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A.S.Nos.574 & 599 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.02.2026
PRONOUNCED ON : 21.08.2026

CORAM:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

A.S.Nos.574 & 599 of 2019
and C.M.P.No.4372 of 2026

A.S.No.574 of 2019:

Shanthilal Betala
S/o Bhanwarlal Betala,
No.220, 8th Cross Street, M.K.B.Nagar,
Vysarpadi, Chennai 600 039

..Appellant/ 4th
defendant

Vs.

1. A.Natarajan
S/o K.S.Arumugham,
No.8, Mint Street, 2nd Lane,
Chennai 600 079

...1st Respondent/
Plaintiff

2. P.Kothandaraman,
S/o Padmanabhan,
No.5/121, Kaviarasu Kannadassan Nagar,
Kodungaiyur, Chennai 600 039

3. M.Sukumari
W/o Muthukumar,
No.5 Moorthing Iyer 1st Lane,
Vyasarpadi, Chennai 600 039

4. Mr.Muthukumar
S/o Thiruvengada Mudaliar,
No.5 Moorthing Iyer 1st Lane, Vyasarpadi,
Chennai 600 039

.. Respondents 2 to 4/
Defendants 1 to 3



A.S.No.599 of 2019:

Shanthilal Betala
S/o Bhanwarlal Betala,
No.220, 8th Cross Street, M.K.B.Nagar, Vysarpadi,
Chennai 600 039

..Appellant/ 3rd
defendant

Vs.

1. A.Natarajan
S/o K.S.Arumugham,
No.8, Mint Street, 2nd Lane,
Chennai 600 079

...1st Respondent/
Plaintiff

2. Mr.Muthukumar,
S/o Thiruvengada Mudaliar,
No.5 Moorthing Iyer 1st Lane, Vyasarpadi,
Chennai 600 039

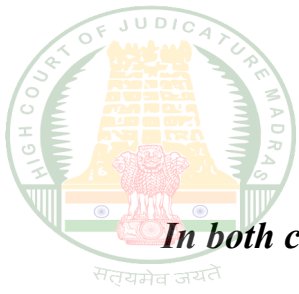
3. M.Sukumari,
W/o Muthukumar,
No.5 Moorthing Iyer 1st Lane,
Vyasarpadi, Chennai 600 039

.. Respondents 2 & 3/
Defendants 1 & 3

PRAYER in A.S.No.574 of 2019: Appeal Suit filed under Section 96 of the Code of Civil Procedure, 1908 to set aside the Judgement and Decree dated 21.12.2018 made in O.S.No.8439 of 2010 on the file of III Additional City Civil Court at Chennai.

PRAYER IN C.M.P.No.4372 of 2026: Civil Miscellaneous Petition filed under Order XLI Rule 27 read with Section 151 of the Code of Civil Procedure, 1908, to receive the additional documents and pass such further or other orders.

PRAYER in A.S.No.599 of 2019: Appeal Suit filed under Section 96 of the Code of Civil Procedure, 1908 to set aside the Judgement and Decree dated 21.12.2018 made in O.S.No.3209 of 2009 on the file of III Additional City Civil Court at Chennai.



In both cases:

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For Appellant:

Mr.S.Ravi, Senior Counsel
For M/s S.Hari Prasad

For Respondents:

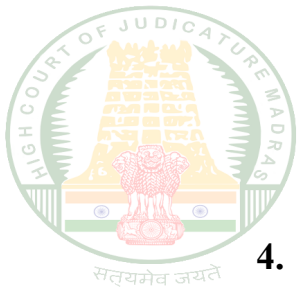
M/s R.Munuswamy
for R1

COMMON JUDGMENT

These two First Appeals, A.S.Nos. 574 and 599 of 2019, are filed against the common judgment and decrees dated 21.12.2018, passed by the learned III Additional Judge, City Civil Court, Chennai, in O.S.No.3209 of 2009 and O.S.No.8439 of 2010, respectively.

2. A.S.No.599 of 2019 arises from O.S.No.3209 of 2009, which was instituted by the first respondent/plaintiff, A. Natarajan, seeking a permanent injunction to restrain interference with his possession, enjoyment and construction activities in the suit property. The appellant herein was the third defendant in that suit.

3. A.S.No.574 of 2019 arises from O.S.No.8439 of 2010, which was subsequently instituted by the same plaintiff, A. Natarajan, seeking declarations regarding two registered sale deeds, a declaration of his right, title and possession over the suit property, and consequential permanent injunctions. The appellant herein was the fourth defendant in that suit.



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4. Since the parties, property, competing title, earlier proceedings and evidence were substantially common, both suits were tried and disposed of jointly by a common judgment. These appeals, are therefore, considered and disposed of by that common judgment.

5. For convenience, the parties are referred to by their rank in O.S. No. 8439 of 2010. The appellant is the fourth defendant; the first respondent is the plaintiff; and the 2nd to 4th respondents are defendants 1 to 3.

6. The suit property is immovable property measuring 1 ground and 656 sq. ft., situated at 4th Palla Street, Vyasarpadi, Chennai – 600 039, originally comprised in R.S. No. 666/1 Part and subsequently stated to have been subdivided as R.S. No. 666/165, Block No. 30.

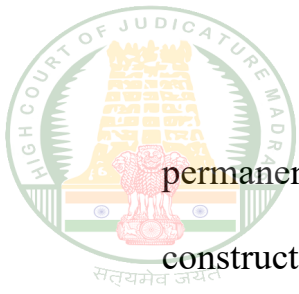
7. The brief averments in O.S. No. 3209 of 2009: The plaintiff's case is that he purchased the suit property for valuable consideration under a registered Sale Deed dated 19.08.1998 (Document No. 2779 of 1998) from one A. Kamaraj and his son, Master Vijay, represented by his father and natural guardian. According to the plaintiff, possession of the property was delivered to him under the said sale deed, and he thereafter continued in peaceful possession. Patta and consequential revenue entries were stated to have been made in his



name. The plaintiff states that his vendor purchased the suit property by a registered Sale Deed dated 18.11.1981 (Document No. 2274 of 1981), executed by N.Padmanabhan and his minor son, P.Kothandaraman, represented by Padmanabhan as his father and guardian. The larger property was stated to have been allotted to Padmanabhan and Kothandaraman under a registered Partition Deed dated 29.02.1972 (Document No. 364 of 1972) among the family members. The plaintiff pleaded that, after his purchase, he constructed a compound wall, a small hut, and a bathroom, and that the superstructure was subjected to property tax assessment.

8. The plaintiff further states that when he subsequently commenced pucca construction by erecting columns and basement pillars, the plaintiff's vendor's vendor, Kothandaraman, allegedly obstructed the construction. The plaintiff instituted O.S.No.1716 of 2003 against Kothandaraman for a permanent injunction. The suit was contested and ultimately decreed in favour of the plaintiff on 26/28.03.2007. According to the plaintiff, no appeal was preferred from the said decree.

