

S.A. NOS.549 & 550 OF 2004

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2026

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CORAM:

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

S.A. NOS.549 & 550 OF 2004

S.A. NO.549 OF 2004

Chellappan (Died)
S/o.Munusamy
Tiruporur High Road,
No.11, Kolappakkam Village,
Via Vandalur,
Chengalpattu Taluk.

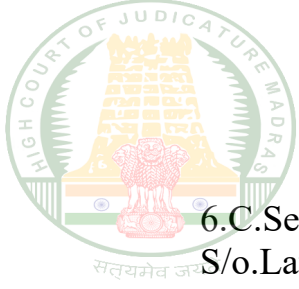
... Appellant No.1 / Respondent /
Defendant

2.C.Amsavalli
W/o.Late Chellappan
No.413/4, Kolapakkam (via) Vandalur,
Chennai – 600 127.

3.S.Kavitha,
D/o.Late Chellappan
No.2/217, Vembuli Amman Koil Street,
Vandalur, Chennai – 600 048.

4.K.Nirmala
D/o.Late Chellappan
No.51, F/2, Egamabaram Street,
Big Kancheepuram – 631 502.

5.R.Jonsy Priya
D/o.Late Chellappan and wife of M.Rubesh
No.128/2A, Govt.School Cross Street,
Kolapakkam,
Chennai – 600 127.



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6.C.Sesahtri

S/o.Late Chellappan

No.413/4, Kolapakkam (via) Vandalur,
Chennai – 600 127.

...Appellant Nos.2 to 6/Legal
Representatives of the
deceased Appellant No.1

Note: Sole Appellant passed away. Appellant Nos.2 to 6 are brought on record as Legal Representatives of the deceased sole Appellant *vide* Order of this Court dated June 20, 2025 made in C.M.P. No.29457 of 2023 in S.A. No.549 of 2004

Versus

Varasu Devi

W/o.Mohanlal

No.25-C, Tiruporur High Road,

No.11, Kolappakkam Village

Vandalur – 600 048,

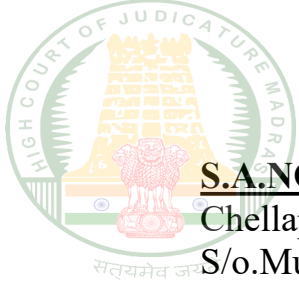
Chengalpattu Taluk.

...Respondent/Appellant/
Plaintiff

PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure, 1908, praying to set aside the Common Judgment and Decree dated March 28, 2002 made in A.S. No.12 of 2001 on the file of the learned Additional Sub Judge, Chengalpattu modifying the Common Judgment and Decree dated April 25, 2001 made in O.S. No.381 of 1989 on the file of the learned District Munsif, Chengalpattu.

For Appellants : Mr.K.V.Sundararajan

For Respondent : Mr.I. Abrar Md Abdullah



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Chellappan (Died)

S/o.Munusamy

Tiruporur High Road,

No.11, Kolappakkam Village

Via Vandalur,

Chengalpattu Taluk.

...Appellant No.1/Respondent/
Defendant

2.C.Amsavalli

W/o.Late Chellappan

No.413/4, Kolapakkam, Vandalur,

Chennai – 600 127.

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D/o.Late Chellappan and wife of M.Rubesh

No.128/2A, Govt.School Cross Street,

Kolapakkam, Chennai – 600 127.

6.C.Sesahtri

S/o.Late Chellappan

No.413/4, Kolapakkam, Vandalur,

Chennai – 600 127.

...Appellant Nos.2 to 6/
Legal Representatives of
the deceased Appellant-1

Note: Sole Appellant passed away. Appellant Nos.2 to 6 are brought on record as Legal Representatives of the deceased



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sole Appellant *vide* Order of
this Court dated June 05, 2025
made in C.M.P. No.29454 of
2023 in S.A. No.550 of 2004

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Versus

1.Seethalakshmi Ammal (Deceased)
W/o.K.S.Elumalai Naicker
Tiruporur High Road,
No.11, Kolappakkam Village
Vandalur – 600 048
Chengalpattu Taluk.

...Respondent No.1/Appellant/
Plaintiff

2.Mr.E.Srinivasan
S/o.Seethalakshmi Ammal

3.Mrs.Suguna
D/o.Seethalakshmi Ammal

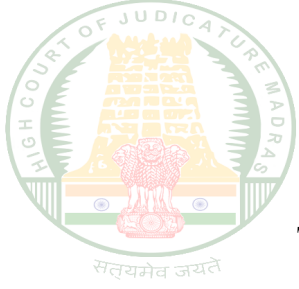
...Respondent Nos.2 & 3/
Legal Representatives of the
deceased Respondent No.1

Note: Respondents 2 and 3 are
brought on record as Legal
Representatives of the deceased
sole Respondent *vide* Order of
this Court dated December 10,
2014 made in C.M.P. Nos.318
and 319 of 2014 in S.A.No.550
of 2004

PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure, 1908, praying to set aside the Common Judgment and Decree dated March 28, 2002 made in A.S. No.13 of 2001 on the file of the learned Additional Sub Judge, Chengalpattu modifying the Common Judgment and Decree dated April 25, 2001 made in O.S. No.385 of 1989 on the file of the learned District Munsif, Chengalpattu.

