

A.S.NO.902 OF 2020

## IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2025

WEB COPY

CORAM :

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

APPEAL SUIT NO.902 OF 2020ANDCMP NO.11879 OF 2020

1.Nallappagounder (Died)

2.Ramamoorthy

S/o. Nallappagounder

... Appellants /  
Defendants 1 & 2

(Appellant No.1 died. Appellant No.2 and Respondent Nos.3 and 4 already on record are recorded as legal representatives of deceased Appellant No.1 vide Order of this Court dated July 2, 2024 made in A.S.No.902 of 2020)

Vs.

1.K.Sundari

2.K.Murugasamy

... Respondents 1 & 2 /  
Plaintiffs

3.Lakshmi

4.Kokila

... Respondents 3 & 4 /  
Defendants 3 & 4

**PRAYER:** First Appeal filed under Section 96 read with Order XLI Rule 1 of the Code of Civil Procedure, 1908 praying to set aside the Judgment and Decree dated February 25, 2020 passed in O.S.No.18 of 2018 by the II Additional District Court, Erode.



WEB COPY



A.S.NO.902 OF 2020

For Appellants : Ms.C.Meena  
for M/s.M.Guruprasad  
For Respondents 1&2 : Mr.N.Manokaran  
For Respondents 3&4 : Notice dispensed with herein  
below

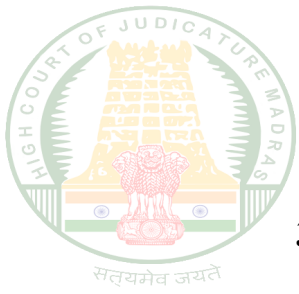
### **J U D G M E N T**

Feeling aggrieved by the Judgment and Decree dated February 25, 2020 passed in O.S.No.18 of 2018 by the 'II Additional District Court, Erode' ['Trial Court' for brevity], the defendants 1 and 2 therein have filed this Appeal Suit under Section 96 read with Order XLI Rule 1 of 'the Code of Civil Procedure, 1908' ['CPC' for short].

2. For the sake of convenience, hereinafter, the parties will be referred to as per their array in the Original Suit.

### **PLAINTIFFS' CASE**

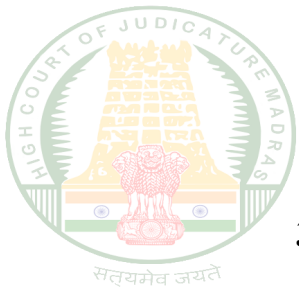
3. The first plaintiff is the mother of the second plaintiff. The first defendant is the father of defendants 2 to 4. The first plaintiff's husband Kandasamy and the first defendant's wife Muthayammal are brother and sister.



WEB COPY

**3.1.** Originally, the Suit Properties belonged to the second plaintiff's paternal grandfather - Chellappagounder by virtue of Partition Deed dated October 10, 1950, in which 'B' Schedule Property was allotted to him and by virtue of the self-acquisition vide joint Sale Deed dated October 27, 1955. The said Chellappagounder and one Nallappagounder orally partitioned the properties purchased under the Sale Deed dated October 27, 1955. In the said partition, the properties covered under R.S.No.433/2 of Karumandiselvipalayam Village was allotted to Chellappagounder and the property covered in R.S.No.433/1 thereof was allotted to Nallappagounder.

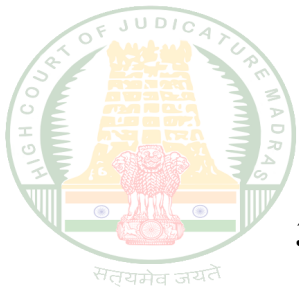
**3.2.** Among the various properties allotted to Chellappagounder as 'B' Schedule Property vide Partition Deed dated October 10, 1950, he sold the property comprised in R.S.No.673. He was in separate enjoyment of the remaining properties, which is the Suit Properties herein, and later passed away intestate on January 13, 1981 leaving behind his wife - Angayammal, his son - Kandasamy and daughter -Muthayammal as his legal heirs. After his demise, his legal heirs were in joint possession and enjoyment of the Suit Properties.