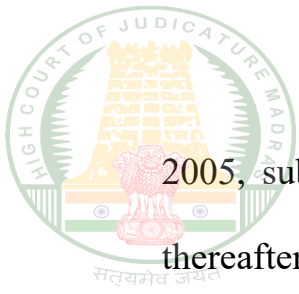
9. The immediate cause of action was said to have arisen on 19.04.2009, when the defendants, allegedly accompanied by rowdy elements and claiming through Kothandaram, attempted to enter the property, threatened the plaintiff's men, and obstructed the construction. Hence, the suit has been instituted for a



permanent injunction restraining the defendants from interfering with the construction activity and the plaintiff's peaceful possession and enjoyment of the Suit property.

10. The first defendant denied having any right, title or interest in the suit property. According to him, his wife, Sukumari, the second defendant, had purchased the property and thereafter conveyed it to Shanthilal Betala, the third defendant. He therefore pleaded that he was not a necessary party and prayed for dismissal of the suit insofar as he was concerned.

11. The Second Defendant, Sukumari, pleaded that the property formed part of a larger extent originally belonging to Nagayya Naidu and that, under the Partition Deed dated 29.02.1972, the relevant property passed to Padmanabhan and his son, Kothandaraman. She relied upon O.S.No.5423 of 1976, instituted by Kothandaraman against his father, Padmanabhan, for partition. According to her, a preliminary decree was passed on 19.04.1977, followed by a final decree dated 28.01.1980 in I.A.No.18842 of 1979. She further relied upon E.P.No.1424 of 1990, in which possession was alleged to have been delivered to Kothandaraman through Court on 07.08.1991, followed by mutation of the revenue records. According to Sukumari, Kothandaraman thereafter sold to her an extent inclusive of the disputed property under a registered Sale Deed dated 15.05.1998, Document No. 1669 of 1998. She relied upon Patta No. 125 of



2005, subdivision particulars, property tax, and electricity records. Sukumari thereafter conveyed her interest to Shanthilal Betala under a registered Sale Deed dated 04.12.2008, Document No. 4519 of 2008, SRO Purasawalkam. Her principal defence was that after the partition proceedings, Padmanabhan had no subsisting authority to convey property allotted to Kothandaraman and that no permission of the competent Court had been obtained for the alienation of what, according to her, had become the minor's separate property.

12. The third defendant, Shanthilal Betala, resisted the suit, contending that the suit property originally formed part of a larger extent belonging to Nagayya Naidu and that, under the partition deed dated 29.02.1972, the property was allotted to M. Padmanabhan and his son, P. Kothandaraman. According to him, P. Kothandaraman thereafter instituted O.S. No. 5423 of 1976 against his father for partition, in which a preliminary decree was passed on 19.04.1977 and a final decree on 28.01.1980, whereby the property in question fell to Kothandaraman's share.

13. It was further pleaded that, pursuant to the said decree, Kothandaram filed E.P. No. 1424 of 1990, and possession was delivered to him on 07.08.1991. Kothandaram subsequently conveyed 3047 sq.ft. to M.Sugumari under the registered Sale Deed dated 15.05.1998 (Document No.1669 of 1998), and Sugumari, in turn, conveyed the property to the third defendant under the



registered Sale Deed dated 04.12.2008 (Document No.4519 of 2008). On that basis, the third defendant claimed title to and possession of the suit property.

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14. The third defendant's specific defence was that the plaintiff traces his title through A. Kamaraj, who in turn claimed under M. Padmanabhan. According to the third defendant, after the final decree dated 28.01.1980 in O.S. No. 5423 of 1976, M. Padmanabhan had no subsisting right, title or interest in the property allotted to the share of P. Kothandaraman. Therefore, any alienation by Padmanabhan in favour of A. Kamaraj could not confer valid title. Consequently, it was contended that the plaintiff, claiming through A. Kamaraj, acquired no title to the suit property.

15. The third defendant also relied on the earlier proceedings between P.Kothandaraman and A.Kamaraj in O.S.No.1965 of 1999, a suit for injunction, and on the order passed in C.R.P.No.215 of 2000. According to him, those proceedings recognised P.Kothandaraman's claim arising out of the earlier partition proceedings and the delivery of possession pursuant thereto. He further contended that Padmanabhan could not have validly alienated the share of his then minor son, Kothandaraman, without obtaining permission of the competent Court.

16. The third defendant denied the plaintiff's assertion that the plaintiff and his predecessor-in-title were in possession and enjoyment of the suit

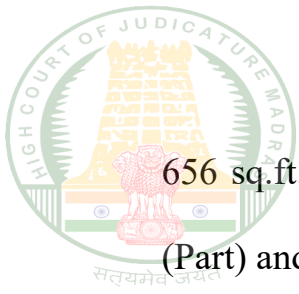


property. He contended that possession had already been delivered to P.Kothandaraman in E.P.No.1424 of 1990, and that thereafter Kothandaraman, Sugumari, and ultimately the third defendant had been in possession and enjoyment of the property. He also disputed the plaintiff's allegation regarding the construction on the suit property. He contended that the structures erected by his predecessors-in-title were being claimed by the plaintiff as his own.

17. The third defendant further contended that the judgment in O.S.No.1716 of 2003 was not binding on him. According to him, by the time the suit was instituted in March 2003, P.Kothandaraman had already conveyed the property to Sugumari on 15.05.1998. Therefore, the suit, instituted without impleading the then owner, could not affect the rights of Sugumari or persons claiming through her.

18. The third defendant further pleaded that, since his purchase on 04.12.2008, and even prior thereto during the ownership of Sugumari and Kothandaram, the property had remained in their possession and enjoyment. He denied the plaintiff's allegations of interference and, on the contrary, alleged that the plaintiff attempted to take forcible possession of the property. He therefore prayed for dismissal of the suit with costs.

19. The brief averments in O.S.No.8439 of 2010: The plaintiff, A.Natarajan, claimed absolute title to the suit property, measuring 1 ground and

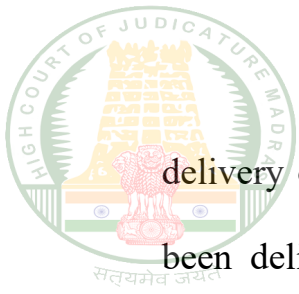


656 sq.ft., situated at 4th Palla Street, Vyasarpadi, comprised in R.S.No.666/1 (Part) and subsequently subdivided as R.S.No.666/165, Block No.30. According

to him, he purchased the property from A.Kamaraj and his son K.Vijay under a registered Sale Deed dated 19.08.1998 (Document No.2779 of 1998) and was put in possession. He further pleaded that a patta was issued in his favour on 26.05.1999 and that the revenue records were mutated in his name.

