



A.S.No.266 of 2016

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving the Judgment	Date of Pronouncing the Judgment
13.06.2024	06.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

A.S.No.266 of 2016

D.Mangayarkarasi (died)

1.Daivasigamani

2.D.Rajan

3.D.Baskaran

4.Uma Maheswari

... Appellants

[Sole appellant died. Appellants 1 to 4 brought on record as legal representatives of the deceased sole appellant *vide* Court order dated 29.04.2022 made in C.M.P.No.7923 of 2022 in A.S.No.266 of 2016]

-vs-

M.Rajeswari Ammal (deceased)

1.M.Neminathan

2.M.Janarthanan

3.Suryabai

4.M.Nirmala

... Respondents

[Respondents 1 to 3 / defendants are the legal heirs of the first respondent / first



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defendant impleaded under memo dated
24.09.2008]

Appeal suit filed under Section 96 read with Order 41 Rule 1 of the Civil Procedure Code, 1908, as against the judgment and decree O.S.No.11907 of 2019, on the file of the III Additional City Civil Court, Chennai, dated 17.06.2015.

For Appellants : Mr.S.Thirumavalavan

For Respondents : Mr.K.Ashok Kumar for R1
No appearance for R2
R3 & R4 – Dismissed
vide Court order dated 19.04.2018

J U D G M E N T

The plaintiff in O.S.No.11907 of 2019, on the file of the III Additional City Civil Court, Chennai, is the appellant herein.

2. For the sake of convenience, the parties are referred as per their litigative status before the Trial Court.

3(a). The plaintiff had originally filed a suit for partition and separate possession of her 1/5 share of the suit schedule properties by metes



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and bounds and for other ancillary relief, on the original side of this Court in C.S.No.695 of 2003.

3(b). The defendants filed their written statement, wherein a defence was set opposing the claim of the plaintiff by *inter alia* contending that the plaintiff got married to Deivasigamani on 02.02.1966. She executed a release deed in favour of the defendants 1 to 4 and the same was registered with the Sub Registrar Office, Saidapet, in the year 1966.

3(c). The third defendant had filed a partition suit against the defendants 1 and 2, which was culminated in a compromise decree before this Court on 20.01.2001. The plaintiff thereafter took out an application to amend the plaint in C.S.No.695 of 2003, wherein she wanted to have the registered release deed said to have been executed by her in favour of the defendants 1 to 4 set aside and declared as null and void. The said amendment application was allowed by the learned Single Judge. The defendants 1 and 2 challenged the same before the Honourable Division Bench of this Court in O.S.A.No.196 of 2006, on the ground that the challenge to the released deed after a period of 37 years is not maintainable



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and is barred by limitation.

3(d). The Honourable Division Bench of this Court granted liberty to the defendants 1 and 2 to raise the question of limitation in the instant suit. Accordingly, the defendants 1 and 2 filed additional written statement raising the question of limitation. Owing to the increase in the pecuniary jurisdiction of the original side of this Court, the suit in C.S.No.695 of 2003 was transferred to this Court and the same was renumbered as O.S.No.11907 of 2010.

4. On the above said pleadings, the Trial Court framed four issues. The parties were directed to let in oral and documentary evidence. On the directions of this Court, the second defendant entered the witness box and deposed evidence as D.W.1 and filed proof affidavit and marked three documents as Exs.B1 to B3. During the cross-examination of D.W.1, learned counsel for the plaintiff marked 32 documents as Exs.A1 to A32. On the side of the plaintiff, the husband of the plaintiff, namely, Deivasigamani was examined as P.W.1 and the plaintiff was examined as P.W.2 and through her, Ex.A4 was marked.



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5. On completion of the evidence, both sides advanced their oral submissions and on perusal of the pleadings and the oral and documentary evidence, the Trial Court dismissed the suit. Aggrieved by the same, the plaintiff has filed this appeal.