WEB COPY

**3.3.** While so, Chellappagounder's wife - Angayammal passed away intestate in the year 1994 leaving son - Kandasamy and daughter -Muthayammal as her legal heir to succeed her estate. Kandasamy and Muthayammal were in enjoyment of the Suit Properties jointly without any division.

**3.4.** While so, said Kandasamy, the first plaintiff's husband and father of the second plaintiff, passed away intestate on March 23, 2001 leaving the plaintiffs as his legal heirs. After that, the plaintiffs and Muthayammal were in joint possession without any division. The plaintiffs were entitled to half share and Muthayammal was entitled to half share. Since the Suit Properties could not be jointly enjoyed, Muthayammal relinquished her half share in favour of the second plaintiff by registered Release Deed dated March 17, 2010 for a consideration of Rs.5,00,000/-. Thus, the plaintiffs became the absolute owners of the entire Suit Properties and mutated the revenue records in their name. They were in possession and enjoyment of the Suit Properties. The said Muthayammal passed away on October 5, 2013.



WEB COPY

**3.5.** While so, the defendants, who are the husband and the children of Muthayammal, without any manner of right on December 5, 2017 attempted to trespass into the Suit Properties which was prevented by the plaintiffs. The defendants informed the plaintiffs that Muthayammal had cancelled the said Release Deed by way of Cancellation Deed dated May 6, 2010.

**3.6.** The plaintiffs then applied for Encumbrance Certificate through online and found that the said Muthayammal had cancelled the Release Deed dated March 17, 2010. The Cancellation Deed is not valid and that Muthayammal had no right to cancel the Release Deed. The Cancellation Deed will not bind the plaintiffs.

**3.7.** Since the defendants interfered with the plaintiffs' peaceful possession and enjoyment of the Suit Property, the plaintiffs have come forward with the present Suit for declaration of title, for permanent injunction, for a declaration that the Cancellation Deed dated May 6, 2010 as null and void and for costs.



**DEFENDANTS' CASE**

WEB COPY

4. The second defendant filed written statement denying the allegations made by the plaintiffs in the plaint and the same was adopted by the first defendant. The relationship of the parties is admitted. It is also admitted that the Suit Properties originally belonged to Chellappagounder.

4.1. Case of the defendants is that the second plaintiff obtained a registered Release Deed dated March 17, 2010 from the said Muthayammal by playing fraud and misrepresentation. Hence the Release Deed dated March 17, 2010 is not true, valid and genuine. Further, the said Muthayammal also cancelled the Release Deed dated March 7, 2010 within two months from its execution, by a registered Cancellation Deed dated May 6, 2010. Therefore, the plaintiffs cannot claim any absolute right over the Suit Properties. The said Muthayammal passed away intestate on October 5, 2013.

4.2. The first defendant is the husband and the second defendant is the son of Muthayammal. The defendants 3 and 4 are the daughters of Muthayammal. After the demise of Muthayammal, the defendants 1 to 4 became jointly entitled to 1/2 share in the Suit Properties as her legal heirs.



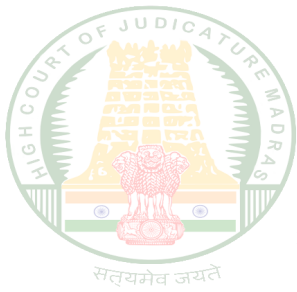
The defendants 1 to 4 are in joint possession of the Suit Properties along with the plaintiffs and hence, there is no necessity to trespass into the Suit Properties.

**4.3.** The Court-Fee paid under Section 25(d) of the 'Tamil Nadu Court-Fee and Suits Valuation Act, 1955' ['T.N.C.F. Act' for short] is not correct. Stating so, the defendants 1 and 2 prayed to dismiss the Suit with costs.