For Appellants	:	Mr.K.V.Sundararajan
For Respondents-2 & 3	:	Mr.V.Anand for Mr.B.Ramesh Babu

* * *

**COMMON JUDGMENT**

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There are two suits viz., O.S. No.381 of 1989 and O.S. No.385 of 1989. Varasu Devi filed the Suit in O.S. No.381 of 1989 while Seethalakshmi Ammal filed the Suit in O.S.No.385 of 1989. Both the Suits were filed against one and the same defendant - Chellappan. Both the Suits were disposed by a Common Judgment and Decree dated April 25, 2001 by 'the District Munsif, Chengalpattu' ['Trial Court' for brevity]. The Trial Court held that the plaintiffs in both Suits have title over only an extent of 24 $\frac{3}{4}$ Cents out of the total 33 Cents in Suit Survey No.127 and the remaining 8 $\frac{1}{4}$ Cents were purchased by the defendant - Chellappan through a valid Sale Deed. Accordingly, the Trial Court partly decreed the Suits and granted declaration and permanent injunction in respect of 24 $\frac{3}{4}$ Cents in favour of the plaintiffs.

2. Feeling aggrieved by the Common Judgment and Decree dated April 25, 2001, Varasu Devi and Seethalakshmi Ammal preferred the Appeals in A.S. No.12 of 2001 over O.S. No.381 of 1989 and A.S. No.13 of 2001 over O.S. No.385 of 1989 respectively before 'the Additional Sub Judge, Chengalpattu' ['First Appellate Court' for brevity]. The First Appellate Court after hearing both sides, allowed the Appeal *vide* its Common Judgment and Decree dated March 28, 2002 and concluded that

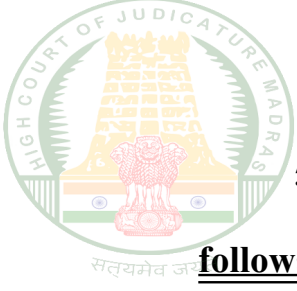


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the plaintiffs in both Suits are in possession and enjoyment of the entire extent of 33 Cents and the defendant shall not interfere with their peaceful possession and enjoyment over the same. Accordingly, the Suits were decreed in respect of the reliefs of declaration and injunction by the First Appellate Court.

3. Feeling aggrieved by the Common Judgment and Decree, the defendant - Chellappan, who is the respondent in both the Appeal Suits have preferred these Second Appeals. The Second Appeal in S.A. No.549 of 2004 was preferred over A.S. No.12 of 2001 and that in S.A. No.550 of 2004 was preferred over A.S. No.13 of 2001. They were admitted on April 2, 2004 on one and the same Substantial Question of Law which reads as follows: *“Whether sale deed executed by the guardian of minor Vijayalakshmi without permission of the Court for such sale is valid?”*.

4. For the sake of convenience, hereinafter, the parties will be referred to as per their array in their respective Suits.

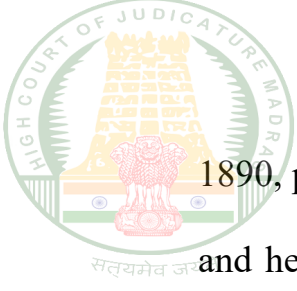


5. Brief account of the case of the plaintiffs in both Suits are as follows:

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5.1. An extent of 33 Cents in Survey No.127 of Kolappakkam Village, Chengalpattu Taluk, was purchased by one Poologammal, wife of Govindasamy Reddiar, *vide* Sale Deed dated April 10, 1945, as her self-acquired property. The couple - Govindasamy Reddiar and Poologammal had four sons namely Dilli Babu, Chitti Babu, Ramamurthy & Dhanasekaran and, and one daughter namely Kasturiammal. One of the sons - Dilli Babu passed away in or about the year 1963 leaving behind his wife - Lakshmi Kandham and minor daughter - Vijayalakshmi. Dilli Babu's wife - Lakshmi Kandham passed away in or about 1965 leaving behind minor daughter - Vijayalakshmi. Then on July 27, 1969, after the demise of Poologammal, her daughter - Kasturiammal executed a Release Deed in favour of her brothers.