20. The plaintiff traced his title to the family partition dated 29.02.1972, under which the larger extent of about 20½ grounds in Survey No. 666/1 was stated to have fallen to the share of N. Padmanabhan and his then-minor son, P. Kothandaraman. According to the plaintiff, Padmanabhan, acting as Kartha of the family and as natural guardian of Kothandaraman, conveyed the suit property to A. Kamaraj and his wife, Usha Rani, under the registered Sale Deed dated 18.11.1981 (Document No. 2274 of 1981) for family necessities, discharge of debts, and the welfare of the minor. Upon Usha Rani's death, Kamaraj and their son, Vijay, conveyed the property to the plaintiff under the Sale Deed dated 19.08.1998.

21. The plaintiff pleaded that Kothandaraman, the first defendant, had earlier instituted O.S.No.5423 of 1976 against his father, Padmanabhan, for partition of the larger extent and obtained a final decree. According to the plaintiff, the proceedings between the father and son were collusive and fraudulent. Kothandaraman thereafter filed E.P.No.1424 of 1990 seeking



delivery of possession pursuant to the decree and claimed that possession had been delivered to him on 07.08.1991, as recorded in a bailiff's report. The plaintiff specifically disputed this delivery and contended that the alleged bailiff's report had not been accepted or recorded by the Executing Court.

22. According to the plaintiff, his vendor, A. Kamaraj, upon learning of E.P. No. 1424 of 1990, filed a Memo of Obstruction on 06.01.1998, together with his title documents. By order dated 26.02.1998, the Executing Court recorded the obstruction and directed Kothandaraman to initiate proceedings for removal of the obstruction under Order XXI Rule 97 CPC. The plaintiff pleaded that Kothandaraman did not initially pursue such steps and that Kamaraj thereafter conveyed the suit property to the plaintiff on 19.08.1998.

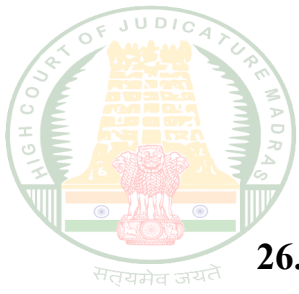
23. The plaintiff further refers to O.S.No.1965 of 1999, instituted by Kothandaraman against Kamaraj for an injunction, in which an interim order was obtained in I.A.No.5618 of 1999 based on alleged delivery proceedings. According to the plaintiff, the suit was ultimately dismissed for default on 15.06.2001. In the meantime, the obstruction raised by Kamaraj in E.P.No.1424 of 1990 was numbered as E.A.No.4810 of 2000, which was contested by Kothandaraman. By order dated 22.10.2002, the Executing Court allowed the obstruction and, according to the plaintiff, negated Kothandaraman's claim that possession had already been delivered on 07.08.1991. The plaintiff pleaded that the said order was not challenged and attained finality.



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24. The plaintiff further pleaded that E.P.No.1424 of 1990 in O.S.5423 of 1976 was ultimately dismissed in full on 30.04.2004, and that no appeal or revision was filed against that dismissal. He also referred to obstruction proceedings filed by the first defendant against other claimants, namely E.A.No.13 of 2003 and E.A.No.905 of 1998, which were stated to have been dismissed, and to A.S.No.127 of 2005, filed against the order in E.A.No.13 of 2003, which was also stated to have been dismissed. The plaintiff further referred to O.S. Nos. 3644 of 2000, 2128 of 1996, and 1539 of 1996, instituted by other obstructors/claimants, as having been decreed. Hence, he pleaded that the whole claim of the first defendant based on the collusive partition decree in O.S.5423 of 1976 was negated, and that E.P.No.1424 of 1990 was also dismissed on 30.04.2004.

25. The plaintiff also relied on O.S. No. 1716 of 2003, instituted by him against Kothandaraman and Padmanabhan for a permanent injunction on account of their alleged interference with his possession. According to the plaintiff, the suit was decreed on 28.03.2007 after trial, and, no appeal having been preferred, the decree had attained finality. On the strength of the decree and the orders passed in the execution proceedings, the plaintiff asserted that his title and possession had been recognised and that Kothandaraman had no subsisting right to interfere with the property.



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26. The plaintiff alleged that in April 2009, defendants 2 to 4 attempted to interfere with and dispossess him of the suit property, compelling him to institute O.S.No.3209 of 2009 for a permanent injunction. According to him, only when the defendants entered appearance and filed their counter in I.A.No.6119 of 2009 in O.S.No.3209 of 2009 did he learn that Kothandaraman had executed a registered Sale Deed dated 15.05.1998, Document No.1669 of 1998, in favour of the second defendant, and that the second defendant had thereafter executed a registered Sale Deed dated 04.12.2008, Document No.4519 of 2008, in favour of the fourth defendant.

27. The plaintiff contended that Kothandaraman had neither title nor possession to convey the suit property under the Sale Deed dated 15.05.1998, and that the subsequent conveyance dated 04.12.2008 was equally without legal effect. Alleging that these documents clouded his title and were relied upon by the defendants to interfere with his possession, the plaintiff instituted the present suit seeking declarations that both sale deeds were illegal, invalid, null and void, and not binding upon him; a declaration of his right, title and possession over the suit property; and consequential permanent injunctions against interference and the creation of further encumbrances.

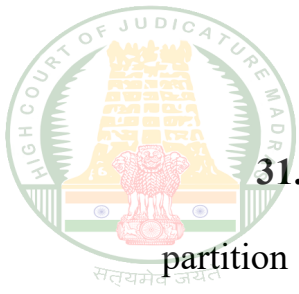
28. The second defendant, M. Sukumari, resisted the suit, contending that the plaintiff was neither the owner nor in possession of the suit property, and



that the relief of injunction was not maintainable, particularly as the plaintiff had already instituted O.S. No. 3209 of 2009 seeking an injunction in respect of the same property. She further pleaded that she had already conveyed her entire right, title and possession in favour of the fourth defendant under the Sale Deed dated 04.12.2008, and therefore no injunction could be granted against her.

29. The third defendant, Muthukumar, filed a separate written statement, substantially disputing his very impleadment in the suit. He contended that no cause of action lay against him and that he had been unnecessarily and vexatiously arrayed as a party. According to him, it was his wife, the second defendant, who had purchased the property and had been in possession and enjoyment thereof until she conveyed it in favour of the fourth defendant. The third defendant specifically denied having any independent right, title or interest in the suit property, or having interfered with the plaintiff's alleged possession. He maintained that he was neither a necessary nor a proper party to the suit and, therefore, prayed that the suit, insofar as it concerned him, be dismissed with exemplary costs.