### **TRIAL COURT**

**5.** Based on the above pleadings, the Trial Court framed the following issues:

- "1) *Is it true that the release deed dated 17.3.2010 executed by Muthayammal in favour of the 2nd plaintiff is valid, genuine and acted upon?*
- 2) *Is the cancellation of the release deed dated 17.3.2010 valid?*
- 3) *Are the plaintiffs entitled to decree of declaration of their tile to the suit property as claimed?*
- 4) *Are the plaintiffs entitled to the relief of permanent injunction as prayed for?*
- 5) *To what other reliefs the parties are entitled for?"*



**5.1.** The Trial Court framed the following issue as additional issue

on January 27, 2020:

*"1) Whether the court fee paid is correct?"*

6. At trial, on the side of the plaintiffs, second plaintiff was examined as P.W.1 and one Ravichandran was examined as P.W.2 and Ex-A.1 to Ex-A.24 were marked. On the side of the defendants, second defendant was examined as D.W.1 and one Yogesh, grandson of Muthayammal was examined as D.W.2 and Ex-B.1 was marked.

7. After full-fledged trial, the Trial Court concluded that the Cancellation Deed is null and void and that the plaintiffs are absolute owners of the Suit Properties. Accordingly, it decreed the Suit as prayed for.

8. Feeling aggrieved, the defendants 1 and 2 have preferred this First Appeal under Section 96 read with Order XLI Rule 1 of the CPC.

### **ARGUMENTS**

9. Ms.C.Meena appearing on behalf of Mr.M.Guruprasad, learned Counsel on record for the appellants / defendants 1 and 2 argues that the



WEB COPY

second plaintiff obtained Ex-A.5–Release Deed dated March 17, 2010 by

playing fraud and misrepresentation. The consideration of Rs.5 Lakhs as

stated in Ex-A.5 – Release Deed was not paid. The executor under Ex-A.5

namely Muthayammal was an old age person. Due to the fiduciary

relationship between the executor and the plaintiffs, Muthayammal

without reading the contents of Ex-A.5, affixed her signature in it.

Muthayammal does not know the character of the said document and the

contents of Ex-A.5 was not read over to her. She further argues that,

according to the plaintiffs, a panchayat was convened before execution of

Ex-A.5. But the alleged panchayatdars were not examined by the

plaintiffs. Further, according to the plaintiffs, the defendants were present

at the time of execution of Ex-A.5. If the said averment is true, the

plaintiffs would have insisted the defendants to affix signatures in Ex-A.5,

but there are no signature of the defendants in Ex-A.5. Hence, the

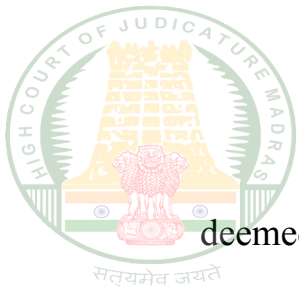
averment that the defendants were present at the time of execution of Ex-

A.5 is false. Since Ex-A.5 was obtained by playing fraud and

misrepresentation, Muthayammal herself cancelled Ex-A.5 within two

months vide Ex-B.1 – Cancellation Deed dated May 6, 2010. Hence,

during the lifetime of Muthayammal, Muthayammal and the plaintiffs are

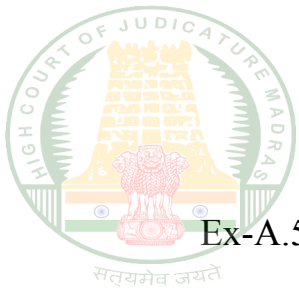


deemed to be in joint possession and enjoyment of the Suit Properties.

After her demise on October 5, 2013, the defendants are in joint possession with the plaintiffs. The Trial Court, without appreciating the fact that Muthayammal was illiterate and age old as well as the above facts, erred in decreeing the Suit. Accordingly, she prays to allow the Appeal Suit and set aside the Judgment and Decree passed by the Trial Court.

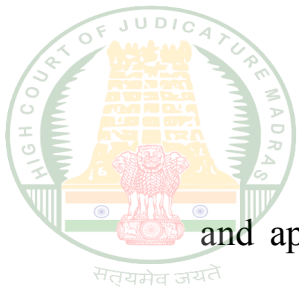
**9.1.** In support of her arguments, she relies on a Judgment of the Hon'ble Supreme Court in ***Krishna Mohan Kul Alias Nani Charan Kul – vs – Pratima Maity***, reported in ***(2004) 9 SCC 468***.

