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C.R.P. NO.3033 OF 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15/12/2025

CORAM :

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P. NO.3033 OF 2018

AND

C.M.P.NO.12264 OF 2021

K.Amutha @ Rouccoumaniammalle

... Petitioner/Petitioner/
Plaintiff

Vs.

1.Soundirammal @ Indiraniammal (Died)

2.Sridharan @ Rangaramanujam (Died)

3.Thangammal

4.M.Sirajudeen

5.S.Pappu Sarma

6.Kasthuri

7.Dhanalatchumi

... Respondents 1 to 7/
Respondents/Defendants

8.Mrs.Rajeswari

9.Ms.Nivetha

... Respondents 8 & 9/
Legal Representatives of
Deceased 2nd Respondent

Note: Respondent-2 died pending CRP. Respondents 8 and 9 are brought on record as LR's of the deceased R-2 viz., Sridharan @ Rangaramanujam vide Order of this Court dated March 07, 2025 made in C.M.P.No.12264 of 2021 in C.R.P.No.3033 of 2018

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the Fair and Decretal



C.R.P. NO.3033 OF 2018

Order dated April 16, 2018 made in I.A.No.410 of 2017 in O.S.No.87 of 2010 on the file of the Principal Sub-Court, Tindivanam and to allow I.A. No.410 of 2017.

For Petitioner : Ms.V.Srimathi
For Respondents-2 : Died - steps taken
For Respondent-3 : Not ready in notice
For Respondents-5 to 7 : Served – No appearance
For Respondents-8 & 9 : Mr.A.Swaminthan

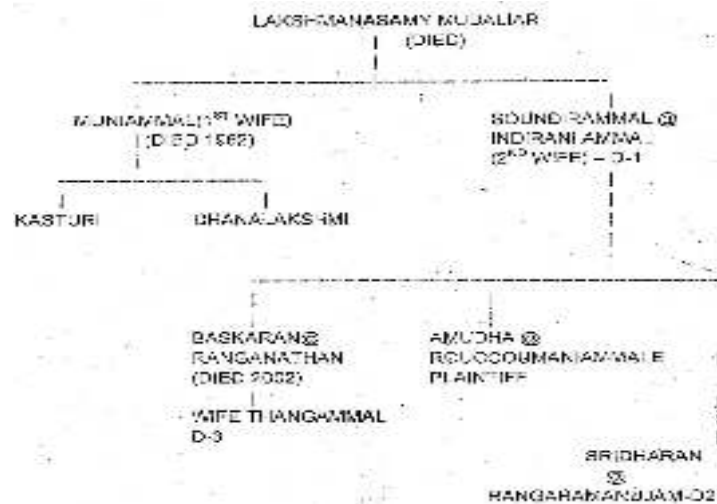
ORDER

The Revision Petitioner herein is the Plaintiff and the Respondents 1 to 7 herein are the Defendants in the Original Suit in O.S.No.87 of 2010 on the file of 'the Principal Sub-Court, Tindivanam' (hereinafter referred to as the 'Trial Court'). Respondents 8 & 9 herein are the Legal Representatives of the Deceased 2nd Respondent. For the sake of convenience, hereinafter, the parties herein will be referred to as per their array in the Original Suit.

2. For better appraisal of the facts of the case, this Court deems fit to reproduce hereunder the genealogy chart annexed along with the plaint:-



C.R.P. NO.3033 OF 2018



3. Case of the Plaintiff as presented in the plaint is that a portion of Suit Item No.1 was bequeathed to Lakshmanasamy Mudaliar by his father - Duraisamy Mudaliar by Will dated August 19, 1968. Suit Item Nos.2 and 3 were purchased by Lakshmanasamy Mudaliar as his separate property. Suit Item Nos.4 and 5 were purchased by Lakshmanasamy Mudaliar during his life time out of his own income by selling roasted nuts at Tindivanam, in the name of his wife, the 1st Defendant for the benefit of his children including the Plaintiff, who were all minors at the time of purchase. Further, the 1st Defendant has no independent source of income to purchase those lands. Hence, Suit Item Nos.4 and 5 are separate properties of Lakshmanasamy Mudaliar.