30. The fourth defendant, Shanthilal Betala, denied the plaintiff's title and possession and contended that the suit was not maintainable. He also challenged the maintainability of the prayer for a permanent injunction on the ground that the plaintiff had already sought substantially the same relief in O.S.No.3209 of 2009.



31. The fourth defendant traced his title through Nagayya Naidu, the partition dated 29.02.1972, and the subsequent partition proceedings in O.S.No.5423 of 1976 between Kothandaraman and Padmanabhan. According to him, the preliminary decree dated 19.04.1977 and the final decree dated 28.01.1980 resulted in the property being allotted to Kothandaraman. He further relied on E.P.No.1424 of 1990 and pleaded that possession was delivered to Kothandaraman on 07.08.1991. Kothandaraman thereafter conveyed 3047 sq.ft. to the second defendant under the Sale Deed dated 15.05.1998 (Document No.1669 of 1998), and the second defendant, in turn, conveyed the property to him under the registered Sale Deed dated 04.12.2008 (Document No.4519 of 2008). He claimed that, thereafter, the patta and the electricity service connection were also mutated in his name, and that he had been in possession and enjoyment of the property.

32. His principal defence was that Padmanabhan had no right to convey the property to Kamaraj and Usha Rani after the final decree in O.S.No.5423 of 1976, and that no permission had been obtained from the competent Court to alienate Kothandaraman's interest while he was a minor. Consequently, according to the fourth defendant, the Sale Deed dated 18.11.1981 in favour of Kamaraj and Usha Rani and the subsequent Sale Deed dated 19.08.1998 in favour of the plaintiff did not convey valid title. He also denied the plaintiff's allegation that the partition suit between Kothandaraman and Padmanabhan was collusive.



33. The fourth defendant further relied on O.S.No.1965 of 1999, the civil revision proceedings arising therefrom, and the bailiff's report in the execution proceedings to support the plea that Kothandaram had obtained possession. He disputed the plaintiff's contention that possession had not been delivered in E.P.No.1424 of 1990 and denied that the plaintiff had erected the compound wall, hut, or other constructions claimed by him.

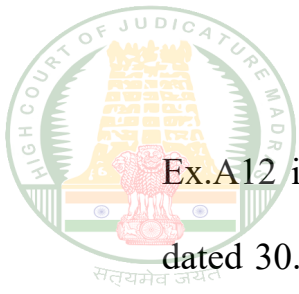
34. As regards E.A.No.4810 of 2000 and O.S.No.1716 of 2003, the fourth defendant contended that those proceedings were not binding on him or his predecessor-in-title, because Kothandaraman had already conveyed the property to the second defendant on 15.05.1998 and the then owner had not been impleaded. He therefore characterised the decrees and orders obtained in those proceedings as non-binding on him. The fourth defendant asserted that he was the absolute owner in possession of the suit property under the Sale Deed dated 04.12.2008 and prayed for dismissal of the suit with exemplary costs.

35. The trial court framed the following common issues :1. Whether the sale deed dated 15.05.1998, vide Doc.No.1669/1998, executed by Kothandaraman in favour of 2nd defendant is illegal, invalid, null and void and not binding on the plaintiff? 2. Whether the Sale Deed dated 04.12.2008, Doc. No.4519 of 2008, executed by 2nd defendant in the name of 3rd defendant is illegal , invalid, null and void and binding upon the plaintiff? 3. Whether the

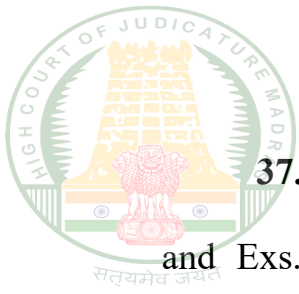


plaintiff is having right and title over the suit property? 4. Whether the plaintiff is in possession of the suit property? 5. Whether there is any cause of action against the defendants? 6. Whether the plaintiff is entitled to declaration as prayed for? 7. Whether the plaintiff is entitled to permanent injunction restraining the defendants from in any manner interfering with his peaceful possession and enjoyment of the property ? 8. Whether the plaintiff is entitled to permanent injunction restraining the defendants and their men from in any way creating any deed of conveyance or encumbrance as prayed for ?9. To what relief if any, the plaintiff is entitled?

36. Before the trial court, the plaintiff, A.Natarajan, examined himself as P.W.1 and marked Exs.A1 to A36. Ex.A1 is the Sale Deed dated 18.11.1981 executed by N.Padmanabhan and minor Kothandaraman, represented by his father and guardian, in favour of Kamaraj and Usharani; Ex.A2 is the Sale Deed dated 19.08.1998 executed by A.Kamaraj and Vijay Anand in favour of the plaintiff; and Ex.A3 is the Patta dated 26.05.1999 standing in the name of the plaintiff. Exs.A4 to A7 relate to the proceedings in E.P.No.1424 of 1990, namely, the Obstruction Memo dated 06.01.1998, notice dated 13.12.1999, petition copy and counter dated 08.11.2000. Exs.A8 and A9 are the Judgment and Decree dated 15.06.2001 in O.S.No.1965 of 1999; Ex.A10 is the receipt dated 02.01.2002 stated to have been executed by Kothandaraman for Rs.50,000/-; Ex.A11 is the order dated 22.10.2002 in E.A.No.4810 of 2000;

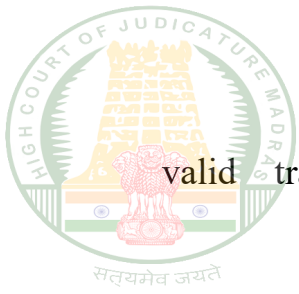


Ex.A12 is the property-tax receipt dated 19.03.2002; and Ex.A13 is the order dated 30.04.2004 in E.P.No.1424 of 1990. Exs.A14 and A15 are the Judgment and Decree dated 28.03.2007 in O.S.No.1716 of 2003; Ex.A16 is the receipt dated 16.03.2009 relating to Vijay; Ex.A17 is the plaint in O.S.No.3209 of 2009; Exs.A18 and A19 are the counters filed by Sukumari and Shanthilal Betala respectively in I.A.No.6119 of 2009; and Exs.A20 and A21 written statement of 2nd and 3rd defendant in O.S.No.3209 of 2009. Ex.A22 is the Electricity Board white card dated 31.07.2009; Ex.A23 is the electricity bill dated 01.12.2009; Ex.A24 is the Electricity Board show-cause notice dated 24.11.2009; and Ex.A25 is the plaintiff's reply dated 07.12.2009. Ex.A26 is the certified copy of the Sale Deed dated 15.05.1998 executed by Kothandaraman and his wife Yogalakshmi in favour of Sukumari, Ex.A27 is the certified copy of the Sale Deed dated 04.12.2008 executed by Sukumari in favour of Shanthilal Betala. Exs.A28 and A29 are the Judgment and Decree dated 13.07.2007 in O.S.No.3644 of 2000; Ex.A30 is the order dated 30.04.2004 in E.A.No.13 of 2003 in E.P.No.1424 of 1990; Exs.A31 and A32 are the Judgment and Decree dated 06.02.2006 in A.S.No.127 of 2005; Ex.A33 is the CSR/police complaint dated 29.09.2010; Ex.A34 is the property-tax demand card dated 29.09.1998; Ex.A35 is the Encumbrance Certificate dated 26.03.2009; and Ex.A36 is the extract of the Town Survey Land Register dated 05.03.1982.