**10.** In response, Mr.N.Manokaran, learned Counsel appearing for the respondents 1 and 2 / plaintiffs contends that the plaintiff examined one Ravichandran as P.W.2 who is one of the attesting witnesses to Ex-A.5 – Release Deed dated March 17, 2010. He deposed about the execution of Ex-A.5 and passing of consideration thereunder. Further, inviting the attention of this Court to a portion of P.W.2's evidence and the learned Counsel submits that the defendants did not deny the evidence that Muthayammal received a sum of Rs.5 Lakhs at the time of execution of



Ex-A.5. He further submits that Muthayammal as an afterthought, under the influence of the defendants executed Ex-B.1 – Cancellation of Release

Deed, which is impermissible under law. He draws attention of this Court to the recitals contained in Ex-B.1 and argues that Muthayammal herself has admitted the execution of Ex-A.5 and did not allege any fraud or misrepresentation. Hence, the defendants are not entitled to take such a defense. Further, the defendants are precluded to deny the recitals contained in Ex-A.5 in view of Sections 91 and 92 of the Indian Evidence Act, 1872. He further submits that Muthayammal's grandson - Yogesh has also signed in Ex-A.5 as witness. He has been examined as D.W.2 on the side of the defendants. His evidence strengthens the case of the plaintiffs that at the time of execution of Ex-A.5, Muthayammal was hale, healthy and in good state of mind. He further contends that the defense of the defendants is that Ex-A.5 was obtained by playing fraud and misrepresentation. If it is so, the defendants ought to have pleaded specifically under Order VI Rule 7 of CPC. There is no specificity in their pleadings. Further, the burden is upon the defendants to prove the alleged fraud and misrepresentation. The defendants did not prove their alleged defense. Hence, the Trial Court after considering the entire circumstances



A.S.NO.902 OF 2020

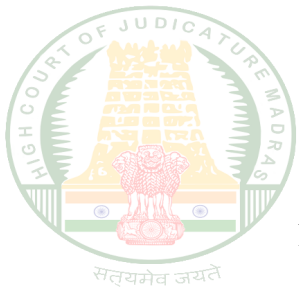
and appreciating the evidence in proper perspective, rightly decreed the Suit. There is no warrant to interfere in it. Accordingly, he prays to dismiss the Appeal Suit.

**10.1.** In support of his contentions, learned Counsel for the respondents 1 and 2 relies on the following Judgments:

- (i) Judgment of the Hon'ble Supreme Court in ***Satya Pal Anand – vs – State of Madhya Pradesh***, reported in ***(2016) 10 SCC 767*** ;
- (ii) Judgment of this Court in ***Latif Estate Line India Ltd. -vs- Hadeeja Ammal***, reported in ***2011-1-LW-673*** ;
- (iii) Judgment of this Court in ***Sasikala -vs- The Revenue Divisional Officer***, reported in ***2022 SCC OnLine Mad 4343*** ;
- (iv) Judgment of this Court in ***N.Karuppanna Vs. C.Nachimuthu Gounder***, reported in ***2024 (6) CTC 667***.

**DISCUSSION:**

**11.** This Court has considered the submissions made on either side and perused the evidence available on record.

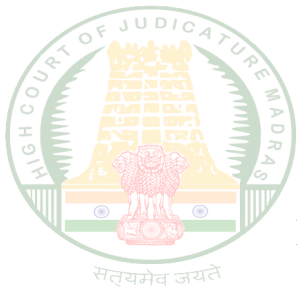


WEB COPY

**12.** There is no dispute with regard to the relationship between the parties. The Suit Properties originally belonged to Chellappagounder. He passed away on January 13, 1981 leaving behind his wife - Angayammal, his son - Kandasamy and daughter - Muthayammal. Angayammal passed away in 1994 leaving behind her son - Kandasamy and daughter - Muthayammal. Kandasamy passed away on March 23, 2001 leaving behind the plaintiffs as his legal heirs. There is no dispute with the above facts.

**13.** The case of the plaintiffs is that Muthayammal executed Ex-A.5 -Release Deed on March 17, 2010 in favour of the second plaintiff after receiving a sum of Rs.5 Lakhs as consideration. The case of the defendants is that Ex-A.5 - Release Deed was obtained by playing fraud and misrepresentation, that Muthayammal herself cancelled Ex-A.5 vide Ex-B.1 –Cancellation Deed dated May 6, 2010. Now, the points that arise for consideration in this Appeal Suit are:

- (i) Whether Ex-A.5 Release Deed is true, genuine and valid?
- (ii) Whether the unilateral cancellation of Ex-A.5 - Release Deed dated March 17, 2010 vide Ex-B.1 – Cancellation



A.S.NO.902 OF 2020

Deed dated May 6, 2010 is permissible under law?