6. Pending this appeal, the original plaintiff expired and therefore, her legal representatives were brought on record.

7. Pending suit, the defendant, namely, Rajeswari Ammal died after filing of her written statement, but before giving evidence. Since the plaintiff, namely, Mangayarkarasi and the defendants 1 to 3, namely, M.Neminathan, M.Janarthanan and Suryabai are her legal heirs, they were impleaded as the legal representatives of the deceased defendant before the Trial Court. The fourth defendant, namely, Nirmala is the purchaser of the suit schedule properties.

8. According to the plaintiff, the suit properties are the absolute property of Late.Madhava Mudaliar, father of the plaintiff and the defendants 2 to 4 and husband of the first defendant and hence, she is entitled for 1/5



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share in the suit schedule properties. The defendants 1 and 2 initially filed a joint written statement. After the death of the first defendant, the second defendant filed additional written statement. Based upon the averments in the additional written statement, the plaintiff filed I.A.No.2385 of 2004 seeking to amend the plaint whereby, she made a challenge to the release deed executed alleged to have been executed by her during the year 1966.

9. As per the amended plaint, the plaintiff has taken a stand that the alleged release deed is described as a loan document for raising money for her marriage and the plaintiff was illiterate and the second defendant being elder brother virtually obtained her signature and thus, she challenged the release deed (Ex.A14). In the written statement, the defendants 1 and 2 admitted that both the plaintiff and the defendants 1 to 4 have inherited the suit properties from Late.Madhava Mudaliar. As per the amended plaint, the plaintiff averred that the release deed dated 02.02.1966 was obtained by practicing fraud on her on the date of her marriage and it is brought by fraud, undue influence, illegal, inoperative, unenforceable and it is not intended to be a release deed.

10. In the additional written statement, the second defendant has



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taken a plea of limitation *viz.*, after 37 years, the plaintiff has made a challenge to the release deed. Article 54 of the Limitation Act prescribes a period of three years from the date of the instrument, whereas the present challenge to the release deed (Ex.A14) is made after 37 years. The amendment sought for by the plaintiff was allowed. It appears from the adjudication papers that the defendants 1 and 2 had preferred an appeal in O.S.A.No.196 of 2005 and the same was dismissed on 22.11.2006 with liberty to the defendants 1 and 2 to raise the issue of limitation in the suit. Accordingly, the Trial Court also framed an issue as to whether the suit is barred by limitation, which is discussed *infra*.

11. In the additional written statement, the defendants 1 and 2 also raised a plea that since the plaintiff's marriage took place on 02.02.1966, which is much before the Tamil Nadu Amendment Act, 1989 to the Hindu Succession Act, 1956, she is not entitled for any relief even under the Tamil Nadu Amendment Act, 1989 to the Hindu Succession Act, 1956. Before the Trial Court, three issues were formulated and those issues were held against the plaintiff. Hence, this appeal.



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12. In the trial, the husband of the plaintiff, namely, Daivasigamani entered into the witness box and he was examined as P.W.1 and marked Exs.A1 to A32. The plaintiff was examined as P.W.2. The second defendant was examined as D.W.1 and marked Exs.B1 to B3 and Ex.B4 was marked during the cross-examination of D.W.2.

13. The Trial Court has rendered a finding that the plaintiff is not entitled for the benefit of the Tamil Nadu Amendment Act, 1959 to the Hindu Succession Act, 1956 and also held that the plaintiff is not entitled for the relief of declaration to declare the release deed (Ex.A14) as null and void and the suit is barred by limitation. Hence, this appeal.

14. Heard the learned counsel for the plaintiff and the learned counsel appearing for the defendants and perused the written arguments filed.

15. The main point agitated by the plaintiff is that the plaintiff being an illiterate and uneducated and she do not even know the English language and the same has been proved in her deposition as P.W.2. The release deed (Exs.A14 and B1) is in English and the signature of the plaintiff



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was obtained by the second defendant only on fraud being the Kartha of the Hindu Undivided Family (Hindu Joint Family) and moreover the signature of the plaintiff in the release deed has been obtained only at the eleventh hour of her muhurtha time on the date of the marriage and the same has been deposited by P.W.2 in her evidence. The plaintiff is entitled to 1/5 share as per Section 8 of the Hindu Succession Act, 1956, since she has right over the suit schedule properties like her mother, brothers and sisters. According to the plaintiff, Ex.A14 release deed said to have been executed by the plaintiff in favour of her mother, brother and sister is vitiated by fraud and the plea of limitation has to be reckoned from the date of the knowledge, namely, reply notice issued by the defendants and hence, prayed for allowing this appeal.