5.2. Post the demise of her parents, minor - Vijayalakshmi grew up in the care and custody of Chitti Babu. Minor - Vijayalakshmi in addition to the aforesaid total extent of 33 Cents in Suit survey number, has right over some other properties in Peerkankaranai Village and Irumbuliur Village. Chitti Babu filed O.P. No.42 of 1970 before the District Court, Chengalpattu under Section 7 and 10 of the Guardians and Wards Act,

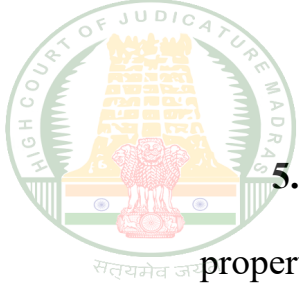


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1890, praying to appoint him as the guardian for the minor - Vijayalakshmi and her properties. The Court allowed the aforesaid Original Petition and issued guardianship certificate in favour of Chitti Babu in respect of the minor - Vijayalakshmi and her properties. To be noted, minor - Vijayalakshmi's share in the aforesaid total extent of 33 Cents in the Suit survey number was not shown in the aforesaid petition as one of her property.

5.3. Thereafter, on March 5, 1973, Chitti Babu for himself and for minor - Vijayalakshmi as her guardian, along with his brothers - Dhanasekaran and Ramamurthy, executed two Sale Deed even dated March 5, 1973, whereby out of the total 33 Cents in Suit Survey No.127, 20 Cents was sold to one Jayalakshmi (Ex-A.2) and 13 Cents was sold to Seethalakshmi Ammal, the plaintiff in O.S. No.385 of 1989 (Ex-A.1A). The aforementioned 20 Cents is the suit property in O.S. No.381 of 1989 and the aforementioned 13 Cents is described as Suit Property in O.S. No.385 of 1989. Hereinafter, they shall collectively be referred to as suit properties.

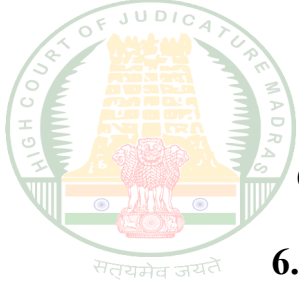
5.4. Subsequently, on July 21, 1981, Jayalakshmi sold under Ex-A.1 - Sale Deed her 20 Cents in Survey No.127 in favour of Varasu Devi, the plaintiff in O.S. No.381 of 1989.



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5.5. Thereafter, the plaintiffs sub-divisioned their respective properties. Plaintiff - Varasu Devi's 20 Cents was sub-divisioned into Survey No.127/2 while plaintiff - Seethalakshmi Ammal's 13 Cents was sub-divisioned into Survey No.127/1. Revenue records were also accordingly mutated. Separate UDR Pattas were also issued under the Updating Registry Scheme [UDR Scheme].

5.6. While so, on July 20, 1989, Dilli Babu's daughter - Vijayalakshmi upon attaining the age of 26 years, executed a Sale Deed, wherein stating that Vijayalakshmi has title over an extent of 6 ¼ Cents in plaintiff - Varasu Devi's 20 Cents and an extent of 2 Cents in plaintiff - Seethalakshmi Ammal's 13 Cents, both within specific four boundaries, Vijayalakshmi sold the same in favour the defendant - Chellappan. In others words, *vide* Sale Deed July 20, 1989, Vijayalakshmi falsely asserted title over an extent of 8 ¼ Cents in the suit properties (1/4 share thereof) and sold the same in respect of the defendant - Chellappan. Based on the Sale Deed, the defendant interfered with the plaintiffs' possession and enjoyment of the suit properties. Hence, the Suits for declaration, injunction and costs.

**6. Brief account of defendant's case in both Suits are as follows:**

6.1. The defendant filed separate written statements in both the Suits.

However, the contents thereof are more or less one and the same. Sum and substance of the written statements filed by the defendant is that Chittibabu, Ramamurthy and Dhanasekaran did not have absolute title over the suit properties. The Sale Deed in favour of Jayalakshmi and Seethalakshmi Ammal are sham and nominal. It is the specific case of the defendant that he purchased an extent of 2 Cents out of 13 Cents in Survey No.127/1A of Kolapakkam Village and an extent of 6 ¼ Cents out of 20 Cents in Survey No.127/1B thereof, under a registered Sale Deed dated July 20, 1989 from Vijayalakshmi. According to the defendant, the plaintiffs have no manner of right, title, or interest over the said portions of the suit properties purchased by him. The defendant further denied the plaintiffs' averment that Chittibabu had been duly appointed as the guardian of the minor - Vijayalakshmi and was authorized to alienate her share in the suit properties. The Sale Deed relied upon by the plaintiff, insofar as it pertains to the share of the then minor - Vijayalakshmi, is null and void and does not confer any valid title to the plaintiffs. Stating so, the defendant prayed for dismissal of the suit with costs.



