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S.A.No.686 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :24.04.2026

PRONOUNCED ON :10.07.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.686 of 2021
and C.M.P.No.13812 of 2021

Veerappan

... Appellant

Vs.

1.R.Veerapandian

2.K.Ramaiyan

... Respondents

Prayer: Second Appeal filed under Section 100 of C.P.C., praying to set aside the decree and judgment dated 26.03.2021 rendered in A.S.No.31 of 2019 on the file of the Third Additional District Judge, Puducherry, reversing the decree and the judgment dated 29.11.2018 rendered in O.S.No.208 of 2014, on the file of the Principal Subordinate Judge, Puducherry, by allowing this Second Appeal.

For Appellant : Mr.S.Subbiah,
Senior Advocate for
M/s.Elizabeth Ravi

For Respondents : Ms.V.Srimathi for R1
Ms.Sripriya for R2

J U D G M E N T



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The first defendant in the suit is the appellant. The first respondent/plaintiff filed a suit seeking declaration that the purported sale deed dated 18.09.1990 executed by the second defendant in favour of the first defendant is null and void and for consequential relief of partition and separate possession of plaintiff's $\frac{3}{4}$ th share in the suit property. The suit was dismissed by the trial Court. On appeal filed by the plaintiff, the first appellate Court reversed the findings of the trial Court and held that the sale deed dated 18.09.1990 was valid only to the extent of $\frac{5}{16}$ th share and granted, a preliminary decree for partition in respect of $\frac{11}{16}$ th share in favour of the plaintiff. Aggrieved by the same, the first defendant has come before this Court.

2. For the sake of convenience, the parties are referred to as per their ranking in the trial Court.

3. According to the plaintiff, the second defendant is his father and the suit property originally owned by plaintiff's paternal grandfather Krishna Gounder @ Krishnasamy, by virtue of a registered French Notarial
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Partition Deed dated 27.06.1961. The patta and other revenue records were

also stood in the name of Krishna Gounder @ Krishnasamy. He died intestate in the year 1976, leaving behind the second defendant in the suit and three daughters viz., Jeyalakshmi, Aranganayaki and Ranganayaki. The suit property had been enjoyed by the children of Krishna Gounder @ Krishnasamy after his death. The second defendant and his two sisters by name Jeyalakshmi and Aranganayaki had executed a release deed in favour of their another sister Ranganayaki on 03.11.2011 and by virtue of the said document Ranganayaki became absolute owner of the suit property. The said Ranganayaki sold the suit property to the plaintiff by a registered sale deed dated 18.01.2012 and from that date onwards, he has been in possession and enjoyment of the same. When the plaintiff attempted to mutate patta in his name, the first defendant claimed title and interest over the suit property by alleging that he had purchased suit property from the second defendant on 18.09.1990. Thereafter, the plaintiff obtained certified copy of the purported sale deed dated 18.09.1990 alleged to have been executed by the second defendant in favour of the first defendant.

4. It is the specific case of the plaintiff that the second



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defendant had no right or title over the entire extent of the suit property and

the sale deed relied on by first defendant was never acted upon. It was also stated that the suit property was family property of the second defendant and the plaintiff's vendor. In such circumstances, the first defendant would not get title over the entire suit property. It was also stated that at the most, the

first defendant can claim title only to the extent of $\frac{1}{4}$ th share of the second defendant in the suit property. It was also stated that sale deed dated

18.09.1990 was null and void in so far as $\frac{3}{4}$ th share excluding the share of second defendant. Since the first defendant attempted to alienate the suit property, the present suit has been filed seeking the above said relief.

5. The appellant/first defendant filed a written statement and had stated that the property was originally owned and possessed by one Ramasamy Gounder. After his death, his sons viz., Kuppusamy Gounder, Kandasamy Gounder, Duraisamy Gounder, Appai Gounder and Narayanasamy Gounder had inherited the suit property and they constituted a Hindu Commune, according to the Coromandel law applicable to the Hindus in Pondicherry. There was a partition in the family on 21.06.1961 by notarial partition deed and in the said partition, the suit property and other

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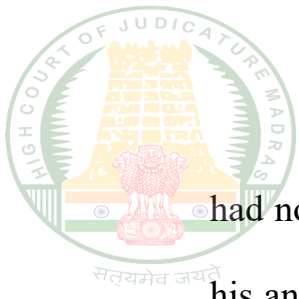


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properties were allotted to the share of father of the second defendant viz.,

Krishnasamy Gounder. After the death of Krishnasamy Gounder, his son Ramayan, the second defendant herein had inherited the same and continued to be in possession and enjoyment of the same as rightful owner. He sold the suit property to the first defendant for valid consideration by virtue of sale deed dated 18.09.1990. Thus, from the date of purchase, the first defendant had been in continuous and open possession and enjoyment of the suit property as rightful owner. The plaintiff and other heirs of Krishnasamy Gounder were aware of the first defendant's possession and enjoyment and hence, they were estopped from seeking any right over the suit property.