16. Per contra, learned counsel appearing for the second defendant made a submission in respect of the Judgment of the Trial Court.

17. From the sum and substance of the case, as could be seen from the pleadings of the evidence, the following points raise for determination:

- (i) What is the nature and character of the schedule



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mentioned properties.

- (ii) Whether the release deed executed by the plaintiff (Ex.A14) is valid in law as pleaded by the defendants or it is vitiated by fraud as pleaded by the plaintiff.
- (iii) Whether the suit is barred by limitation.
- (iv) Whether the plaintiff is entitled for the benefit under the Tamil Nadu Amendment Act, 1989 to the Hindu Succession Act, 1956. Therefore, whether covered by Section 29-A(iv) of the Hindu Succession Act, 1956.
- (v) Whether the plaintiff is entitled for share as per the judicial decision in the case of ***Vineeta Sharma vs. Rakesh Sharma***, reported in ***AIR 2020 SC 3717***.

Point (i):

18. As to the issue with regard to the nature and character of the schedule mentioned properties, on perusing the Ex.A6 – Lawyer Notice, dated 29.06.2003 and the plaint, I find that there are eight items of properties. Late.Madhava Mudaliar derived his title over suit Item No.1 from his elder



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brother Vasudeva Mudaliar. The said property was allotted to Vasudeva Mudaliar in the partition deed dated 05.04.1934 (Ex.A15). After the death of Vasudeva Mudaliar, his legal heir, namely, Madhava Mudaliar derived his title over the same by way of obstructed heritance. The second defendant is in possession and enjoyment over the same as on date.

19. Late.Alagu Singa Mudaliar created an endowment in respect of suit item No.2 and appointed his younger son Madhava Mudaliar as a Trustee for managing the affairs. The suit item No.2 property was allotted in schedule-B of the registered Will dated 05.08.1947 (Ex.A16). Late Madhava Mudaliar derived his title from his elder brothers. Padmanabha Mudaliar died as bachelor and Vasudeva Mudaliar and his son Kuttiyappa Mudaliar died without any issues and as such the said property was devolved on Late.Madhava Mudaliar by way of obstructed heritance.

20. Suit Item No.4 was allotted to Kuttiyappa Mudaliar son of Late.Vasudeva Mudaliar in Schedule-C of the registered Will dated 05.08.1947 (Ex.A16). The said Kuttiyappa Mudaliar died without any issue. The Will contemplates that in case Kuttiyappa Mudaliar died, the said property will



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automatically allotted to the endowment.

21. Suit item No.5 was allotted to Padmanabha Mudaliar and Madhava Mudaliar in Schedule-A of the registered partition deed dated 05.04.1934 (Ex.A15). Padmanabha Mudaliar died as bachelor and as such Late.Madhava Mudaliar derived his title over the same as per the recitals of the partition deed.

22. Suit Item No.6 is the self-acquired property of Late.Madhava Mudaliar. He purchased the same under a registered sale deed dated 19.05.1947 (Ex.A17). Late Madhava Mudaliar derived his title over the suit Item No.7 from his father under a registered Will dated 05.08.1947 (Ex.A16). The suit item No.7 was allotted in Schedule-A of the Will in favour of Late.Madhava Mudaliar. Suit Item No.8 was purchased by the second defendant.

23(a). The plaintiff in order to prove that the suit properties are absolute separate properties of Late.Madhava Mudaliar marked Exs.A15 to A17. Ex.A15 is the partition deed entered between Padmanabha Mudaliar,



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Vasudeva Mudaliar and Madhava Mudaliar (minor represented by his father Alagu Singa Mudaliar). In the said partition deed, one of the suit properties, namely, Item No.5 was allotted to Madhava Mudaliar. Therefore, the said property is a separate property of Late.Madhava Mudaliar.