WEB COPY

(iii) Whether the plaintiffs are entitled to the relief of declaration as sought for in the plaint?

**Point No.(i)**

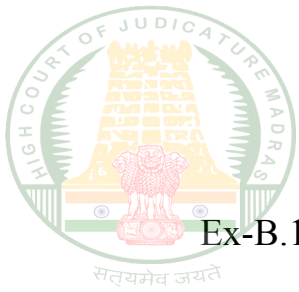
14. This Court has perused Ex-A.5 - Release Deed, which is a registered document. In the said document, one N.Shanmugam, one M.Ravichandran and S.Yogesh, grandson of Muthayammal have signed as witnesses. Muthayammal had affixed her signature and her photograph has also been affixed in the back side of Ex-A.5 - Release Deed. Shanmugam and Ravichandran identified Muthayammal before the Registrar. No doubt that the burden of proof that Ex-A.5 was executed by Muthayammal after receiving consideration of Rs.5 Lakhs is on the plaintiff. P.W.1 in his evidence deposed that Muthayammal after receiving a sum of Rs.5 Lakhs executed Ex-A.5 - Release Deed. The plaintiffs side examined the said Ravichandran, a witness to Ex-A.5 as well as the identifying witness, was examined as P.W.2. He deposed about the execution and the receiving of consideration by Muthayammal. Further, in Ex-B.1 - Cancellation Deed dated May 6, 2010, it is recited as follows:

*Page No.14 of 26*



' . . . நாம் இருவரும் ஒரே பிரிபடாத கூட்டுக்குடும்பத்தை சேர்ந்தவர்கள் ஆகிறோம். நமக்குள் இது நாள் வரை பாகப்பிரிவினை ஏதும் ஏற்படவில்லை. இவ்வாறு நமது பொது சுவாதீன அனுபோகத்தில் இருந்து வருகிற கீழ்க்கண்ட சொத்துக்களை நாம் பாகம் பிரித்து தனித்தனியே அனுபவித்துக்கொண்டு வரவும், விவசாயம் செய்யும் சௌகரியப்படாமல் இருப்பதாக, நீ என்னிடம் கேட்டுக் கொண்டதாலும், மேலும் கீழ்க்கண்ட சொத்துக்கள் பூராவையும் நீயே தனித்து வைத்துக்கொள்ள விருப்பப்பட்டதாலும், பஞ்சாயத்தார்கள் முன்னிலையில் ஒப்புக்கொண்டு ஒரு பாக பாத்திய விடுதலை சாசனம் 17.03.2010-ம் தேதியில் எழுதி பெருந்துறை சார்பதிவாளர் அலுவலகத்தில் 1 புத்தகம் 2010-ம் ஆண்டின் 1846-ம் எண்ணாகப் பதிவு செய்து கொடுத்து இருந்தேன். தற்போது எனக்கு வேறு எந்த சொத்தும் இல்லாததாலும், என்னுடைய எதிர்காலத்திற்கு தேவை என்று நான் நினைப்பதாலும் நான் ஏற்கனவே உமக்கு எழுதிக் கொடுத்த பாக பாத்திய விடுதலை சாசனத்தை இதன்மூலம் இரத்து செய்கிறேன். . . . '

14.1. From the above recitals, it is easily discernible that Muthayammal had admitted the execution and the receipt of consideration.



A.S.NO.902 OF 2020

Ex-B.1 does not say anything about the alleged fraud or misrepresentation.

