

THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 09 .09.2025

Judgment pronounced on : 19.09.2025

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THE HON'BLE MR. JUSTICE P.B.BALAJI

A.S.No.726 of 2023
& CMP.Nos.25221 of 2023 & 24966 of 2024

G.K.Senniappan (Died)

G.S.Balasubramaniam

..Appellant

Vs.

Rathinam @ Rathinammal (Died)

1.Mallika

2.G.S.Padmajothi

3.R.Parameswari

4.G.Karunakaran

..Respondents

Prayer: Appeal Suit filed under Order XLI Rule 1 r/w Section 96 of CPC, to set aside the judgment and decree dated 28.08.2023 made in O.S.No.268 of 2007 on the file of the III Additional District court, Gobichettipalayam, by allowing this appeal suit.

For Appellant : Mr.N.Manoharan

For Respondents : Mr.P.V.Ramachandran for RR1 to 3
Mr.K.Vasanthanayagam
for Mr.J.Ranjithkumar for R4



JUDGMENT

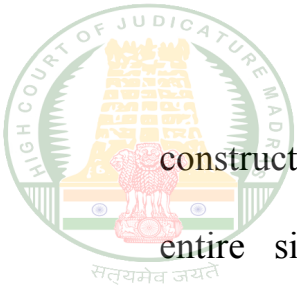
This Appeal Suit has been filed against the judgment and decree dated 28.08.2023 made in O.S.No.268 of 2007 on the file of the III Additional District Court, Gobichettipalayam.

2.The 2nd plaintiff in O.S.No.No.268 of 2007 before the III Additional District Court, Gobichettipalayam, is the appellant herein.

3.The suit was filed for declaration of title of the 1st plaintiff, who subsequently died and consequent to his demise, the 2nd plaintiff, the present appellant was impleaded. Post impleadment, the prayer for declaration was amended to declare the title of the 2nd plaintiff. A relief of permanent injunction to restrain the defendants 2 to 5 from interfering with the plaintiffs' peacefully possession and enjoyment of the suit property was also prayed.

4.The gist of the case of the plaintiffs is as follows:

(i) The 1st plaintiff is the husband of the 1st defendant. The defendants 2 to 4 are the daughters of the 1st plaintiff and the 1st defendant. The 5th defendant is the son of a predeceased daughter of the 1st plaintiff. There was a house site in Natham S.F.No.148 in Cutchery Street, Gobichettipalayam, which belonged to K.A.Subramanyan and K.Rathinasabapathy. A small tiled house was



constructed on the eastern side of the house site. The 1st plaintiff purchased the entire site with the tiled house from the said K.A.Subramanyan and K.Rathinasabapathy in his name. The western half however was purchased in the name of the wife of the 1st plaintiff, namely the 1st defendant.

(ii) According to the plaintiffs, the 1st defendant was only a benamidar of the 1st plaintiff and the entire sale consideration was provided out of the funds of the 1st plaintiff alone. It is the further case of the 1st plaintiff that his wife had no funds of her own. The 1st plaintiff has further contended that he was in money lending business and in view of the risk of landing in loss, the 1st plaintiff did not want to lose his assets and therefore, on the safer side, he has purchased the western half in the name of his wife, the 1st defendant.

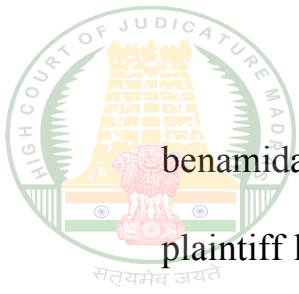
(iii) It is also the case of the 1st plaintiff that in 1998, the small tiled house was demolished and a two storey building was constructed, covering both the eastern and western half. The 1st plaintiff has spent Rs.30 lakhs out of his own funds for putting up the construction and the 1st defendant, his wife did not contribute even a single rupee. Even in the new building, for all 16 portions, the electricity service connections were obtained in the name of the 1st plaintiff. The 1st plaintiff has leased out various portions of the building and he



has been collecting rents and also paying property taxes. The 1st plaintiff has further contended that he has been affectionate towards all the defendants and the 5th defendant has, in fact, married the daughter of the 2nd plaintiff and the 1st plaintiff has set up a jewelery shop for the 5th defendant, by mortgaging the suit property. It is also contended that the original Sale Deed dated 04.09.1995 is with the Bank.