23(b). Suit Item Nos.1 and 3 was allotted to Vasudeva Mudaliar in the said partition. After the death of Vasudeva Mudaliar and his son Kuttiyappa Mudaliar(Bachelor), the property was devolved on Late.Madhava Mudaliar by way of obstructed heritance. Therefore, the said properties are also absolute properties of Late.Madhava Mudaliar. Ex.A16, registered Will, was executed by Late.Alagu Singa Mudaliar through which certain properties bequeathed to Late.Madhava Mudaliar.

23(c). Suit Item No.7 of the suit properties bequeathed to Madhava Mudaliar in Schedule-A of the Will and therefore, the same is separate properties of Late.Madhava Mudaliar. Suit Item Nos.2 and 4 bequeathed to maintenance of Madhava Yogi Samathi in Suit Item No.2. The testator appointed his younger son Late.Madhava Mudaliar to manage the affairs of the Samadhis. Some of the properties were allotted to Kuttiyappa



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Mudaliar, son of Vasudeva Mudaliar.

23(d). Ex.A17, a registered sale deed, through which Late.M.Madhava Mudaliar purchased the Suit Item No.6. Hence, it is a self-acquired property.

23(e). Thus, I find that on a combined reading of Ex.A15, partition deed, Ex.A16 registered Will and Ex.A17 sale deed, Item Nos.1, 2, 4 to 6 of the suit properties were allotted to Padmanaba Mudaliar and Madhava Mudaliar. Therefore, all these properties are separate properties of Madhava Mudaliar and thus, the nature and character of the suit schedule properties is that they are the separate and absolute properties of Late.Madhava Mudaliar, father of plaintiff and defendants 2 to 4 and husband of first defendant. Item No.8 of the suit schedule properties was purchased by the second defendant and it was sold to the third defendant and therefore, the Trial Court has rightly come to the conclusion that Item No.8 of the suit schedule properties is not available for partition, since it is a separate property of the second defendant. Accordingly, Point (i) is answered against the plaintiff.



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24(a). Under Ex.A6, the plaintiff issued the suit notice dated 29.06.2003. Defendants 1 to 3 have sold the property on 10.07.2003 in favour of the fifth defendant. From the reply notice, the plaintiff alleges that she had come to know about Ex.A16 release deed said to have been executed by her in favour of her mother (D1) and brothers and sister (D2 to D4). As per Ex.A17, Item No.7 of the suit schedule properties belongs to Madhava Mudaliar. The said property was not included in the release deed (Ex.A14). It is alleged by the plaintiff that in Item Nos.2 and 4, there are samadhis, which is discussed infra.

24(b). On perusal of the release deed (Ex.A14), I find that it is a registered document and registered as document No.967 of 1966, executed by the plaintiff in favour of the defendants 1 to 4, whereby she had relinquished her purported right over the suit properties. The release deed (Ex.A14) is dated 02.02.1966 and presented for registration on 06.04.1966 as could be seen from the endorsement made in the second page of the document by the Sub Registrar's Office. The said document was attested by two persons, by name, Venkata Rathinam and Kotteeswaraswami Pillai.



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25. The plaintiff, by way of amending the plaint, has raised lack of knowledge, plea of fraud in paragraph No.6(a) of the plaint and sought for the declaration of the release deed (Ex.A14) as null and void. The plaintiff was examined as P.W.2. In the cross-examination, she deposed as follows:

“vdf;F 2.2.1966y; jpUkzk; eilbgw;wJ. jpUkz rk;kjj;ij vd;
mk;kh Bgrp Koj;jhh;. vd; jpUkz;j;ij vd; mk;khjhd; Kd;dpd;W
elj;jpgdhh;. th.M.I gj;jphpifapy; vd; mk;kh bgah; ny;iy, fhuzk; mJ
khg;gps;is tPl;lhuhy; btspaplg;gl;lJ. vd; tPl;oy; mo;j;j jpUkz
miHg;gpjH; ePjpkd;wj;jpy; jhf;fy; bra;atpy;iy, fhuzk; mJ vd;
tPl;oy; ny;iy. ...