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7. Both the Suits were tried jointly. However, the documentary evidence alone was recorded separately in the Suits. At trial, the plaintiff in O.S.No.381 of 1989 was examined as P.W.1, the plaintiff in O.S.No.385 of 1989 was examined as P.W.2, Ramamoorthy was examined as P.W.3 and Chittibabu was examined as P.W.4 and Ex-A.1 to Ex-A.5 were marked in O.S.No.381 of 1989 and Ex-A.1A to Ex-A.4A were marked in O.S.No.385 of 1989 on the side of the plaintiff. The defendant was examined as D.W.1 and Ex-B.1 to Ex-B.3 were marked on the side of the defendant in both the Suits.

8. The findings of the Trial Court and the First Appellate Court, as well as the Substantial Question of Law framed in the Second Appeal has already been set out *supra*.

ARGUMENTS

9. Mr.K.V.Sundararajan, learned Counsel appearing for the appellants in both the Appeals / legal representatives of sole defendant submits that Chittibabu was not appointed as a guardian in respect of the minor – Vijayalakshmi's share in the suit properties by the Court. He further submits that admittedly the suit properties, *i.e.*, entire extent of 33 Cents in Suit Survey No.127 belonged to one Poologammal.

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Poologammal passed away and hence, the suit properties devolved under

Section 15 of the Hindu Succession Act, 1956 in the hands of her five

children as their separate property. Poologammal's daughter executed a

release deed in favour of her brothers. Accordingly, the father of

Vijayalakshmi was entitled to 1/4 share. Upon his death, his property

devolved under Section 8 of the Hindu Succession Act, 1956 to his wife -

Lakshmi Kantham and daughter - Vijayalakshmi. Upon Lakshmi Kantham

demise in or about the year 1965, as per Section 15 of the Hindu

Succession Act, 1956, Vijayalakshmi is entitled to 1/4 share in the suit

properties. Chittibabu, who is the Defacto Manager/Defacto Guardian

cannot alienate minor Vijayalakshmi's share without obtaining Court

permission. He emphasises that Chittibabu is neither natural guardian nor

a guardian appointed by the Court in respect of the minor's share in the suit

properties. In the absence of permission from the Court, alienation made

by Chittibabu is *void ab initio*. Minor Vijayalakshmi after attaining

majority rightly repudiated the sale by executing Ex-B.1 - Sale Deed dated

July 20, 1989 in favour of the defendant. In short, the Sale Deed executed

in favour of the plaintiffs in both the Suits are invalid and not binding the

minor - Vijayalakshmi. Hence, he prays to allow the Second Appeal, set

aside the Judgment and Decree passed by the First Appellate Court and



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sustain the Judgment and Decree passed by the Trial Court. In support of his arguments, he relies upon the following Judgments: (i) *K.S.Shivappa -vs- K.Neelamma* reported in 2025 SCC OnLine SC 2149; (ii) *Madhegowda -vs- Ankegowda* reported in 2002 (1) SCC 178; (iii) *Natarajan -vs- Paramasivam* reported in 2010 (2) CTC 198.

10. *Per contra*, Mr.V.Anand appearing on behalf of Mr.B.Ramesh, Counsel on record for the Respondents 2 and 3 in S.A.No.550 of 2004 submits that Chittibabu was appointed as a guardian for minor - Vijayalakshmi as well as to her property. He further submits that it is true that the minor's share in the suit properties was not included in the Original Petition. He further submits that the suit properties in the hands of Chittibabu and his brothers were all a undivided joint family property in which Vijayalakshmi had no separate title or interest. Hence, alienation made by Chittibabu and his brothers on behalf of minor is not *void* but it is a voidable transaction. Minor - Vijayalakshmi neither challenged the Sale Deeds nor repudiated the same, within three years from the date of attaining majority. Now the defendants' right if any had been extinguished by way of limitation. The First Appellate Court rightly decreed the Suit in respect of the entire extent of the suit properties. Accordingly, he prays to dismiss the Second Appeals and sustain the Judgment and Decree of the



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First Appellate Court. In support of his arguments, he relies upon the following Judgments: (i) *Commissioner of Income Tax -vs- S.S.Thiagarajan* reported in *AIR 1964 Mad 58*; and (ii) *Dhanasekaran -vs- Manoranjithammal* reported in *AIR 1992 Mad 214*.

11. Mr.I.Abrar Md. Abdullah, learned Counsel appearing for the respondent in S.A.No.549 of 2004 reiterates the arguments advanced by Mr.V.Anand, learned Counsel appearing on behalf of Mr.B.Ramesh, Counsel on record for the respondents 2 and 3 in S.A.No.550 of 2004.