(iv) The 1st plaintiff also contends that his wife was taken away by his daughters and the son of the predeceased daughter of the 1st plaintiff and on 25.09.2006, the property has been settled by the 1st defendant, in favour of the defendants 2 to 5. According to the 1st plaintiff, the defendants have played a fraud and brought about the settlement deed, without the 1st defendant knowing the consequences of her action. It is also the case of the 1st plaintiff that possession was not handed over to the settlees and they did not claim rents from tenants for nearly eight months and there was also no request for attornment of tenancy.

(v) On 15.05.2007, for the first time, the defendants claimed title to the suit property and demanded rents from the tenants. The tenants approached the 1st plaintiff and the 1st plaintiff assured them that the 1st defendant was only a

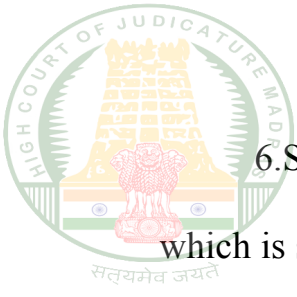


benamidar and they need not worry. In view of the cloud on title, the 1st plaintiff has been constrained to seek declaration of his title and also to protect his possession. Hence, the suit came to be instituted. As already discussed above, pending the suit, the 1st plaintiff died and his son, the 2nd plaintiff, on whom the 1st plaintiff has settled the property on 20.01.2011, came to be impleaded as the 2nd plaintiff in the suit.

(vi) The defendants were initially set ex-parte and the 1st defendant / wife also expired and the defendants 2 to 5 were brought on record as legal heirs. An application was also filed to set aside the ex-parte decree and written statement was filed by the 5th defendant and the same was adopted by the defendants 2 to 4. The ex-parte decree dated 15.04.2008 was set aside.

5. The written statement filed by the 5th defendant, in brief:-

The 1st plaintiff did not purchase the property as benami in his wife's name. The allegation that the 1st defendant had no income of her own has been denied. The allegation that the 1st defendant did not even contribute for construction is also denied. The mutation of revenue records was in the name of the 1st defendant, insofar as her acquisition of the property.



6. Subsequently, the 2nd defendant filed an additional written statement, which is set out briefly:-

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The 2nd defendant contended that the suit is barred under the provisions of the Benami Transactions (Prohibition) Act, 1988. The 1st defendant had inherited substantial properties from her mother, including 300 sovereigns of gold. The property has not been purchased benami as contended. The plaintiffs have not challenged the issuance of patta and also mutation of revenue records in the name of the 1st defendant and subsequently in the name of the defendants 2 to 5, post settlement deed executed by the 1st defendant in favour of the defendants 2 to 5.

7. Based on the above pleadings, the Trial Court has framed the following issues and additional issues:

1. வாதியானவர் ஒரு வேய்ந்த வீட்டுடன் கூடிய அனைத்து வீட்டிடத்தையும் கே.ஏ.சுப்பிரமணியம் மற்றும் கே.ரத்தினசபாபதி ஆகியோர்களிடமிருந்து ரூ.3,68,000/- த்திற்கு கிரையம் பெற்றாரா?

2. வாதியானவர் ஒரு வேய்ந்த வீட்டுடன் கூடிய கிழபுறப் பகுதியை அவரது பெயரில் ரூ.1,85,000/- த்திற்கு கிரையம் பெற்றாரா?

3. வாதியானவர் மேபுற பகுதியை அவரது மனைவியான 1ம் பிரதிவாதியின் பெயரில் ரூ.1,83,000/- த்திற்கு கிரையம் பெற்றாரா?



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4.1ம் பிரதிவாதி வாதியின் பிணாமிதாரர் மட்டுமே
என்பது உண்மையா?

5.வாதி தாவா சொத்தின் முழு உரிமையாளர்
என்பது உண்மையா?

6.வாதி வழக்குரையில் கோரியபடி தாவா சொத்து
வாதிக்கு பாத்தியப்பட்டது என்று விளம்புகை பரிகாரம்
பெற உரியவரா?

7.2 முதல் 5 பிரதிவாதிகளுக்கு எதிராக வாதி
நிரந்தர உறுத்துக்கட்டளைப் பரிகாரம் பெற உரியவரா?

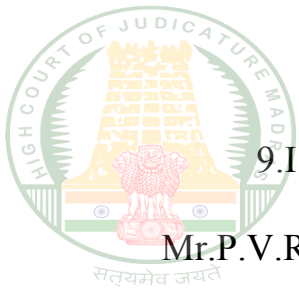
8.வேறு என்ன பரிகாரங்கள்?