3.1. Lakshmanasamy Mudaliar through his first wife had two daughters, who were married off during his lifetime and they have no right



in the Suit Properties. Lakshamanasamy Mudaliar divorced his first wife in 1958 and married the first defendant as his second wife. Lakshamanasamy Mudaliar passed away on September 9, 1978. One of his son – Baskaran alias Ranganathan passed away on January 30, 2002 leaving behind his wife / third defendant as his legal heir. Hence, the Plaintiff and the Defendants 1 to 3 are entitled each $\frac{1}{4}$ share in the Suit Properties.

3.2. While so, Suit Item No.4 was sold in favour of 4th and 5th Defendants vide registered Sale Deeds even dated January 28, 2002 by the 1st Defendant at the instigation of the 2nd Defendant. Further, the 2nd Defendant obtained a Settlement Deed dated February 6, 2002 from 1st Defendant in respect of a portion of the Suit Properties. These were done with a view to defeat and defraud the Plaintiff's rights over the Suit Properties. Hence, the Plaintiff filed the Suit seeking partition and declaration that the Sale Deeds and the Settlement Deed are null and void and do not bind the Plaintiff.

3.3. The 1st Defendant passed away on December 20, 2006 and hence the plaint was amended to the effect that the Plaintiff and the Defendants 2 and 3 are entitled to $\frac{1}{3}$ share each in the Suit Properties.

4. The 2nd Defendant filed a Written Statement denying the plaint



C.R.P. NO.3033 OF 2018

averments. It is stated that the entire Suit Properties are not an absolute properties of Lakshamananasamy Mudaliar. Item Nos.3 and 4 are separate properties of the 1st Defendant. The Plaintiff demanded partition in 1998. Consequently, a Family Panchayat took place in the presence of relatives and well wishers where an Oral Family Arrangement was arrived at. As per the Oral Family Arrangement, the Plaintiff was given a sum of Rs.1,00,000/- in lieu of relinquishment of her share in the Suit Properties and making an admission to that effect, she executed a document dated June 17, 1998. Hence, the Plaintiff has no rights over the Suit Properties. Subsequently, the 1st Defendant executed a Gift Settlement Deed in favour of 2nd Defendant in the year 2002. Accordingly, the 2nd Defendant prayed to dismiss the Suit.

5. On these pleadings, the parties went to Trial. Trial commenced and during the chief examination of D.W.1, Ex-B.15, alleged Joint Family Arrangement Agreement dated June 17, 1998 was marked without any objection on the side of the Plaintiff. Thereafter, the Revision Petitioner / Plaintiff filed a petition under Order XIII Rule 3 read with Section 151 of the 'Code of Civil Procedure, 1908' ('CPC' for short), in I.A.No.410 of 2017 praying to eschew Ex-B.15 from the evidence.

Page No.5 of 17



C.R.P. NO.3033 OF 2018

6. The Trial Court after hearing both sides, refused to accept the prayer made by the Plaintiff and dismissed I.A.No.410 of 2017. Feeling aggrieved by the Dismissal Order, the Plaintiff has filed this Civil Revision Petition.

7. For ready reference, this Court extracts Ex-B.15 – Family Arrangement Agreement hereunder:

"பொது குடும்ப ஏற்பாடு ஒப்பந்தப் பத்திரம்"

1998ம் வருடம் ஜூன் மாதம் 17ந் தேதி திண்டிவனம் மணியம் சுந்தசாமிமுதலி தெரு நம்பர் 18 லிருக்கும் லட்சுமணசாமி முதலியார் பாரியாள் இந்திராணிஅம்மாள்-1, லட்சுமணசாமி முதலியார் குமாரர்கள் பாஸ்கரன்-2, ரங்கராமானுஜம்-3 பாண்டிச்சேரி சின்னாம்பேட்டை லட்சுமி நகரிலிருக்கும் R.கிருஷ்ணராஜ் பாரியாள் அமுதா என்கிற ருக்குமணி-4 ஆகிய நாம் எழுதிக் கொண்ட பொதுக் குடும்ப ஒப்பந்த பத்திரம். அடியில் கண்ட சொத்துக்கள் 1வது நபருக்கு கிரயப்பாத்தியமும் சில பூர்வீக சொத்துக்களும் ஆகும். இந்த சொத்துக்களை நம்மில் 1 முதல் 3 நபர்கள் அனுபவித்து வருகிறீர்கள். நம்மில் 4வது நபருக்கு நம் குடும்ப அந்தஸ்துக்கு ஏற்ற வகையில் சுமார் 30 பவுன் நகைகளும் போட்டு சீர்வரிசைகள் நல்ல முறையில் செய்தும் கன்னிகாதனம் கலியாணமும் சீரும் சிறப்புமாய்



