It is claimed by two rival people. One is by the Ramadoss Mutt represented by Trustee Govinda Dass Bava. The other claimant is one Dhanammal, a private party. Govinda Dass Bava has died during the pendency of the appeal. He has left a will dated 7th February, 1957, by which he has purported to make his daughter Pappa Bai the Matathipathi. The other side points out that Pappa Bai cannot come in as successor Matathipathi. The learned Advocate for the respondent relies for this position on my judgment in A.S. No. 57 of 1954, paragraph 796 (page 928) of Mayne's Hindu Law (eleventh edition), B.K.

Mukerjee's 'Hindu Law of Religious and Charitable Trust' (Tagore Law Lectures, page 354, and Ganapathi Iyer's 'The Law Relating to Hindu and Mohamedan Endowments, second edition, page 480 and following. It is not however necessary for Pappa Bai to be the Matathipathi in order to come on record in this appeal. The term ' legal representative ' in Section 2(11) of the Code of Civil Procedure as meaning a person who in law represents the estate of a deceased person and including any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued. Under his last will and testament Govinda Doss Bava was competent to make an arrangement for safeguarding the properties of the Mutt as distinguished from the appointment of a successor. The Matathipathi has always two characters, spiritual and temporal. Till the successor is chosen who will combine in himself the spiritual and temporal functions, arrangements can be made for an interim trustee in regard to the temporal functions of the Mathathipathi. In this case Pappa Bai also does not say that she is claiming the money as her money. On the other hand she says that she is fighting only on behalf of the Mutt and that in the event of her succeeding 'it might be made clear that the money would not be drawn by her but would only be earmarked for the Mutt. Therefore, I see no objection to bring Pappa Bai on record as the legal representative of the deceased Govinda Dass Bava for prosecuting the appeal.

2. The petition is allowed..

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