கூடுதல் எழுவினாக்கள்.

1.1ம் பிரதிவாதி 25.09.2006 ம் தேதியில் 2 முதல்
5 பிரதிவாதிகளுக்கு செட்டில்மெண்ட் ஆவணம்
எழுதிக்கொடுத்துள்ளாரா?

2.2 முதல் 5 பிரதிவாதிகள் தாவா சொத்தின் முழு
உரிமையாளர்களா?

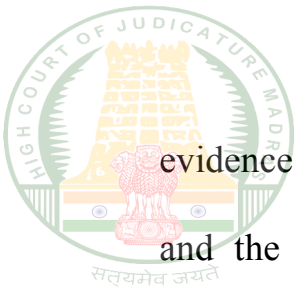
8.On the side of the plaintiffs, the 2nd plaintiff examined himself as P.W.1 and the relative of the parties, by name, Velliangiri has been examined as P.W.2. One of the tenants, Thirumoorthy has been examined as P.W.3. The 2nd plaintiff has marked 26 exhibits on his side (Ex.P1 to Ex.P26). On the side of the defendants, the 2nd defendant, Mallikamani, herself examined as D.W.1, the 3rd defendant, Karunakaran, examined himself as D.W.2 and one Jayakumar was examined as D.W.3. On the side of the defendants, 12 documents have been exhibited, namely Ex.D1 to Ex.D12.



9.I have heard Mr.N.Manoharan, learned counsel for the appellant and Mr.P.V.Ramachandran, learned counsel for the the respondents 1 to 3 and Mr.K.Vasanthanayagam, learned counsel for Mr.J.Ranjithkumar, learned counsel for the 4th respondent. I have gone through the pleadings, oral and documentary evidence as well as the judgment and decree of the Trial Court.

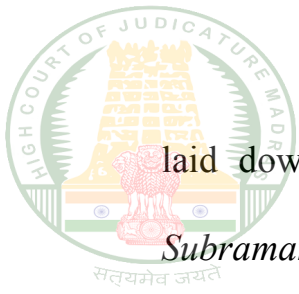
10.Mr.N.Manoharan, learned counsel for the appellant took me through the plaint averments and allegations and also the written statement that was filed initially by the 5th defendant and adopted by the defendants 1 to 4. With specific reference to the said written statement, Mr.N.Manoharan, would contend that excepting for denying the plaint allegations and averments, the defendants have not set up any defence whatsoever at the earliest instance and only in the additional written statement, the 2nd defendant has chosen to raise a semblance of defence. He would also take me through the exhibits filed on the side of the both the parties as well as the oral evidence.

11.Referring to the cross-examination of P.W.1, the 2nd plaintiff as well as D.W.1 and D.W.2, Mr.N.Manoharan would contend that it has come out in evidence that both the 1st plaintiff and the 1st defendant were living together under one roof, when the suit property was purchased. It is also come out in



evidence that both the eastern and western halves were clubbed as one property and the existing tiled roof structure was demolished and a new building, comprising of ground + two floors has been constructed over both the eastern and western half, after getting necessary planning permission from the local authority. Referring to the electricity service connections in the name of the 1st plaintiff and also the caution deposit to the Electricity Board having been paid by the 1st plaintiff under Ex.P13 to P23 and A24, Mr.N.Manoharan would contend that the husband had clearly treated the property as his own and there was unimpeachable evidence, which has not even been dented in cross-examination of the defendants.

12.Mr.N.Manoharan, learned counsel would also rely on the cross-examination of D.W.1, the 2nd defendant, who has stated that though the 5th defendant married the 2nd plaintiff's daughter, the marriage was not a happy marriage and divorce proceedings also came to be initiated before the Family Court, Erode. He would therefore, relying on the said evidence of D.W.1, contend that the matrimonial discord has been the actual root cause for the defendants to have claimed right in the suit property, objecting to the rightful purchase of the property by their father in the name of their mother. He would also state that all the six tests for establishing that it was a benami purchase, as



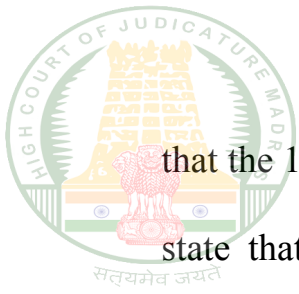
laid down by the Hon'ble Supreme Court in *Valliammal (D) by LRs Vs.*

Subramaniam and others, reported in (2004) 7 SCC 233, have been fully met

and proved beyond all reasonable doubt by the plaintiffs, but however, the Trial Court has proceeded to non suit the appellant on the ground of presumptions, conjunctures and surmises.