C.R.P. NO.3033 OF 2018

செய்யப்பட்டது, இது தவிர இப்போது ரொக்கமாய் ரூ.1,00,000=00 எழுத்தால் ஒரு லட்சம் இன்று கொடுக்கப்படுகிறது. எனவே இந்த சொத்துக்களில் இனியும் 1 முதல் 3 நபர்களே தொடர்ந்து சகல பாத்தியங்களுடன் அனுபவித்துக் கொள்ள வேண்டியது என்று பஞ்சாயதார்களும் சில உறவினர்களும் செய்த முடிவினை ஏற்று அதற்கு நாமும் சம்மதப்பட்டு இந்த ஒப்பந்தப்பத்திரத்தை எழுதிக்கொள்கிறோம், இந்த சொத்துகளை 1 முதல் 3 நபர்கள் அனுபவித்து வரவேண்டியது. இந்தப்படி நாம் சம்மதித்து எழுதிக்கொண்ட ஒப்பந்தப்பத்திரம்,

சொத்து விபரங்கள்

திண்டிவனம் டி, திண்டிவனம் இணை 1 நீ திண்டிவனம் மணியம் சுந்தசாமி முதலி தெருவில்

1) கதவு எண்.18 உள்ள மெத்தை வீடு

2) கதவு எண்.16B உள்ள ஓட்டு வீடு

நேரு வீதியில் :-

3) No.398, 399, 400 எண்ணுள்ள மெத்தை கட்டிடம்
(3 கடைகள் உள்பட)

4) No.78, 79, 80 எண்ணுள்ள ஓட்டு கட்டிடங்கள், இரண்டு கடைகள் உள்பட

5) ரோஷணை கிராமம்:- ஷை கிராமத்திலிருக்கும் நஞ்சை, புஞ்சை நிலங்கள் உள்பட

L.இந்தராணி

K.Amudha

L.பாஸ்கரன்

L.Rangaramanoujame



C.R.P. NO.3033 OF 2018

சாட்சிகள் :-

1) M.Rajendran, S/o. A.Malaisamy Udiyar, Agoor.

2) M.Elangovan, S/o. Madurai Achari.

3) S.Mohankumar, S/o. Sri Ramulu Chetti.

இதை எழுதியவர் (Sd/-....) License No.3166/84”

8. Ms.V.Srimathi, learned Counsel appearing for the Revision Petitioner submits that Ex-B.15 document is an unregistered document which cannot be marked. Further, submits that bare reading of the document would show that Ex-B.15 creates *in presenti* rights in favour of Defendants 1 and 2 and Baskaran @ Ranganathan and hence the document is not only unregistered but also insufficiently stamped. Hence, the document is inadmissible under Section 17 (1) of the Registration Act, 1908, and the same cannot be marked. The Trial Court erred in marking the document. Hence, she prays to allow the Civil Revision Petition and set aside the Dismissal Order passed by the Trial Court and consequently, eschew Ex-B.15 from the Exhibit list.

8.1. In support of her submissions, she relied upon the following Judgments:

(i) *Venkatasubramaniya Chettiar's Case* –
Judgment of this Court dated March 09, 2012 made



C.R.P. NO.3033 OF 2018

in *Venkatasubramaniya Chettiar -vs- Perumal*
Chettiar in A.S.No.1012 of 2004;

(ii) *Bakkiyam's Case* – Judgment of this Court
dated March 25, 2025 made in *Bakkiyam -vs-*
Narayanan in C.R.P.No.636 of 2024.