DISCUSSION

12. This Court has considered both sides' submissions and perused the evidence available on record.

13. An extent of 33 Cents in Survey No.127 of Kolappakkam Village, Chengalpattu Taluk, was purchased by one Poologammal, wife of Govindasamy Reddiar, *vide* Sale Deed dated April 10, 1945, as her self-acquired property. An extent of 20 Cents thereof constitutes the suit property in O.S. No.381 of 1989 and the remaining extent of 13 Cents thereof constitutes the suit property in O.S. No.385 of 1989. The couple - Govindasamy Reddiar and Poologammal had four sons namely Dilli Babu,



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Chitti Babu, Ramamurthy & Dhanasekaran, and one daughter namely Kasturiammal. One of the sons - Dilli Babu passed away in or about the year 1963 leaving behind his wife - Lakshmi Kantham and minor daughter - Vijayalakshmi. Dilli Babu's wife - Lakshmi Kantham passed away in or about 1965 leaving behind her minor daughter - Vijayalakshmi. Then on July 27, 1969, after the demise of Poologammal, her daughter - Kasturiammal executed a Release Deed in favour of her brothers. Post the demise of her parents, minor - Vijayalakshmi grew up in the care and custody of Chitti Babu. Minor - Vijayalakshmi in addition to the suit properties, has right over some other properties in Peerkankaranai Village and Irumbuliur Village. There is no serious dispute with the above facts. They are more or less admitted by either side.

14. Chitti Babu filed an Original Petition under the Guardians and Wards Act, 1890 before the District Court, Chengalpattu, praying to appoint him as the guardian for the then minor - Vijayalakshmi and her properties. Notably, neither the suit properties nor the then minor - Vijayalakshmi's share therein was listed as one of her properties in the Original Petition. Ex-B.3 is the petition and Order in O.P. No.42 of 1970. The said Original Petition filed by Chitti Babu was ordered in his favour and he was appointed as the guardian for the then minor - Vijayalakshmi



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and her properties (minor's share in the suit properties excluded). So, regardless of whether or not the minor's share in the suit properties was included therein, Chitti Babu was a duly appointed guardian for the then minor - Vijayalakshmi. For ease of reference, the relevant portions from the Order in Ex-B.3 is extracted hereunder:

"Order Pronounced. It is proved by the evidence. of P.W1. That the petitioner is a fit and proper person to be appointed as guardian of the person and property of the minor. Hence the petitioner is appointed as guardian of the person and property of the minor subject to his furnishing personal security for Rs.1000/-. He should submit accounts every six months. for furnishing security. Call on 2.1.71.

X-X-X X-X-X X-X-X

Personal Security bond tested and is found to be competent. Personal Security Bond is approved and accepted . Issue Guardianship Certificate."

15. Pursuant to the Order in Ex-B.3, Chitti Babu for himself and the then minor - Vijayalakshmi *qua* her guardian, along with his brothers - Dhanasekaran and Ramamurthy, alienated an extent of 20 Cents in the suit survey number which is the suit property in O.S. No.381 of 1989, in favour of one Jayalakshmi under Ex-A.2 - Sale Deed dated March 5, 1973; and the remaining extent of 13 Cents therein, which constitutes the suit property in O.S. No.385 of 1989, to Seethalakshmi Ammal, the plaintiff in

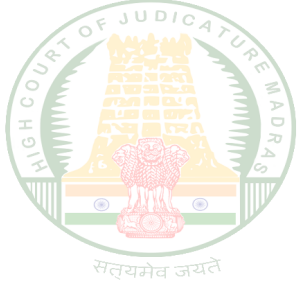


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O.S. No.385 of 1989 under Ex-A.1A - Sale Deed dated March 5, 1973. As

it could be seen, both the Sale Deeds were executed on the same day, which fact however is not of much relevance. At this juncture, reference may be made to the Judgment of this Court [Full Bench] dated February 18, 1941 made in **Mir Ghulam Hussain Sahib -vs- Ayesha Bibi**, reported in **ILR 1941 Mad 775**, whereof the facts of the case are similar to the case in hand. This Court deems fit to first set out the facts of that case which are captured in the first paragraph of the Judgment thereof:

"The father, one Shumsuddin, died before 1922. In that year the seventh respondent was appointed the guardian of the properties of her sons and daughters all of whom were minors. On 24th September 1924, the seventh respondent, acting on her own behalf and as guardian of the ninth and tenth respondents and the sixth defendant, sold to the appellant a house which had been left by Shumsuddin. The eighth respondent was at this time a major and she joined in the conveyance. The seventh respondent did not obtain the sanction of the Court to the sale, as she was bound to do by reason of section 29 of the Guardians and Wards Act, 1890. Her failure to obtain the necessary consent of the Court did not, however, avoid the transaction so far as the minors were concerned. The transaction was not void but merely voidable. Section 30 says that the disposal of the immovable property by a guardian in contravention of section 28 or section 29 is voidable at the instance of any person affected thereby, and goes no further. Article 44 of the Limitation Act gives a ward three years from the date



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when he attains majority to sue to set aside a transfer of property made by his guardian. Therefore, the minors were placed by statute in a position to sue to set aside the transaction within three years of attaining majority, but failure to exercise this right would make the appellant's title unassailable."