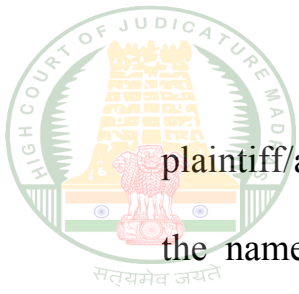
13. Pointing out to the property devolved upon the 1st defendant through her mother, Mr.N.Manoharan would contend that the grandmother was alive at the time of purchase of the suit property and inheritance by the 1st defendant from her mother was much later and had no bearing on the acquisition of the suit property. He would therefore state that the findings of the Trial Court are clearly perverse and liable to be interfered with. He would also rely on the decision of the Hon'ble Supreme Court in *Jaydayal Poddar (Deceased) through LR's and another Vs. Bibi Hazra and others*, reported in (1974) 1 SCC 3, and *Nand Kishore Mehra Vs. Sushla Mehar*, reported in 1995 (4) SCC 572, apart from *Valliammal's case*, referred herein supra.

14. Mr.N.Manoharan would also contend that the defendants have not placed any piece of evidence, oral and documentary, to establish that the source for purchase of the property came from the 1st defendant or even to the effect



that the 1st defendant had any independent income of her own. He would further state that the 1st plaintiff, even in the plaint, had clearly pleaded about the motive for purchase the property in the name of the 1st defendant, his wife and the appellant has rebutted the presumption under Section 3(2)(a) of the Benami Transactions (Prohibition) Act, 1988. The property was acquired in the year 1995, but the mother of the 1st defendant died much later only in the year 2004 and therefore, inheritance was would have been only after 2004 and had no bearing with regard to the acquisition of the suit property. He would therefore state that the appellant has discharged the burden cast upon the appellant, the 2nd plaintiff before the Trial Court and the appellant is entitled to a declaration that the purchase made by the 1st plaintiff in the name of the 1st defendant was only a benami transaction.

15.Per contra, Mr.P.V.Ramachandran, learned counsel for the respondents 1 to 3 would contend that the factum of the 2nd plaintiff's daughter having married the 5th defendant, who is the son of a predeceased daughter of the 1st plaintiff and the 1st defendant had nothing to do with the dispute. Pointing out to the sale deed and mutation of revenue records, learned counsel would contend that admittedly it was only in the name of the 1st defendant. He would further point out that the burden of proof was entirely on the 2nd



plaintiff/appellant to establish that the suit property was purchased benami in the name of the 1st plaintiff's wife, by the 1st plaintiff/husband and the 2nd plaintiff has miserably failed to discharge the said burden of proof, which lay very heavily on the appellant/2nd plaintiff.

16.Mr.P.V.Ramachandran, learned counsel would refer to cross examination of P.W.1 and point out to the admissions made by P.W.1, the appellant, where the appellant clearly states that he has not filed any documents to establish that the 1st plaintiff, his father, had paid the monies for purchase of the property and also for putting up the construction. He would also state that there is no infirmity in the findings of the Trial Court, taking note of the admissions of P.W.1 with regard to the 1st defendant being the only daughter of late Devayammal and that substantial movable and immovable properties belonging to his grandmother devolved on his mother, the 1st defendant.

17.Mr.P.V.Ramachandran, learned counsel would also refer to the admission of P.W.1 with regard to his mother, holding a locker in State Bank of India and referring to the said admissions, he would contend that P.W.1's evidence was sufficient to negate the plaint allegations that the 1st defendant had no independent source of income. He would also state that income tax

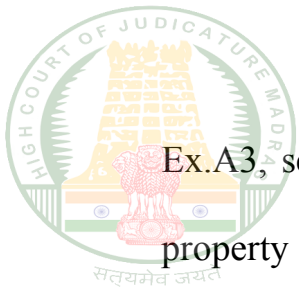


returns have also not been filed to establish that the 1st plaintiff alone expended monies for acquisition of the suit property and also for putting up construction.

He would also state that the Trial Court has rightly drawn adverse inference for non production of the income tax returns by the appellant, despite being confronted about the same in cross examination.