Since the executant herself has not stated that Ex-A.1 was obtained by playing fraud or misrepresentation, the defendants who are claiming through her cannot take such a stand. Moreover, Yogesh, who is also one of the witnesses to Ex-A.5, was examined as D.W.2 on the side of the defendants and he deposed that Muthayammal executed Ex-A.5 and she was hale, healthy and in mentally fit state of mind at that time, thereby favouring the case of the plaintiffs. From the above, it can easily be concluded that the execution of Ex-A.5 and passing of consideration thereunder is proved and that the plaintiffs have discharged their initial burden. Now the onus is on the defendants to establish their case. But the defendants have miserably failed to prove the alleged misrepresentation or fraud. Hence, in the considered opinion of this Court the Trial Court rightly concluded that Ex-A.5 was executed by Muthayammal and it is genuine, true and valid. This Court finds no reason to interfere with the said decision. **Point No.(i) is answered accordingly in favour of the plaintiffs and against the defendants.**



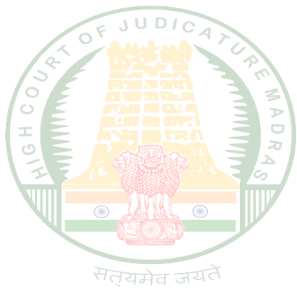
**Point No.(ii)**

WEB COPY

15. In Ex-B.1 – Cancellation Deed dated May 6, 2010, Muthayammal has admitted the execution of Ex-A.5. She has not stated in Ex-B.1 that Ex-A.5 was obtained by playing fraud or misrepresentation. The reason assigned by Muthayammal in Ex-B.1 for the cancellation is that she was left with no property after the release. However, D.W.1 / second defendant in his evidence has deposed that his family had some other properties about 10 Acres in extent. This contradiction creates serious doubts around the true intention behind the execution of Ex-B.1.

16. Unilateral cancellation of a Release Deed is impermissible. Release Deed for consideration is more like a Sale Deed and if the executor is permitted to cancel the same unilaterally, it would amount to grave injustice. This Court in its Judgment in ***Latif Estate's Case*** relied on by the learned Counsel for the respondent / plaintiffs [cited *supra*] has held that a sale cannot be cancelled unilaterally by a Cancellation Deed. Relevant portion reads as follows:

*'59.After giving our anxious consideration on the questions raised in the instant case, we come to the following conclusion: -*



WEB COPY



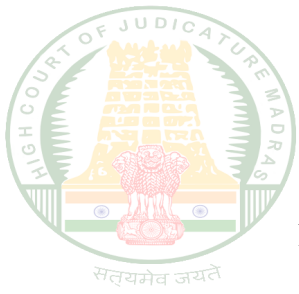
A.S.NO.902 OF 2020

*(i) A deed of cancellation of a sale unilaterally executed by the transferor does not create, assign, limit or extinguish any right, title or interest in the property and is of no effect. Such a document does not create any encumbrance in the property already transferred. Hence such a deed of cancellation cannot be accepted for registration.*

*(ii) Once title to the property is vested in the transferee by the sale of the property, it cannot be divested unto the transferor by execution and registration of a deed of cancellation even with the consent of the parties. The proper course would be to re-convey the property by a deed of conveyance by the transferee in favour of the transferor.*

*(iii) Where a transfer is effected by way of sale with the condition that title will pass on payment of consideration, and such intention is clear from the recital in the deed, then such instrument or sale can be cancelled by a deed of cancellation with the consent of both the parties on the ground of non-payment of consideration. The reason is that in such a sale deed, admittedly, the title remained with the transferor.*

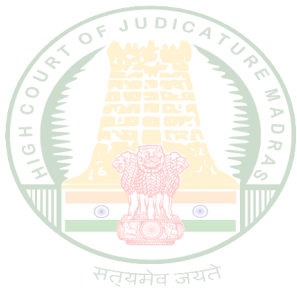
*(iv) In other cases, a complete and absolute sale can be cancelled at the instance of the transferor only by taking recourse to the Civil Court by obtaining a decree of cancellation of sale deed on the ground inter alia of fraud or any other valid reasons.'*



17. Further, the Hon'ble Supreme Court in ***Satya Pal Anand's Case***

relied on by the learned Counsel for the respondent / plaintiffs [cited *supra*] has held that neither the Registrar nor the Inspector General has the power to cancel a compulsorily registerable document. It has been held thus:

*'34. The role of the Sub-Registrar (Registration) stands discharged, once the document is registered (see Raja Mohammad Amir Ahmad Khan (supra). Section 17 of the Act of 1908 deals with documents which require compulsory registration. Extinguishment Deed is one such document referred to in Section 17(1)(b). Section 18 of the same Act deals with documents, registration whereof is optional. Section 20 of the Act deals with documents containing interlineations, blanks, erasures or alterations. Section 21 provides for description of property and maps or plans and Section 22 deals with the description of houses and land by reference to Government maps and surveys. There is no express provision in the 1908 Act which empowers the Registrar to recall such registration. The fact whether the document was properly presented for registration cannot be reopened by the Registrar after its registration. The power to cancel the registration is a substantive matter. In absence of any express provision in that behalf, it is not open to assume that the Sub-Registrar (Registration) would be competent to cancel the registration of the documents in question. Similarly, the power of the Inspector General is limited to do superintendence of Registration offices*



WEB COPY



A.S.NO.902 OF 2020

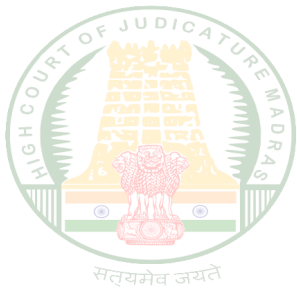
*and make rules in that behalf. Even the Inspector General has no power to cancel the registration of any document which has already been registered. '*

**18.** Further, this Court in ***Sasikala's Case*** relied on by the learned Counsel for the respondent / plaintiffs [cited *supra*], has held that an absolute sale or conveyance cannot be revoked unilaterally except through process of Court. Relevant portion reads thus:

*'58.From the discussions and conclusions we have reached above with reference to various provisions of Statutes and precedents, we reiterate the dictum of Hon'ble Supreme Court in Thota Ganga Laxmi and Ors. V. Government of Andhra Pradesh & Ors., reported in (2010) 15 SCC 207 and the Full Bench of this Court in Latif Estate Line India Ltd., case, reported in 2011 (2) CTC 1(FB): AIR 2011Mad. 66 and inclined to follow the Judgment of Three Member Bench of Hon'ble Supreme Court in Veena Singh's case reported in (2022) 7 SCC 1 and the judgment of Two-Member Bench of Hon'ble Supreme Court in Asset Reconstruction Company (India) Ltd., case, reported in 2022 SCC Online SC 544 for the following propositions:*

*(a) A sale deed or a Deed of Conveyance other than testamentary dispositions, which is executed and registered cannot be unilaterally cancelled.*

*(b) Such unilateral cancellation of Sale Deed or a Deed of Conveyance is wholly void and non est and does not operate to execute, assign, limit or extinguish any right, title or interest in the property.*



WEB COPY



A.S.NO.902 OF 2020

*(c) Such unilateral cancellation of Sale Deed or Deed of Conveyance cannot be accepted for registration.*

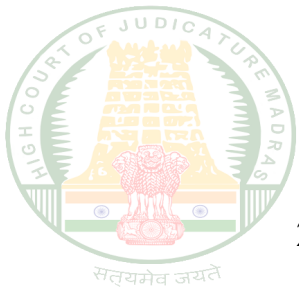
*(d) The Transferee or any one claiming under him or her need not approach the Civil Court and a Writ Petition is maintainable to challenge or nullify the registration.*

*(e) However, an absolute Deed of Sale or Deed of Conveyance which is duly executed by the Transferor may be cancelled by the Civil Court at the instance of transferor as contemplated under Section 31 of Specific Relief Act.*

*(f) As regards gift or settlement deed, a deed of revocation or cancellation is permissible only in a case which fall under Section 126 of Transfer of Property Act, and the Registering Authority can accept the deed of cancellation of gift for registration subject to the conditions specified in para 42 of this judgment.*

*(g) The legal principles above stated by us cannot be applied to cancellation of Wills or Power of Attorney deed which are revocable and not coupled with interest.'*

**19.** Further, in ***N.Karuppanna's Case*** relied on by the learned Counsel for the respondent / plaintiffs [cited *supra*], it was held that an official act of registration attracts the presumption under Section 114 of Indian Evidence Act, 1872.