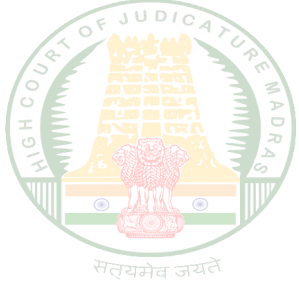
[Emphasis supplied by this Court]

15.1. In the above factual matrix, it was held thus:

"In my judgment, the appellant's objection that Rahima Bi v. Abdul Vakil Sahib and Others [Appeal Suit No.526 of 1931] was wrongly decided is also well founded. In that case, as in the one now before us, a person had been appointed under the Guardians and Wards Act to be the guardian of the property of Muhammadan minors. The guardian applied to Court for permission to sell certain properties and permission was given subject to a condition which was not fulfilled. The question was whether in those circumstances the sale was a valid one. Ramesam J. who delivered the judgment of the Bench, after observing,

"whereas in the case of a sale by a de jure guardian or a sale by a Court guardian who has obtained the permission of the Court and who has complied with the conditions precedent to the sale, if any, the sale is presumed to be prima facie valid and the quondam minor has to sue to set aside the sale and therefore article 44 will become applicable ",

went on to say :

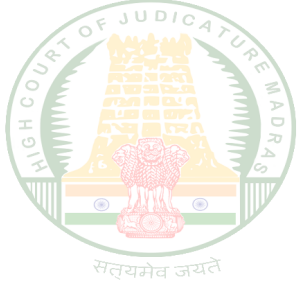


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" But if the case is of a sale by a de facto guardian or by a Court guardian without obtaining sanction or without complying with the conditions precedent imposed by the Court granting sanction, then the minor is not bound to set aside the sale."

These two statements are in conflict and the second statement ignores altogether the provisions of section 30 of the Guardians and Wards Act. While the statement that an unlawful sale by a de facto guardian does not bind the minors can be taken to be correct so far as a guardian of a Muhammadan minor is concerned, it is certainly not the case where a guardian appointed by the Court under the Guardians and Wards Act has conveyed property without the sanction of the Court. As I have already observed, the transaction is voidable and not void and operates as a valid transfer unless set aside at the instance of the minor or minors concerned within the period allowed by the law of limitation. The decision of Ramesam and Cornish JJ. not only runs directly contrary to unambiguous words of the statute, but it ignores three decisions of this Court which were binding upon the learned Judges, namely, Sirnaya Pillai v. Munisami Ayyan (1), Peria Karuppan Chetty v. Kandasami Chetty (2) and Sivanmalai Goundan v. Arunachela Goundan (3). I fail to understand the reference made to a sale which is "prima facie valid" because the statute leaves no doubt that a transfer made by a lawful guardian without sanction of the Court is valid until it is set aside. The decision in Rahima Bi v. Abdul Vakil Sahib



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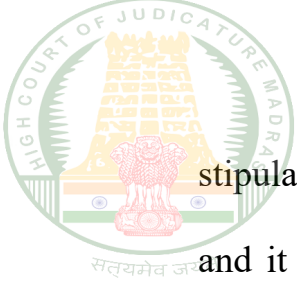
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and others cannot be allowed to stand in so far as it relates to transfers made by guardians appointed by the Court."

[Emphasis supplied by this Court]

15.2. Now this Court shall apply the principle laid down in *Mir Ghulam Hussain Sahib's Case (cited supra)* to the facts of the present case. In this case, Chitti Babu acted as the *de-facto* guardian after the demise of the parents of the then minor - Vijayalakshmi. Pursuant to the Order made in Ex-B.3, he became *de-jure* guardian or Court guardian of the then minor – Vijayalakshmi. *Qua* her *de-jure* guardian or Court guardian, he executed Ex-A.2 and Ex-A.1A without due permission of the Court as no permission was obtained in Ex-B.3 in respect of the minor's share in the suit properties. So, this is a case of sale by a *de-jure* guardian or Court guardian without Court permission in violation of Section 29 of the Guardian and Wards Act, 1890 which is voidable under Section 30 thereof subject to Article 60 of the Limitation Act, 1963 [corresponding to Article 44 of the Limitation Act, 1908] as held in *Mir Ghulam Hussain Sahib's Case*.