18. Referring to Section 4 of the Benami Transactions (Prohibition) Act, 1988, Mr.P.V.Ramachandran, learned counsel would contend that it is not open to the appellant to enforce any right as against the 1st defendant alleging that the property was purchased benami in her name, by the 1st plaintiff. He would also refer to Ex.D1, partition deed, between the 1st plaintiff and the 2nd plaintiff, where the properties have been partitioned between the father and the son and pointing to non-inclusion of the suit property in the said partition deed, Mr.P.V.Ramachandran, learned counsel would contend that only because the plaintiffs were fully conscious of the fact that the property was the absolute property of the 1st defendant, it has not been rightly included in the said partition deed, Ex.D1.

19. Mr.P.V.Ramachandran, learned counsel, also inviting my attention to



Ex.A3, settlement deed, in and whereby, the 1st defendant has settled the suit property in favour of the defendants 2 to 5, would contend that apart from the suit property, the said settlement deed was also concerning other items of the properties, which have been dealt with by the defendants 2 to 5 to third parties by way of sale under Exs.D10 and D11 and the same has not been questioned by the appellant, which also is admitted to by P.W.1 in cross examination. He would also place reliance on the decision of the Hon'ble Supreme Court in *Mithilesh Kumari and another Vs. Prem Behari Kahre*, reported in 1989 2 SCC 95, where the Hon'ble Supreme Court has held that there is even a bar of filing of the suit on the basis that the property has been purchased benami.

20.Mr.P.V.Ramachandran, learned counsel would also point out to the mortgage of the suit property and the document lying with the Bank, as contended in the plaint and state that under Ex.D7, a publication was issued in a leading Tamil daily (Dinamalar) which clearly establishes that, it was only the 1st defendant who had mortgaged the suit property and not the 1st plaintiff and therefore, viewed from any angle, the appellant has miserably failed to establish that the purchase would come under the exception provided under Section 4 of the Benami Transactions (Prohibition) Act, 1988.



21.I have carefully considered the submissions advanced by the learned counsel on either side.

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22.On consideration of the pleadings, issues framed, decision rendered thereon by the Trial Court and the arguments advanced before me in this Appeal Suit, I frame the following points for consideration:

Whether the suit property was purchased by the 1st plaintiff/husband in the name of his wife, the 1st defendant, benami.

23.The relationship between the parties is admitted. In the plaint originally filed by the husband, the 1st plaintiff, contends that his wife had no independent source of income and the entire money for purchase of the suit property was from and out of the funds of the 1st plaintiff. He also contends that when the old tiled building in his adjoining property, which is not subject matter of the present suit or appeal, was demolished, both the properties purchased in his name as well as his wife's name were combined as one plot and a new and single construction was put up on both the plots. Admittedly, even according to the appellant, the mutation of revenue records is only in the name of the 1st defendant. It is however contended by the appellant that because the sale deeds stands in the name of the 1st defendant/wife, the mutation of



revenue records was effected in the name of the 1st defendant.

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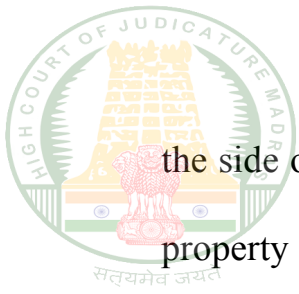
24. The Hon'ble Supreme Court has held that the following six circumstances can be taken as a guide to determine the nature of transaction:

- (i) the source from which the purchase money came;*
- (ii) the nature and possession of the property, after the purchase;*
- (iii) motive, if any, for giving the transaction a benami colour;*
- (iv) the position of the parties and the relationship, if any, between the claimant and the alleged benamidar;*
- (v) the custody of the title deeds after the sale; and*
- (vi) the conduct of the parties concerned in dealing with the property after the sale.*

No doubt, the Hon'ble Supreme Court has also held that the above indicia are only illustrative and not exhaustive, but nevertheless, the source from where the purchase money came and the motive, if any, would be the most important tests for determining, whether the transaction was a benami transaction or not.

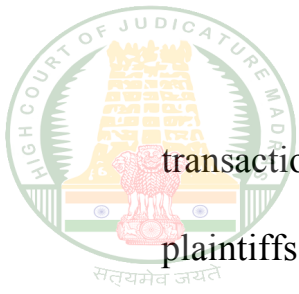
25. Keeping the above determinative factors in mind, I proceed to decide the above point for consideration that has been formulated.