37. On the defendants' side, Shanthilal Betala was examined as D.W.1, and Exs.B1 to B12 were marked. Ex.B1 is the original Sale Deed dated 15.05.1998, executed by Kothandaram and Yogalakshmi in favour of Sukumari; Ex.B2 is the Permanent Land Register extract dated 05.05.2005; Ex.B3 is the Rental Agreement of March 2006; Ex.B4 is the original Sale Deed dated 04.12.2008, executed by Sukumari in favour of Shanthilal Betala; and Ex.B5 is the Permanent Land Register extract dated 09.12.2004. Ex.B6 is the Electricity Board receipt/card dated 07.10.2015; Ex.B7 is the property-tax receipt dated 28.02.2015; Ex.B8 is the water and sewerage tax e-receipt dated 28.02.2015; Ex.B9 is the Rectification Deed dated 11.09.2009; and Ex.B10 is the Encumbrance Certificate dated 07.12.2012. Ex.B11 is a copy of the bailiff's report relating to the alleged delivery of possession in E.P.No.1424 of 1990, dated 08.08.1991, and Ex.B12 is the extract of the Quit Rent Register dated 24.09.2018.

38. On appreciation of the pleadings, oral and documentary evidence, the Trial Court held that the suit property continued to retain the character of joint-family property in the hands of Padmanabhan and his minor son, Kothandaraman, and that the defendants had failed to establish any effective separate share allocated to them. The Court further found that Ex. A 1 contained recitals showing that the sale was for the discharge of family debts, business purposes, and the benefit of the minor, and consequently upheld Ex. A 1 as a

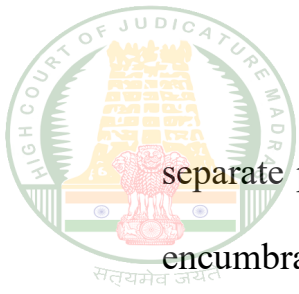


valid transaction supported by legal necessity and family benefit.

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39. The Trial Court also declined to accept the defendants' case founded on the ex parte partition proceedings and Ex. B 11, the bailiff's report. It found that the alleged delivery under Ex. B 11 had not been recorded by the Executing Court, that the obstruction petition filed by Kamaraj was allowed, and that E. P. No. 1424 of 1990 was dismissed. The interim injunction obtained by Kothandaraman in O. S. No. 1965 of 1999 was also held to be of no assistance, since the suit itself was subsequently dismissed for default and was never restored. The Court further held that Kothandaraman had neither challenged Ex. A 1 within the prescribed period after attaining majority nor obtained any declaration of title in his favour. It therefore concluded that Kothandaraman had no subsisting title to convey under Ex. B 1, and that Sukumari, in turn, could not convey any better title to Shanthilal Betala under Ex. B 4.

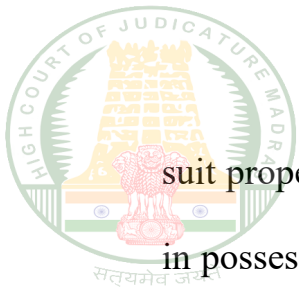
40. The Court held that the plaintiff had established his right, title, and possession over the suit property and was entitled to protection against interference. O. S. No. 3209 of 2009 was therefore decreed, granting a permanent injunction, while O. S. No. 8439 of 2010 was partly decreed by declaring the sale deeds dated 15.05.1998 and 04.12.2008 null and void and not binding on the plaintiff, declaring the plaintiff's right, title, and possession, and granting a permanent injunction against interference. The



separate prayer restraining the defendants from creating future conveyances or encumbrances was rejected.

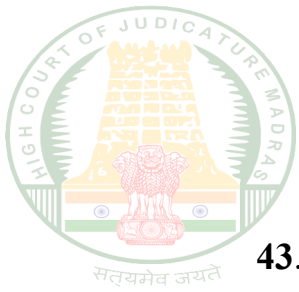
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41. Aggrieved by the common Judgement and Decree, the appellant/3rd defendant in O.S. 3209 of 2009 and the 4th defendant in O.S. 8439 of 2010 filed this appeal on the ground that the Trial Court erred in understanding the nature of the Hindu undivided family and in determining the mode of acquisition by Nagayya Naidu. The Trial Court failed to consider that, subsequent to the final decree passed in O.S. No. 5423 of 1976 on 28.01.1980, the suit property had been allotted to the separate share of Mr. Kothandaraman. The Trial Court erred in finding that the sale deed Ex. A1 executed by Mr. Padmanabhan was valid, as Mr. Padmanabhan was the head of the family. The Trial Court ought to have considered that the plaintiff has not denied the existence of the partition decree in O.S. No. 5423 of 1976, and that the sole contention of the plaintiff was that the judgement and decree passed in O.S. No. 5423 of 1976 were in collusion and hence not binding. The Trial Court erred in considering Ex. B11 in its proper perspective and ought to have seen that the vacant land was handed over to Mr. Kothandaraman. The Trial Court failed to construe that the title to the suit property had vested in Mr. Kothandaraman pursuant to the final decree dated 28.01.1980, and that the execution petition was filed only with respect to possession. The Trial Court erred in holding that Mr. Kothandaraman ought to have either challenged Ex. A1 or filed a suit for declaration of his title to the



suit property. The Trial Court also grossly erred in finding that the plaintiff was in possession of the suit property and in declaring the sale deed in favour of the appellant and the sale deed in favour of the appellant's predecessor in title, when there is no challenge to the partition decree which conveyed exclusive title over the suit property in favour of Mr. Kothandaraman.