.... 1966ypUe;J 2003 tiu ehDk; vd; FLk;gj;jhUk; vd;
mk;kh tPl;ow;F te;J BghapUe;Bjhk;. Bgr;R thh;j;jfs; nUe;jd.
R @fkhd cwtl Kiwjhd; nUe;jJ. vdf;F 2 kfd;fs;, xU kfs;.
mth;fSf;F vy;yhk; jpUkzkhfptpl;lJ. mth;fSk; vd; tPl;oy;jhd;



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தஹ;e;J bfhz;o Uf;fpwhh;fs;.....

... vd; jpUkzj;ij mk;kh elj;jp it;jhh;. vA;fs; gA;fhspfs;
mz;zdkhh;fs; elj;jp it;jhh;fs;. gA;fhspapd; bgah; bLA;fl;
uj;jpd;...

... th.M.14y; ehd; 2.2.1966 md;W ifbaGj;J
Bghl;oUf;fpBwd;. ne;j ifbaGj;J vd; jpUkzk; ele;j md;Wjhd;
Bghl;g;l;L. ifbaGj;ij jpUkzk; Koe;j gpwF Bghl;Bld;. gjptl
Mgprpy; Bgha;jhd; ifbahg;gk; Bghl;Bld;. fld; gj;jpuk; vd;W
brhd;dhh;fs;. vd; ifbahg;gj;jpw;F fPH; 6.4.1966 vd;W Bjip
Bghlg;gl;Ls;s;I....

... ehd; vd; thf;Fiuapy; Bekpehjd; vd;dplk; Vkhw;wp
ifbaGj;J thA;fpdhh; vd;W brhy;ypa[s;Bsd;. ...

... 2 map;l brhj;jpy; 8 fput[z;l; hpay; Bty;a{ gpuBkhl;lUf;F



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tpw;Wtpl;lh;fs;. kPjp brhj;J mk;kh bgahpy; nUf;fpwJ. me;j

tpw;w brhj;jpy; U:.20 ylrk; vd; gA;fhf ePjpkd;wj;jpd; Kd;

bfhLf;fgt;lJ. 5k; gpupjthjp eph;kyh vdf;F cwtphd; my;y.

...""(emphasis supplied).

26. In the cross-examination of the plaintiff (P.W.2), she has admitted that her marriage was solemnized by Venkatarathinam and he is the attester in the said release deed (Ex.A14). Though she claimed that the said document was obtained from her by playing fraud upon her, for the reasons best known to her, she had not taken any steps to examine any of the attestors so made. Further, she admitted in her cross-examination that she came from her matrimonial home at Vellore and went to the Sub Registrar's Office in Chennai at Saidapet and executed the document. She admitted her signature in the document and admitted the execution of the document and also admitted that she went to the Sub Registrar's Office and put her signature in the document in the presence of the two attesting witnesses and two identifying witnesses. The document is dated 02.02.1966, as that of the stamp paper. But, the actual execution of the document is only on



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06.04.1966 as could be seen from the date appended by her below her signature in the document, as admitted by her in the cross-examination, as extracted supra, which assumes significance.

27(a). It remains to be stated that except the newly amended paragraph, as extracted supra, no other independent witness was examined. In this connection, the written statement filed by the none other than the mother of the plaintiff assumes significance. Before she could enter the witness box, she died and hence, the second defendant was examined as D.W.1.

27(b). In this connection, I find that once the plaintiff comes with a plea of fraud, the burden is upon her to prove that she was subjected to fraud. The plaintiff is trying to claim with a false statement on the grounds of fraud. The entire attack made by the plaintiff on the grounds of fraud in her deposition are solely against the second defendant alone. On perusal of the release deed (Ex.A14), I find that the same was fairly executed by the plaintiff in favour of all other family members, especially, including the another unmarried younger sister, who is the fourth defendant herein. Further, the



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mother of the plaintiff is also a party to the release deed (Ex.A14). Hence, I find that the plaintiff is taking such a stand for the purpose of the case.