9. Mr.A.Swaminathan, learned Counsel appearing for the Respondents 8 and 9 draws attention of this Court to the Written Statement filed by the 2nd Defendant and submits that the Suit was filed in the year 2006 before the District Court, Villupuram in O.S. No.39 of 2006 and the 2nd Defendant filed Written Statement in the month of August 2007 and had annexed the originals of Ex-B.15, Will dated February 3, 1999 and Gift Settlement Deed dated February 6, 2002 along with it. He further submits that at the time of marking the document, the Plaintiff did not raise any objection. Later as an afterthought, the Plaintiff filed Interlocutory Application, which is not maintainable. The Trial Court in the Order under challenge has specifically held that the admissibility and legal validity of Ex-B.15 shall be decided after completion of trial and in the final Judgment. In such circumstances, no prejudice is caused to the Plaintiff by the Order under challenge and this Revision Petition is not maintainable. There is no warrant to interfere with the Trial Court's Order.

Page No.9 of 17



Accordingly, he prays to dismiss the Civil Revision Petition.

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9.1. In support of his submissions, he relied upon the following Judgments:

(i) *Subraya M.N.'s Case* – Judgment of the Hon'ble Supreme Court in *Subraya M.N. -vs- Vittala M.N.* reported in *AIR 2016 SC 3236*;

(ii) *Kaliya Perumal's Case* – Judgment of this Court in *Kaliya Perumal -vs- Dhandapani* reported in *2010 SCC OnLine Mad 2265*.

10. This Court has considered both sides submissions, perused the plaint, a copy of the document in question and the other materials placed on record.

11. From a perusal of Ex-B.15, it is seen that the said document is written on two 10 Rupees Stamp Papers. It is to be noted that Ex-B.15, Will dated February 3, 1999 and Gift Settlement Deed dated February 6, 2002 were filed along with the written statement by the 2nd Defendant. At the time of marking Ex-B.15, the Plaintiff did not raise any objection. After marking, the Plaintiff filed a petition to eschew Ex-B.15 and remove



the same from the marked documents.

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12. As regards the contention of the learned Counsel for the Revision Petitioner *qua* insufficient stamp duty, it is settled law that once a document is marked without any objection by the other side, it cannot be later attacked on the ground of insufficient stamp duty. If really the Plaintiff had any objection, he ought to have raised the objection at the time of marking the document. As far as the objection *qua* stamp duty is concerned, since the Plaintiff did not raise any objection at the time of marking the document, the said objection cannot be sustained. It is deemed that the Plaintiff has waived the said objection cannot be sustained. It is deemed that Plaintiff has waived the said objection.

13. The next contention raised before this Court is that the Trial Court ought not to have marked the document as it is an unregistered one. Before dealing with the same, this Court deems fit to mention here that Oral Family Arrangement is valid provided it is established. Reliance is placed on the Judgment rendered by the Hon'ble Division Bench of this Court in *A.C.Lakshmipathy -vs- A.M. Chakrapani Reddiar* reported in *2001 (1) CTC 112*, wherein, after discussing various Judgments of High Courts and the Judgment of the Hon'ble Supreme Court in *Kale -vs-*



Deputy Director of Consolidation reported in **AIR 1976 SC 807**, it was

held as follows:

“42. To sum up the legal position

(I) A family arrangement can be made orally.

(II) If made orally, there being no document, no question of registration arises.

(III) If the family arrangement is reduced to writing and it purports to create, declare, assign, limit or extinguish any right, title or interest of any immovable property, it must be properly stamped and duly registered as per the Indian Stamp Act and Indian Registration Act.

(IV) Whether the terms have been reduced to the form of a document is a question of fact in each case to be determined upon a consideration of the nature of phraseology of the writing and the circumstances in which and the purpose with which it was written.

(V) However, a document in the nature of a Memorandum, evidencing a family arrangement already entered into and had been prepared as a record of what had been agreed upon, in order that there are no hazy notions in future, it need not be stamped or registered.

(VI) Only when the parties reduce the family arrangement in writing with the purpose of using that writing as proof of what they had arranged and, where the arrangement is brought about by the document as such, that the document would require registration as it is then that it would be a document of title declaring for future what rights in what



properties the parties possess.

(VII) If the family arrangement is stamped but not registered, it can be looked into for collateral purposes.

(VIII) Whether the purpose is a collateral purpose, is a question of fact depends upon facts and circumstances of each case. A person can not claim a right or title to a property under the said document, which is being looked into only for collateral purposes.