26. As regards the source of funds, though there is a pleading available on



the side of the plaintiffs that the entire source of money for the purchase of the property came from the 1st plaintiff, husband, and that, his wife, the 1st defendant was only a name lender, excepting for the self serving averment in the plaint, the plaintiffs have not been able to adduce any satisfactory evidence during trial of the suit. In cross examination of P.W.1, the appellant, he categorically admits that no documents have been filed to substantiate the averments in the plaint that the sale consideration was paid only by his father. In fact, the appellant has also admitted that the income tax returns would definitely lend support to such claim. However, he did not take any steps to produce the income tax records of his deceased father, the 1st plaintiff.

27.No doubt, as rightly contended by the learned counsel for the appellant, the findings of the Trial Court that the 1st defendant was possessed of sufficient income to purchase the property, may not be correct, in the light of the fact that her mother was very much alive in 1995, when the suit property was acquired and it was much later in the year 2004 when she died and thereupon, by inheritance, all her valuable properties came to be inherited by the 1st defendant. Therefore, the reliance placed on the huge assets belonging to the mother of the 1st defendant was actually of no consequences. However, at the same time, it is settled law that in a case where the plaintiffs plead a



transaction to be a benami transaction, the burden is very heavy on the plaintiffs who alleges so, because there is a presumption in law that the person in whose name the property stands is the owner of the same. In order to dislodge this legal presumption, mere pleadings would not be sufficient. The plaintiff has to prove by oral and documentary evidence that the person in whose name, the property has been purchased is not the actual owner. Therefore, even the first determinative factor, namely source of funds has not been proved by the appellant in the present case. There is no necessity for the defendants to establish that the 1st defendant had independent source of income to acquire the suit property. At the risk repetition, when the burden is entirely on the plaintiffs to establish the same, even in the absence of any evidence on the side of the defendants, the plaintiffs cannot succeed, unless they plaintiffs discharge such heavy burden, which is on the plaintiffs' shoulders to establish that the purchase was actually a benami transaction.

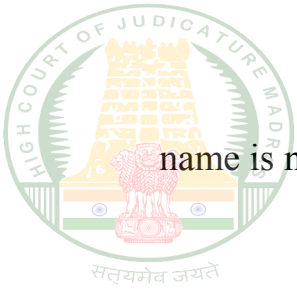
28. Even with regard to the property having been dealt with subsequent to the purchase, admittedly, the 1st plaintiff and the 1st defendant were living in the same property together and therefore nothing turns on this factor as well.

29. Even as regards custody of the original document, it is contended by



the 1st plaintiff in the plaint that he had set up a jewelery shop for the 5th defendant, his son-in-law and in that connection, he had given the original sale deed, pertaining to the suit property, to the Bank. However, it is seen from Ex.D7, paper publication preceding the mortgage, it is only the 1st defendant who has taken steps and there is nothing on record to show that it was the 1st plaintiff who gave the original document to the Bank. Therefore, even on this ground, the plaintiffs have miserably failed to establish that it was the 1st plaintiff who had custody of the original Sale Deed.

30.The other contention of the learned counsel for the appellant that the property was let out by the 1st plaintiff and 16 electricity service connections were obtained in the name of the 1st plaintiff, it is not uncommon for the husband entering into the lease agreements in respect of joint property belonging to the husband and wife. Admittedly, even according to the plaintiffs, a new building has been constructed over both the plots belonging to the 1st plaintiff as well as the 1st defendant. Merely because electricity service connections have been taken in the name of the 1st plaintiff, it is not strong enough evidence to establish a benami transaction. Even tenants of a property are entitled to take electricity service connections in their names. Therefore, the mere fact that the 1st plaintiff has taken 16 electricity service connections in his



name is not sufficient to hold that the property was purchased benami.

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31. As regards conduct of the parties, subsequent to purchase, as already discussed, the parties have been in joint possession. Though it is contended by Mr.P.V.Ramachandran, learned counsel for the respondents 1 to 3 that Ex.D1, partition deed, did not include the suit property, I am unable to countenance the said argument for the simple reason that admittedly the suit property has been settled by the 1st plaintiff in favour of the 2nd plaintiff, his son. The partition deed, that has been entered into between the father and the son would only pertain to joint properties or Hindu undivided family properties and therefore, I do not see the non-inclusion of the suit property in Ex.D1 being a ground to turn down the plaintiffs' case. However, the fact that apart from the suit property, other properties have also been settled by the mother on the daughters and such other properties have been dealt with by the daughters, the same has not been questioned at any point of time. If really the plaintiffs were bent upon establishing that the suit property was the property of the 1st plaintiff, then the settlement deed ought to have been challenged and even the sale in favour of the third parties, in respect of other items of the property, covered under the very same settlement deed have also gone unchallenged.