28(a). As stated supra, the plaintiff in her evidence has admitted that Venkatarathinam performed her marriage and not the second defendant and the said Venkatarathinam was taking very much care of the plaintiff. He is none other than one of the attesting witnesses of the release deed (Ex.A14). Hence, I find that the plaintiff has signed the document along with the person, who had performed her marriage and is the person of her confidence as admitted by the plaintiff, which shows that the plaintiff is changing her stand for the purpose of the case. By changing her stand, the plaintiff stands exposed.

28(b). Since the plea of fraud is not proved in the manner known to law, the Trial Court for different reasonings has held that the plaintiff has not complied with Order VI Rule 4 of the Code of Civil Procedure with regard to the plea of fraud and there is no positive evidence in support of the plea of fraud raised by the plaintiff and admittedly, the said document is of the year 1966 and by way of amendment to the plaint and plaint prayer, after 37 years, the release deed was put to challenge. Besides, after the release deed some of



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the properties have also been sold, namely, Item Nos.2 and 4 of the suit schedule properties, as admitted by the plaintiff in her cross-examination assumes significance.

29. Yet another point is that the plaintiff in her cross-examination has categorically admitted that while selling Item No.2 of the suit schedule properties, namely, 8 Grounds to M/s.Real Value Promoters, out of the sale proceeds, rupees twenty lakhs was given to her and hence, I find that sale of Item No.2 of the suit schedule properties is very much known to the plaintiff and also has taken some share in the sale consideration, in view of her own admission as extracted supra goes to show the colour and veracity of the evidence of P.W.2. Hence, I find that the plaintiff has miserably failed to prove the plea of fraud in the manner known to law and this Point (ii) is answered in negation against the plaintiff.

Point (iii):

30. In the absence of any positive evidence to show that the plaintiff had knowledge only after the reply notice, the plea of limitation as contained in Section 57 of the Limitation Act comes into operation. Therefore, Sections 3 and 5 and Article 54 of the Limitation Act, 1963 comes into operation and consequently, the relief of declaration to declare the release



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deed (Ex.A14) being 37 years old on the date of the amendment as null and void is barred by limitation. Hence, I have no hesitation to come to the conclusion that the release deed (Ex.A14) is true and valid and binding upon the parties.

Points (iv) & (v):

31. As per the wedding invitation card (Ex.A1), the date of marriage of the plaintiff with P.W.1 is 02.02.1966. It is settled proposition of law that the benefit of the Tamil Nadu Amendment Act, 1989 could be available only for the person, namely, daughter of a coparcener should have remained unmarried as on 25.03.1989. In view of Ex.A1 and the admission of P.W.2, having got married on 02.02.1966, she is not entitled for any benefit under the Tamil Nadu Amendment Act, 1989 and she cannot claim equal right on par with the male members in the ancestral property.

32(a). On coming to whether the plaintiff is entitled for the benefit under the Central Amendment Act, though no pleadings were raised, being a question of law, it was raised before the Appellate Court.



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32(b). As per the plaint, the suit is for partition of eight items of the suit schedule properties. According to the plaintiff, these are all ancestral properties devolved from her grandfather Alagusinga Mudaliar to her father Madhava Mudaliar. From the averments in the plaint, the plaintiff's grandfather died in the year 1954 leaving behind three sons. The properties were partitioned between them by the Registered partition deed-Ex.A15. Some of the properties in the schedule mentioned properties fell to the share of Madhava Mudaliar. The said Madhava Mudaliar died on 09.11.1962 leaving behind the plaintiff and the defendants 1 to 4 as his legal heirs. With regard to the relationship, date of death of the grandfather and the father, there is no dispute between the parties. This Court finds that the properties mentioned in the suit schedule are not ancestral properties and after the death of the grandfather, there is a partition amongst the brothers of Madhava Mudaliar under the registered partition deed-Ex.A5, and after the death of father/ Madhava Mudaliar, the plaintiff relinquished her right by way of registered release deed-Ex.A14 dated 06.04.1966.