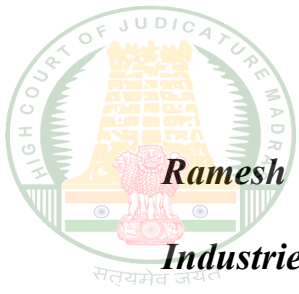
42. Learned counsel appearing for the appellant submitted that the preliminary decree dated 19.04.1977 effected a severance of status between Padmanabhan and Kothandaraman, and that, under the final decree dated 28.01.1980, specific properties were allotted to Kothandaraman. Consequently, Ex.A1 dated 18.11.1981, executed after the partition decree, could not be sustained by treating Padmanabhan as the Karta of the family. It was further contended that Ex.A1 was hit by Section 52 of the Transfer of Property Act, 1882. According to the learned counsel, once Kothandaraman's share became his separate property, Padmanabhan, even as his natural guardian, could not have alienated it without obtaining prior permission from the competent Court. Invoking the doctrine of *lis pendens*, it was submitted that Ex.A1 was executed during the subsistence of the earlier proceedings and was, therefore, subject to the rights declared in O.S.No.5423 of 1976. It was also contended that Ex.B11 evidenced delivery of possession through Court, and that the subsequent obstruction proceedings could not divest or extinguish the title which had already crystallised under the final decree.



43. The learned counsel further submitted that O.S.No.8439 of 2010 was barred by Order II Rule 2 CPC, because after instituting O.S.No.3209 of 2009 in respect of the same property and substantially the same dispute, the plaintiff subsequently instituted O.S.No.8439 of 2010 seeking further reliefs. It was argued that where a plaintiff, treating the defendant merely as a trespasser or a person without title, initially files a suit for a bare injunction, and the defendant in that suit sets up a rival title giving rise to a serious dispute regarding title, the proper course for the plaintiff is to withdraw the suit for a bare injunction, with the permission of the Court, and institute a comprehensive suit for declaration of title and injunction.

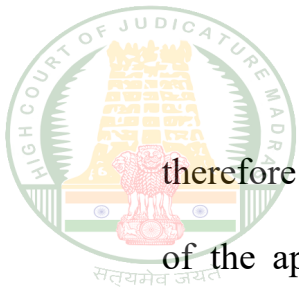
44. Regarding possession, learned counsel relied on the sale deeds, patta, electricity records, property tax records, water tax records, rental agreement and quit rent records. It was submitted that the electricity connection and property tax records have been in the appellant's favour since 2006. In contrast, the suit itself was instituted only in 2009.

45. In support of the above contentions, learned counsel relied on the following authorities: *Vijayalakshmi Leather Industries (P) Ltd. v. K. Narayanan and others* reported in AIR 2003 Mad 203; *Pramod Kumar v. Zalak Singh and others* reported in (2019) 6 SCC 621; *Coffee Board v.*



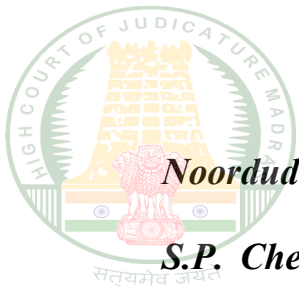
Ramesh Exports Private Limited reported in (2014) 6 SCC 424; ***Virgo Industries (Eng.) Private Limited v. Venturetech Solutions Private Limited***, reported in (2013) 1 SCC 625; ***Anathula Sudhakar v. P. Buchi Reddy*** reported in (2008) 4 SCC 594; ***Shivshankara and another v. H.P. Vedavyasa Char***, reported in (2023) 13 SCC 1; ***Chander Bhan v. Mukhtiar Singh and others***, reported in (2024) 13 SCC 122; ***Fakirappa Limanna Patil v. Lumanna Dhamnekar***, reported in (1920) 22 Bom LR 680; and ***K.S. Shivappa v. Smt. K. Neelamma*** in Civil Appeal No. 11342 of 2013. On these grounds, learned counsel prayed that the appeal be allowed and the Trial Court's judgment and decree be set aside.

46. During the pendency of this first appeal, the appellant has filed C.M.P.No.4372 of 2026 under Order XLI Rule 27 read with Section 151 of the Code of Civil Procedure, 1908 seeking to receive additional documents. The documents sought to be produced are the preliminary decree dated 19.04.1977 and final decree dated 28.01.1980 in O.S.No.5423 of 1976, Exs.C2 and C4 therein, besides EB service connection particulars from 2007–2025 and property-tax records from 2005–2025. According to the appellant, the preliminary and final decrees and Exs.C2 and C4 are necessary to establish the extent of the property and the rights of Kothandaraman. It is further stated that the property-tax and EB records are relied upon to establish the appellant's continuous possession and enjoyment of the suit property. The appellant



therefore contends that these documents are necessary for a proper adjudication of the appeal and that no prejudice would be caused to the respondents by receiving them.

47. Learned counsel appearing for the first respondent/plaintiff submitted that the suit property remained the joint family property of Padmanabhan and Kothandaraman, and therefore Padmanabhan, as Karta, was competent to execute Ex.A1 for the legal necessity and benefit of the minor without prior permission under Section 8 of the Hindu Minority and Guardianship Act. It was further submitted that Kothandaraman never challenged Ex.A1 within the period of limitation and hence had no subsisting title to convey under Ex.B1, and consequently Ex.B4 also conveyed no valid title. The alleged delivery under Ex.B11 was contended to have been finally negated in the obstruction proceedings, which attained finality and operated as res judicata against Kothandaraman and persons claiming through him; further, the interim injunction in O.S.No.1965 of 1999, which was later confirmed in C.R.P.No. 213 of 2005, ceased to operate upon dismissal of the suit. On possession, reliance was placed upon Exs.A12, A14, A15, A22 and A23, while the appellant's revenue and utility records were contended to be merely fiscal records. In support of these submissions, learned counsel relied upon ***Sri Narayan Bal and others v. Sri Sridhar Sutar and Others***, reported in (1996) 8 SCC 54; ***S. Vijayakumar & ors v. R. Subbarayan and ors*** reported in (2002) 3 MLJ 43;



Noorduiddin v. Dr. K.L. Anand reported in (1995) 1 SCC 242;

S.P. Chengalvaraya Naidu (dead) by LRs v. Jagannath (dead) by LRs and

others reported in 1994 (1) SCC; **K. Ethirajan (dead) by LRs v. Lakshmi and**

others, reported in (2003) 10 SCC 578; **Sheodan Singh v. Daryao Kunwar**,

reported in (1996) 3 SCR 300; **State of Uttar Pradesh & others v. Prem**

Chopra, reported in (2024) 12 SCC 426; and **Jaipur Municipal Corporation v.**

C.L. Mishra, reported in (2005) 8 SCC 423, and prayed for dismissal of the

appeals. The learned counsel for the respondent submitted that the appellant has

filed the petition for reception of additional documents at a highly belated stage

and seeks to reopen issues which had already been fully adjudicated by the Trial

Court after a full-fledged trial. It was further submitted that permitting the

appellant to introduce such documents at this stage would cause serious

prejudice to the respondent. Accordingly, the learned counsel prayed for

dismissal of the petition.