32. Even with regard to motive for purchase, though the 1st plaintiff, in the plaint, had originally pleaded that since he is doing business in money lending and there is risk of loss and he wanted to save the property and therefore, he proceeded to purchase one half of the property in his wife's name, there is absolutely nothing to substantiate the said motive which have been pleaded in the plaint. In fact, on the contrary, the appellant, who was examined as P.W.1, categorically states that the suit property was purchased in the name of the 1st defendant, his mother for her benefit. This admission of the appellant virtually demolishes the case set up that the suit property was purchased benami in the name of the 1st defendant.

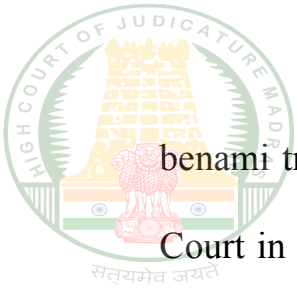
33. In fact, the Hon'ble Supreme Court, in *Valliammal's case*, has held that the intention of parties would be the essence of benami transaction and money must have been provided by the party invoking the doctrine of benami. Even in the said case before the Hon'ble Supreme Court, the Hon'ble Supreme Court found that the evidence clearly showed that the original plaintiff did not have any justification for purchasing the property in the name of the alleged benami holder and that the source of money was also not traceable to the plaintiff.

34. In *Jaydayal's case* as well, the above six tests were discussed by the



Hon'ble Supreme Court and the Hon'ble Supreme Court held that the burden of proving that the sale was a benami transaction would always rest on the person asserting it to be so and that the burden has to be strictly discharged by adducing legal evidence of a definite character, which could either directly prove the fact of benami or establish circumstances unerringly and reasonably raising an inference of that fact. The Hon'ble Supreme Court in fact held that the intention for entering into a benami transaction is always shrouded in a thick veil which cannot be easily pierced, but still such difficulties do not relieve the person asserting the transaction to be benami, of any part of the serious onus that rests on him; nor justify, acceptance of mere conjectures or surmises, as substitute for proof. The said ratio would squarely apply to the facts of the present case. Excepting for pleading that the source for purchase came from the 1st plaintiff and setting up a theory of motive in the plaint, there is absolutely no evidence adduced by the appellant to establish the fact that the source of money for purchase of the suit property came only from the 1st plaintiff.

35. In *Mithilesh Kumari's case*, the Hon'ble Supreme Court held that law nullifies the defences available to the real owner in recovering benami property from the benanidar and that the law would apply irrespective of time of the

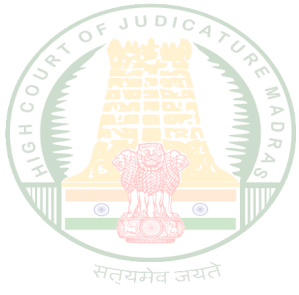


benami transaction. However, the issue that arose before the Hon'ble Supreme Court in the said case was whether the Benami Transactions (Prohibition) Act, 1988, would be applicable to an appeal pending on the date of commencement of the Act. I do not see how this decision would be of any assistance in the present case, since admittedly the suit property was purchased subsequent to the Benami Transactions (Prohibition) Act coming into force in the year 1988 and therefore, it is for the plaintiffs alone to discharge the heavy burden on them, which they have miserably failed to, as discussed herein above. I do not find that the findings of the Trial Court are perverse, improper or illegal, warranting interference in this appeal. Accordingly, the point framed for consideration in this appeal is answered against the appellant and in favour of the respondents.

36. In fine, the Appeal Suit is dismissed. Considering the relationship between the parties, there shall be no order as to costs. Connected Civil Miscellaneous Petitions are closed.

19.09.2025

Neutral Citation Case : Yes / No
Speaking / Non-speaking order
Index : Yes/No
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P.B.BALAJI.J.

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To

The III Additional District Court, Gobichettipayalam.

Pre-delivery judgment made in
A.S.No.726 of 2023
& CMP.Nos.25221 of 2023 & 24966 of 2024

19.09.2025