15.3. This Court is of the considered view that a sale made by a guardian appointed by Court is analogous to a sale made by a natural guardian under Section 8 of the Hindu Minority and Guardianship Act, 1956. If a sale made by natural guardian is in violation of any of the terms



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stipulated in the said Section 8, then it is voidable in nature and not void, and it has to be questioned within three years from the date of attaining majority. That is to say, the sales made by Chitti Babu *qua* guardian of the then minor - Vijayalakshmi under Ex-A.2 and Ex-A.1A - Sale Deeds are voidable nature and she can challenge the same within three years of attaining the age of majority as per Article 60 of the Limitation Act, 1963.

16. Vijayalakshmi was born on September 17, 1962. There is no dispute with the said fact. As per the Majority Act, 1875 as it stood then, a female is considered a major once she attains the age of 21 Years, which means Vijayalakshmi turned into a major on September 17, 1983. There is no evidence available on record to show that Vijayalakshmi challenged the sales made by Chitti Babu *qua* her guardian under Ex-A.2 and Ex-A.1A - Sale Deeds, within three years from the date of her attaining the age of majority *viz.*, September 17, 1983. Furthermore, Vijayalakshmi was not examined by the defendant.

16.1. Further, in Ex-B.1 - Sale Deed executed by Vijayalakshmi in favour of the defendant in respect of her alleged $\frac{1}{4}$ share in the suit properties as elaborated in Paragraph No.5.6 hereinabove, the recitals read that *vide* I.A. No.1237 of 1988 on the file of the District Court,

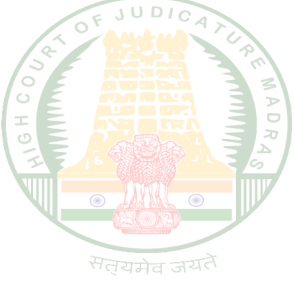


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Chengalpattu, Chitti Babu's guardianship over Vijayalakshmi was discharged by the Court under Section 40 and 41 of the Guardians and Wards Act, 1890 after delivering properties and accounts to Vijayalakshmi.

It can be seen that the said petition was filed about five years after Vijayalakshmi attaining the age of majority. Even at that time, Vijayalakshmi did not raise any objection in respect of the sales under Ex-A.2 and Ex-A.1A - Sale Deeds. Discharge of guardianship means the minor ratifies all the acts done by the guardian. Once a guardian is discharged, the acts of guardian cannot be questioned unless any specific objection was raised at the time of discharge or any fraud was discovered subsequent to the discharge. If there is any allegation of fraud, it is upon the defendant to plead and prove. The defendant has not taken any such stand. Besides, in Ex-B.1 - Sale Deed dated July 20, 1989 executed by Vijayalakshmi regards the remaining property in the Suit Survey No.127 as belonging to the plaintiffs. For ease of reference, relevant portions from Ex-B.1 - Sale Deed are extracted hereunder:

‘செங்கல்பட்டு வட்டம், 11 நெம்பர்
கொழப்பாக்கம் கிராமத்தில் சொத்து விபரத்தில்
கண்ட சொத்தானது, என்னுடைய தகப்பனார்
டில்லிபாபு அவர்களுக்கும் பிதுரார்ஜ்ஜிதமாய்க்
கிடைத்து அவர் ஆண்டு அனுபவித்து வந்து,

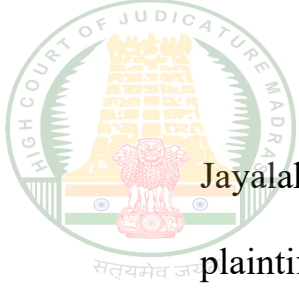


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அவர் காலம் சென்றபிறகும், என்னுடைய தயா
தாயார் காலம் சென்றபிறகும், அப்போது நான்
மைனர் ஆனபடியால் சிட்டிபாபு அவர்களை
எனக்குக் கார்டியனாக நியமிக்கப்பட்டு,
என்னுடைய சொத்துக்கும்
கார்டியனாக இருந்து பராமரித்து வந்தபின்னர்,
நான் மேஜரானபிறகு (செங்கல்பட்டு
டிஸ்ட்ரிக்ட் ஷெசன்ஸ் ஜட்ஜ், கோர்ட் ஆர்டர்
நெம்பர் ஐ.ஏ.நெம்பர் 1237/1988, ஓ.பி.
நெம்பர் 42/1970 ன்படிக்கு) என்னுடைய
கார்டியனாக இருந்து வந்த
சிட்டிபாபு ரெட்டியாரை கார்டியன்
பொறுப்பிலிருந்து நீக்கம் செய்யப்பட்டபிறகு)
அடியில் கண்ட சொத்துக்களை நானே
கைப்பற்றிக் கொண்டு என்னுடைய
அனுபவத்திலும் சுவாதீனத்திலும் இருந்து
வரும் கீழ் சொத்து விபரத்தில் கண்ட
சொத்துக்களை என்னுடைய குடும்ப
சிலவிற்காகவும், இதர சிலவிற்காகவும்
வேண்டி தங்களுக்குக் கிரையம் செய்ய . . . '