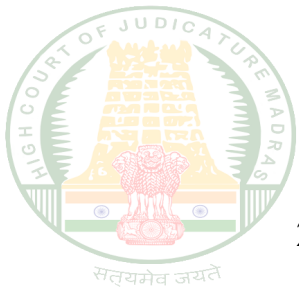


WEB COPY

**20.** As stated *supra*, release with consideration is nothing less than an absolute sale or conveyance. A Release Deed is a mandatorily registrable document under Section 17 of the Registration Act, 1908. Hence, in view of the above legal position, unilateral cancellation of Release Deed is impermissible in law. **Point Nos.(ii) is answered in favour of the plaintiffs and against the defendants.**

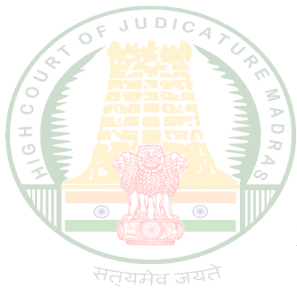
**Point No.(iii)**

**21.** As already stated *supra*, Ex-B.1 – Cancellation Deed dated May 6, 2010 is impermissible in law. The plaintiffs can simply ignore Ex-B.1. Further, Ex-B.1 – Cancellation Deed dated May 6, 2010 caused cloud around the plaintiffs' title. Hence, the plaintiffs in order to remove the cloud, filed the Suit for declaration which is maintainable as per the Section 34 of the Specific Relief Act, 1963. Ex-A.5 - Release Deed is valid and Ex-B.1 – Cancellation Deed dated May 6, 2010 is invalid as held above. Hence, the plaintiffs are entitled to the Suit Properties absolutely. Thus, the plaintiffs are entitled to the relief of declaration of their title in respect of the Suit Properties. **Point No.(iii) is answered in favour of the plaintiffs and against the defendants.**



WEB COPY

22. In the Judgment of Hon'ble Supreme Court relied on by the learned Counsel for the appellants / defendants 1 and 2 viz., **Krishna Mohan Kul Vs. Pratima Maity**, reported in **(2004) 9 SCC 468**, the executant was more than 100 years old at the time of execution of the Deed in question. The executor of the Document was paralytic and his mental and physical conditions were not in order. Further, the executant therein was practically bedridden with paralysis and though his left-thumb impression was stated to be affixed on the document, there was no witness who could substantiate the same. Considering the facts and circumstances of the case, the Hon'ble Supreme Court held that the burden is upon the person, who claims the property to prove that the executant in a free state of mind executed the document. There is no quarrel with the proposition of law advanced therein by Hon'ble Supreme Court. However, in the present case, the plaintiffs proved that Muthayammal voluntarily executed Ex-A.5 – Release Deed after receiving consideration by examining P.W.2 and D.W.2 as stated *supra*. In this case, it has been established that Muthayammal while executing Ex-A.5 - Release Deed was hale and healthily and was in a fit state of mind. Hence, the said decision of Hon'ble Supreme Court is not applicable to the case on hand.



A.S.NO.902 OF 2020

**23.** In view of the above narrative, the Appeal Suit must fail and be dismissed as devoid of merits. The Trial Court rightly decreed the Suit as prayed for and there is no need to interfere with the same.

**CONCLUSION**

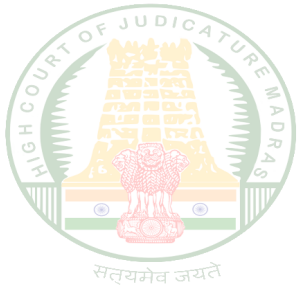
**24.** In the result, the Appeal Suit is dismissed. Considering the relationship between the parties, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

**28.08.2025**

Index : Yes / No  
Speaking Order : Yes / No  
Neutral Citation : Yes / No  
TK

To

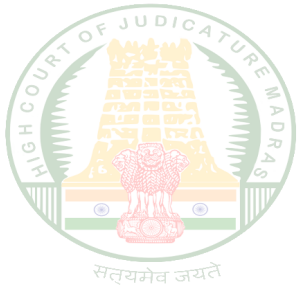
The II Additional District Court  
Erode.



WEB COPY



A.S.NO.902 OF 2020



WEB COPY



A.S.NO.902 OF 2020

**R. SAKTHIVEL, J.**

TK

**APPEAL SUIT NO.902 OF 2020**

**28.08.2025**

*Page No.26 of 26*