(IX) A family arrangement which is not stamped and not registered cannot be looked into for any purpose in view of the specific bar in Section-35 of the Indian Stamp Act. ”

14. The claim of the Plaintiff is that Ex-B.15 creates rights *in presenti*. Hence, it being an unregistered one, it cannot be marked. The question as to whether Ex-B.15 creates any right in favour of the Defendants and another, or extinguishes any right of the Plaintiff in itself or it simply records a past transaction, can be gone through only after completion of trial and in the final Judgment. Mere perusal of Ex-B.15 does not help in deciding whether it creates rights *in presenti* or not. To decide the same, oral evidence and documentary evidence is required. The Trial Court rightly postponed its decision on that question observing that the same shall be decided at the time of final Judgment.

15. However, the Trial Court in Paragraph No.5 of its Order has



C.R.P. NO.3033 OF 2018

rendered an incidental finding that Ex-B.15 is a family arrangement agreement and that the Plaintiff received a sum of Rs.1,00,000/-, signed therein and thereby released her share in the Suit Properties. For ease of reference and clarity, the said portion of Paragraph No.5 is extracted hereunder:

“ . . . பி.வா.சா.ஆ.15 ஆவணமானது பொதுக்குடும்ப ஒப்பந்தப்பத்திரம் என்பது தெளிவாகிறது. மேற்படி ஆவணத்தின் மூலம் மனுதாரர் தொகை பெற்றுக் கொண்டு சொத்தில் உள்ள உரிமையை விடுதலை செய்ய கொடுத்துள்ளது தெரிய வருகிறது, மேலும். பி.வா.சா.ஆ.15 ஆவணத்தில் மனுதாரரும் கையெழுத்திட்டுள்ளது தெரிய வருகிறது. . . . மேற்படி ஆவணம் பிரதிவாதிகளால் தயாரிக்கப்பட்டது என்றும் கூற இயலாது. ஏனெனில் மனுதாரரை பி.வா.சா.ஆ.15 ஆவணத்தை வழக்கு தாக்கல் செய்தபோதே தாக்கல் செய்துள்ளதால் பி.வா.சா.ஆ.15 ஆவணத்தை எதிர்மனுதாரர்களால் பின்னிட்டு ஜோடிக்க இயலாது என்பது தெரிய வருகிறது. . . . ”

16. This Court is of the considered view that the aforesaid finding is contradictory to the operative portion of the Trial Court's Order wherein the Trial Court has held that the admissibility and the legal validity of Ex-B.15 can be decided only after completion of trial in its final judgment. The aforesaid extracted finding in Paragraph No.5 is also not in consonance with law and the same is liable to be set aside. Other observations made by the Trial Court do not warrant any interference by



C.R.P. NO.3033 OF 2018

this Court.

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17. The case laws submitted by either side are not applicable to the present facts of the case and the same are distinguishable on facts.

18. Resultantly, this Civil Revision Petition is partly allowed. The findings of the Trial Court that Ex-B.15 is a Family Arrangement Agreement, that the Plaintiff had received a sum of Rs.1,00,000/- (Rupees One Lakh only) and relinquished her share in the Suit Property vide Ex-B.15 and that the Signature found in Ex-B.15 is that of the Plaintiff, are set aside. In all other aspects, the Order of the Trial Court is sustained. Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

15/12/2025

Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
PAM/TK

Note to Registry: Respondent-1 namely Soundirammal @ Indiraniammal passed away on December 20, 2006, before filing of this Civil Revision Petition. In the plaint short cause title and the long cause title, as well as in the cause title of the Order under challenge, the factum of death of the first respondent - has been clearly mentioned. Hence, the Registry is directed

Page No.15 of 17



C.R.P. NO.3033 OF 2018

to carry out changes in the cause title of this Civil Revision Petition and the connected Civil Miscellaneous Petition.

WEB COPY

15/12/2025

To

The Principal Sub-Court,
Tindivanam.

Page No.16 of 17



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C.R.P. NO.3033 OF 2018

R. SAKTHIVEL, J.

PAM/TK

C.R.P. NO.3033 OF 2018

15/12/2025

Page No.17 of 17