16.2. Moreover, Chitti Babu for himself and for the then minor -
Vijayalakshmi as her guardian, along with his brothers - Dhanasekaran and
Ramamurthy, executed two Sale Deed even dated March 5, 1973, whereby
out of the total 33 Cents in Suit Survey No.127, 20 Cents was sold to one

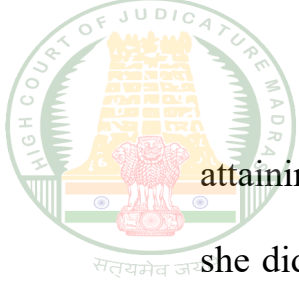


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Jayalakshmi (Ex-A.2) and 13 Cents was sold to Seethalakshmi Ammal, the plaintiff in O.S. No.385 of 1989 (Ex-A.1A). In turn, the purchaser under Ex-A.2 namely Jayalakshmi sold the 20 Cents in favour of Varasu Devi, the plaintiff in O.S. No.381 of 1989, under Ex-A.1 - Sale Deed. Thereafter, the plaintiffs sub-divisioned their respective properties and revenue records were mutated as elaborated in Paragraph No.5.5 hereinabove. The point to be noted is that on the date of Ex-B.1 - Sale Deed dated July 20, 1989 executed by Vijayalakshmi itself, the Sale Deeds in Ex-A.1, Ex-A.2 and Ex-A.1A were in existence. Not just that, revenue records were also mutated in favour of the plaintiffs under the UDR Scheme.

16.3. All the above factors put together, it can be vividly seen that on the date of Ex-B.1 - Sale Deed executed by Vijayalakshmi, she was not in possession and enjoyment of her alleged $\frac{1}{4}$ share (8 $\frac{1}{4}$ Cents) in the suit properties. Hence, the transaction under Ex-B.1 - Sale Deed is not a *bona fide* transaction and the defendant is not a *bona fide* purchaser.

17. As stated *supra*, the sales executed by Chitti Babu *qua de-jure* / Court guardian of the then minor - Vijayalakshmi under Ex-A.2 and Ex-A.1A - Sale Deeds are voidable in nature. Vijayalakshmi failed to challenge, sue or repudiate the same within 3 years from the date of her



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attaining majority under Article 60 of the Limitation Act, 1963. Moreover, she did not raise any objection when the Chitti Babu's guardianship rights in respect of her was discharged by Court and no case of fraud is pleaded and proved by the defendant. His vendor - Vijayalakshmi was not even examined by him. In these circumstances, the plaintiffs' title and right over their respective portion of the suit properties have become unassailable. Consequently, the defendant cannot assert any title or right over the 8 ¼ Cents in the suit properties. The sales under Ex-A.2, Ex-A.1 and Ex-A.1A - Sale Deeds are valid, as not challenged or repudiated within the period of 3 years from the date of Vijayalakshmi attaining majority as per Article 60 of the Limitation Act, 1963. The Trial Court failed to appreciate the said facts and circumstances of the case and the evidence available on record in the right perspective and erred in granting declaration and permanent injunction only in respect of 24 ¾ Cents in the suit properties. The First Appellate Court rightly decreed the Suit and granted declaration and permanent injunction in respect of the entire extent of 33 Cents of suit properties. There is no need to interfere with the Common Judgment and Decree of the First Appellate Court. The same is accordingly hereby confirmed. The Substantial Question of Law is answered accordingly.



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18. This Court has considered the case laws relied on either side.

They are not applicable to the facts and circumstances of this case.

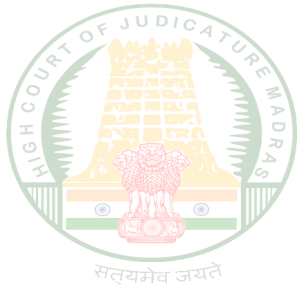
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CONCLUSION

19. In the result, these Second Appeals are dismissed. Considering the facts and circumstances of the Case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition, if any, is closed.

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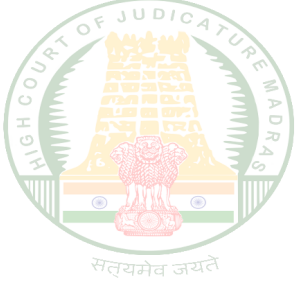
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Speaking Order : Yes
Neutral Citation : Yes
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R. SAKTHIVEL, J.

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To

- 1.The Additional Sub Judge, Chengalpattu.
- 2.The District Munsif, Chengalpattu.

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18.06.2026