32(c). In this connection, the second defendant was examined as D.W.1 and marked Exs.B1 to B4. It is seen that a partition suit was filed by



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the third defendant against the defendants 1 and 2 in O.S.No.7139 of 1996, on the file of the VII Additional City Civil Court in respect of the remaining properties, after the above transaction, which was held prior to 1996. The suit was decreed. The defendants 1 and 2 filed an appeal in A.S.No.376 of 1998, on the appellate side of this Court, therein a memo of compromise was recorded on 20.01.2001 and the appeal was disposed of on certain terms. The said judgment in O.S.No.7139 of 1996 marked as Ex.A3 and the appellate court Judgment and decree was marked as Exs.B3 and B4 Thus, this Court finds that before the coming into force of the amendment to Section 6 of the Hindu Succession (Amendment) Act, 2005, there is a court decree effecting the partition. Thus, with regard to Exs.A3 and B3, the judgment in O.S.No.7139 of 1997 and the compromise decree in A.S.No.376 of 1998 respectively, by virtue of doctrine of merger, Ex.A3 gets merged with Ex.B3 and as such, Ex.A3 is not in existence. The Judgment in A.S.No.376 of 1998 is binding on parties.

33(a). Section 6(5) of the Hindu Succession (Amendment) Act, 2005 and its explanation is very clear that if any partition duly registered under the Registration Act, 1908 or partition effected by the decree of a court



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prior to 20.12.2004 had taken place, then the daughter can have no claim or right over the property.

33(b). Though the defendants have pleaded in the written statement about the earlier partition suit and the compromise decree dated 20.01.2001, the plaintiff has not challenged Ex.B3. As aforesaid, Ex.B3 is a compromise decree dated 20.01.2001, passed in A.S.No.376 of 1998, by this Court, which is much prior to 20.12.2004 as stipulated in Section 6(5) of the Amendment Act and the explanation thereof.

33(c). Hence, in view of the decree granted by this Court in A.S.No.376 of 1998 (Ex.B3), which is saved by the Central Amendment Act, since it is a partition effected by decree of the court prior to 20.12.2004. Hence, the plaintiff is not entitled to any benefit even under the Central Amendment Act.

33(d). Hence, I find that the plaintiff is not entitled for any relief and having executed the release deed (Ex.A14) in favour of her mother, brothers and sister and the said registered document is of the year 1966 and



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seeking the prayer to declare it as null and void on the ground of fraud, after a period of 37 years is barred by limitation and the Trial Court has rightly come to the conclusion that the release deed (Ex.A14) is true and valid and it is binding upon the parties and there is already a partition between the family members by way of a decree of the court under Ex.B3 as early as on 20.01.2001 and hence, the plaintiff is not entitled for any benefit of the decision in the case of **Vineet Sharma**'s cited supra, since the Central Amendment Act does not come into operation on the factual circumstances, explained supra.

33(e). The plaintiff having married in the year 1966, she is not entitled for any relief under the Tamil Nadu Amendment Act, 1989 and hence, all the findings rendered by the Trial are well considered and well merited and they do not warrant any interference of this Court as the same do not suffer from any irregularity or illegality and hence, for the reasons stated above, all the points including points (iv) and (v) are answered against the plaintiff and in favour of the defendants.

34. It remains to be stated that the fourth defendant, who is the



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younger sister of the plaintiff has also executed a release deed in favour of her mother and two brothers as could be seen from Ex.A2 in the year 1974.

35. In the result, this appeal is dismissed. As I find that it is a vexatious litigation, I am inclined to award cost of Rs.5,000/- (Rupees five thousand only) payable by the plaintiff to the second defendant.

06.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

krk

To:

- 1.The III Additional Judge,
III Additional City Civil Court,
Chennai.
- 2.The Section Officer,
VR Section,
Madras High Court,
Chennai.



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RMT.TEEKAA RAMAN, J.

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