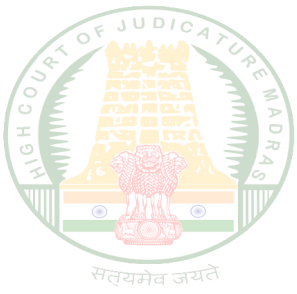
48. The following points arise for determination in these appeals:

1. Whether C.M.P.No.4372 of 2026 Application to receive additional documents should be allowed?

2. Whether O.S. No. 8439 of 2010 is hit by Order II Rule 3 of the C.P.C. 1908 on account of the earlier suit, O.S. No. 3209 of 2009?

3. Whether the sale deeds dated 15.05.1998 and 04.12.2008 are true, valid, and binding on the plaintiff?

4. Whether the judgment and decree of the trial court are



liable to be set aside?

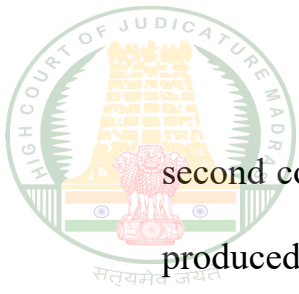
Point No.1:

49. The fourth defendant/appellant has filed the present Civil Miscellaneous Petition seeking permission to produce additional documents. From the affidavit and the materials placed before this Court, it is evident that the applicant seeks to produce the preliminary and final decrees passed in O.S. No.5423 of 1976, and Exs. C2 and C4 marked in the said suit.

50. Order XLI Rule 27 of the Code of Civil Procedure, 1908 does not confer an unfettered right on a party to adduce additional evidence at the appellate stage. Additional evidence may be admitted only in the circumstances enumerated therein, namely:

1. where the Trial Court refused to admit evidence that ought to have been admitted;
2. where, notwithstanding the exercise of due diligence, such evidence was not within the party's knowledge or could not be produced when the decree appealed against was passed; or
3. where the Appellate Court requires the production of any document or the examination of any witness to enable it to pronounce judgment, or for any other substantial cause.

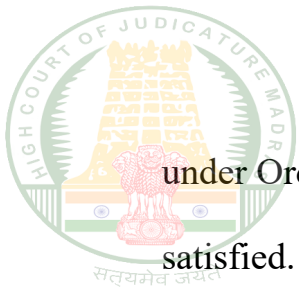
51. In the present case, the first contingency does not arise, as the applicant was not refused admission of any evidence sought to be adduced. The



second contingency is also not attracted, since the documents now sought to be produced were admittedly available during the trial. Indeed, O.S.No.5423 of 1976 and the proceedings therein were referred to in the pleadings as well as in the evidence. No satisfactory explanation is forthcoming for why these documents were not produced before the Trial Court despite due diligence.

52. The principal issue before the Trial Court was whether the sale effected by the first defendant in favour of the second defendant was valid and binding upon the plaintiffs. Upon appreciation of the evidence adduced by the parties, the Trial Court found that the sale deeds under Exs. B1 and B4 were null and void. After such an adverse finding, the fourth defendant/appellant now seeks to produce documents that were not placed before the Trial Court. Permitting their production at the appellate stage would, in substance, allow the applicant to fill the lacunae in his case after becoming aware of the deficiencies noticed by the Trial Court. Order XLI Rule 27 of the Code of Civil Procedure, 1908 cannot be invoked for such a purpose.

53. Further, the documents sought to be produced are not necessary for deciding the appeal. The earlier partition suit instituted by the first defendant, together with the preliminary and final decrees passed therein, was already considered at length by the Trial Court. This Court is in a position to pronounce judgment based on the evidence already on record. Therefore, the requirement



under Order XLI Rule 27(1)(b) of the Code of Civil Procedure, 1908 is also not satisfied.

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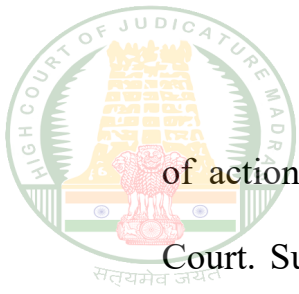
54. The Hon'ble Supreme Court has repeatedly held that additional evidence cannot be admitted merely to fill lacunae or patch weak points in a party's case. The same principle was reiterated in *Satish Kumar Gupta v. State of Haryana*, reported in **2017 (4) SCC 760**, in the context of the scope of Order XLI Rule 27 of the Code of Civil Procedure, 1908.

55. Accordingly, none of the requirements set out in Order XLI Rule 27 of the Code of Civil Procedure, 1908 has been met. The Civil Miscellaneous Petition seeking the reception of additional documents is, therefore, dismissed.

Point No.2

56. The plaintiff filed O.S.No.3209 of 2009 for a bare injunction, based on a cause of action arising on 19.04.2009, alleging that the defendants had attempted to interfere with the plaintiff's possession of the suit property. At that stage, the plaintiff asserted title to the property and sought only to protect possession.

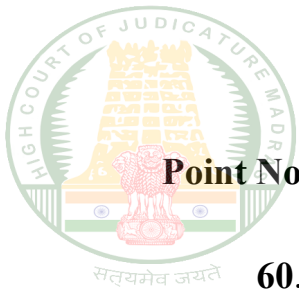
57. Order II Rule 2 of the Code of Civil Procedure, 1908 applies only when the plaintiff, entitled to more than one relief arising from the same cause



of action, omits to claim one of those reliefs without obtaining leave of the Court. Such an omitted relief cannot subsequently be claimed by instituting a separate suit.

58. In the subsequent suit in O.S.No.8439 of 2010, the plaintiff sought a declaration of title and challenged the registered sale deeds dated 15.05.1998 and 04.12.2008, which the defendants relied upon. The plaintiff specifically pleaded that the existence of those sale deeds came to the plaintiff's knowledge only after the defendants filed their counter in O.S.No.3209 of 2009. Therefore, when the earlier suit was instituted, the plaintiff had neither knowledge of those documents nor a cause of action to seek their cancellation or a declaration that they were not binding.

59. Hence, the declaratory relief sought in O.S.No.8439 of 2010 could not have been claimed in the earlier suit, as the two suits were founded on distinct causes of action. Accordingly, the subsequent suit in O.S.No.8439 of 2010 is not barred under Order II Rule 2 of the Code of Civil Procedure, 1908. This point is accordingly answered.



Point No.3:

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60. The fourth defendant, the sole defendant contesting the suit, primarily claims title to the suit property under the sale deed dated 04.12.2008, marked as Ex. A27/B4. The fourth defendant's vendor, in turn, derived title under the sale deed dated 15.05.1998, marked as Ex. A26/B1, executed by the first defendant, Mr Kothandaraman, in favour of the second defendant, Sukumari.

61. Therefore, the pivotal question—and the crux of the dispute—is whether the first defendant held any valid and saleable title to the suit property, enabling conveyance to the second defendant under Ex. A26/B1. The validity of the fourth defendant's derivative title under Ex. A27/B4 necessarily depends on the answer to this question.

62. There is no dispute between the parties regarding the earlier history of the suit property. The suit property and certain other properties originally belonged to Nagaya Naidu. Under the partition deed dated 29.02.1972, the suit property was allotted to Padmanabhan, the father of the first defendant.

63. The property obtained by Padmanabhan under the said partition was ancestral in his hands, in which the first defendant acquired a coparcenary interest by birth. While still a minor, the first defendant, represented by his mother, instituted O.S.No.5423 of 1976 in the City Civil Court, Chennai,



seeking partition against his father, Padmanabhan. Padmanabhan remained ex parte, and a preliminary decree was passed on 19.04.1977. Pursuant thereto, a final decree was passed on 28.01.1980 in I.A.No.18842 of 1979.

64. Under the final decree, the northern half, measuring 1,190 sq. ft., was allotted to the first defendant, while the southern half, also measuring 1,190 sq. ft., was allotted to Padmanabhan. Although the property does not appear to have been physically divided pursuant to the final decree, the respective shares and portions of Padmanabhan and the first defendant had been specifically ascertained and earmarked. Consequently, the property ceased to retain its character as undivided coparcenary property, and Padmanabhan and the first defendant thereafter held their respective allotted portions in their individual capacities.

65. Subsequently, Padmanabhan executed the registered sale deed dated 18.11.1981, marked as Ex. A1, in favour of Kamaraj and Usharani, both on his own behalf and on behalf of his minor son, the first defendant, and described himself as the karta of the Hindu undivided family. The document states that the sale was made for family necessity and for the family's benefit. The defendants have not specifically disputed the recitals regarding such necessity.



66. However, on the date of Ex. A1, the shares of Padmanabhan and the first defendant had already been separated and allotted individually under the final decree. Therefore, insofar as the first defendant's share was concerned, Padmanabhan could convey it only in his capacity as the natural guardian of the minor, not as the karta of a joint Hindu family. Admittedly, no prior permission of the Court, as required under Section 8(2) of the Hindu Minority and Guardianship Act, 1956, was obtained before the sale.

67. A transfer of a minor's immovable property by the natural guardian, without the Court's prior permission, is not void ab initio. Under Section 8(3) of the Act, it is merely voidable at the instance of the minor or any person claiming under the minor. Such a transfer remains valid and operative unless set aside in appropriate proceedings instituted within the prescribed limitation period.

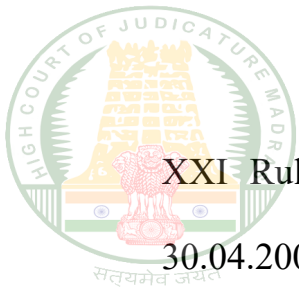
68. In the present case, the first defendant was an eo nomine party to Ex. A1, represented therein by his father and natural guardian. The document itself records that he was about 14 years old at the time of its execution in 1981. He would, therefore, have attained majority in or about 1985. Under Article 60(a) of the Limitation Act, 1963, he ought to have instituted proceedings to set aside the transfer within three years of attaining majority, namely, on or before 1988.



69. Admittedly, the first defendant did not challenge Ex. A1 within the prescribed period of limitation or at any time thereafter. He cannot, therefore, ignore the transaction and contend that it is void. By his prolonged inaction, his right to avoid the transfer was extinguished, and Ex. A1 became final and binding upon him—consequently, the purchasers under Ex. A1 acquired valid title to the suit property.

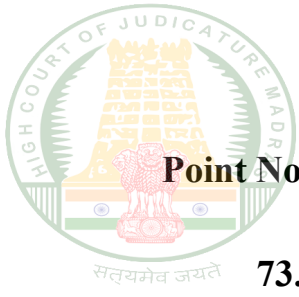
70. After the extinguishment of his rights over the suit property, the first defendant filed E.P. No. 1424 of 1990 on 14.06.1990, seeking delivery of possession pursuant to the final decree. As stated earlier, the first defendant's father, for himself and on behalf of the first defendant, had already conveyed the suit property to Kamaraj and Usharani under Ex. A1. Consequently, whatever right, title or interest he had in the suit property, including the benefit of the decree, stood transferred to the purchasers. Nevertheless, without challenging the sale deed, the first defendant proceeded with the execution petition.

71. Although a delivery receipt was issued in the execution proceedings, delivery was not recorded. Kamaraj and Usharani filed an objection memo dated 06.01.1998, marked as Ex.A4. By order dated 22.10.2002, marked as Ex. A11, the Executing Court directed the first defendant to file an application for removal of the obstructor. Accordingly, he filed E.A.No.13 of 2003 under Order



XXI Rule 97 CPC. After contest, the said application was dismissed on 30.04.2004. Consequently, the main execution petition in E.P.No.1424 of 1990 was also dismissed. Thus, the proceedings arising out of O.S.No.5423 of 1976 attained finality.

72. In the meantime, the first defendant and his wife executed a sale deed dated 15.05.1998 (Ex. A26/B1) in favour of the second defendant. Any right or interest the first defendant had in the suit property stood conveyed under Ex. A1. Therefore, on 15.05.1998, when he executed the sale deed marked Ex. A26/B1 in favour of the second defendant, he had neither title nor any saleable interest in the suit property. Having no subsisting right, he could not convey any title under Ex. A26/B1. Accordingly, Ex. A26/B1 did not confer any right or title upon the second defendant. Consequently, the subsequent sale deed dated 04.12.2008 (Ex.A27/B4), executed in favour of the fourth defendant, also did not convey any valid title, since the fourth defendant's vendor had acquired none under Ex.A26/B1. The principle *nemo dat quod non habet*—no person can convey a better title than he possesses—applies squarely. Therefore, both Ex.A26/B1 and the derivative sale deed under Ex.A27/B4 are invalid and not binding upon the plaintiff. Thus, this point is answered.



Point No.4

A.S.Nos.574 & 599 of 2



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73. In view of the findings on the above points for consideration, the common judgment and decrees dated 21.12.2018 passed by the Trial Court in O.S.Nos.3209 of 2009 and 8439 of 2010 are confirmed. Consequently, both appeals are dismissed with costs. Accordingly, C.M.P.No.4372 of 2026 stands dismissed. Any connected miscellaneous applications are closed.

21.08.2026

Index: Yes/No

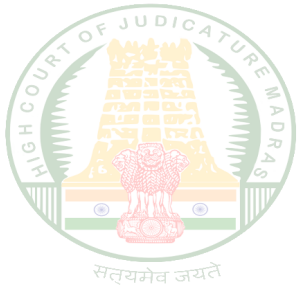
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To:

The III Additional City Civil Court,
Chennai



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A.S.Nos.574 & 599 of 2



DR.A.D.MARIA CLETE, J.

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Common Judgment made in
A.S.Nos.574 & 599 of 2019

Dated:
21.08.2026