6. The first defendant also contended that the release deed dated 03.11.2011 and the subsequent sale deed executed by Ranganayaki in favour of the plaintiff dated 18.01.2012 were not valid and not binding on him. It was also stated that the second defendant had executed a registered usufructuary mortgage deed dated 16.10.1980 in favour of one Padmanaban @ Ramasamy. In order to discharge the said mortgage deed, he sold the suit property to the first defendant. It was also claimed that the first defendant was a bonafide purchaser for valid consideration. It was also stated that as per the customary Hindu law applicable to Hindus in Pondicherry, daughters



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had no right whatsoever over the suit property inherited by their father from his ancestors and hence, the alleged daughters of Krishnasamy Gounder had no right whatsoever over the suit property. It was also stated that the plaintiff in collusion with the second defendant and his sisters had filed this vexatious suit against him in order to grab the suit property. On this pleadings, he sought for dismissal of the suit.

7. The second defendant filed a written statement admitting that the suit property was allotted to his father Krishnasamy Gounder @ Krishnasamy. He also admitted that he along with his two sisters viz., Jeyalakshmi and Aranganayaki had executed a release deed in favour of Ranganayaki on 03.11.2011 and the said Ranganayaki was in peaceful possession and enjoyment of the suit property. The second defendant further submitted that he had no knowledge about the alleged sale deed executed by Ranganayaki in favour of the plaintiff. On this pleadings, he sought for dismissal of the suit.

8. Before the trial Court, the plaintiff was examined as P.W.1 and 7 documents were marked on his side as Ex.A1 to Ex.A7. The first defendant was examined as D.W.1 and the second defendant was examined as D.W.2. On behalf of the defendants, 6 documents were marked as Ex.B1



to Ex.B6.



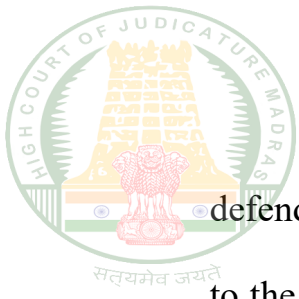
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9. The trial Court found that the first defendant was a bona fide purchaser for value, he has been in possession enjoyment of the suit property and consequently came to the conclusion that plaintiff was not entitled to any relief and dismissed the suit.

10. The first appellate Court on re-appreciation of evidence available on record came to the conclusion that the second defendant has got only $5/16^{\text{th}}$ share in the suit property and hence, the sale deed executed by him in favour of the first defendant was valid only to the extent of $5/16^{\text{th}}$ share. It also held that plaintiff was entitled to $11/16^{\text{th}}$ share in the suit property and decreed the suit in the said terms. Aggrieved by the same, the first defendant has come before this Court.

11. The learned Senior Counsel appearing for the appellant would submit that after the death of Krishnasamy Gounder, the second $7/16$



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defendant acted as Kartha of the Hindu Joint family and he sold the property to the first respondent for legal necessity and therefore, the sale is valid and binding on the plaintiff. It was also stated that the second defendant incurred a mortgage debt and in order to discharge the same, he sold the property to the first defendant and hence, the sale deed executed by the second defendant in favour of first defendant was perfectly valid in law. It is also stated that on the date of sale deed itself property was delivered to first defendant and he continued to be in possession and enjoyment for more than the statutory period and thus, ousted the plaintiff and others from the suit property. In support of his contention, he relied on the following judgments:

1. ***Santanavenugopalakrishnan and others Vs. K.V.Venugopal and others*** reported in ***1976 (2) MLJ 134*** ;

2. ***Sridharan and Ors. Vs. Murthi Brothers and Ors.*** reported in ***1976 (1) MLJ 100***;

3. ***Dastagirsab Vs. Sharanappa alias Shivasharanappa Police Patil (D) by LRs and others*** reported in ***AIR 2025 SC 4415***;

4. ***Eureka Builders and Others Vs. Gulabchand*** reported in ***(2018) 8 SCC 67***;

5. ***Kehar Singh (Dead) through Legal Representatives and***



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others Vs. Nachittar Kaur and others reported in (2018) 14 SCC 445;

6. *Rengan Ambalam and another Vs. Sheik Dawood and others* reported in (2019) 6 SCC 399;

7. *Somasundaram Vs. Parameswariammal* reported in 2021 (4) CTC 44; and

8. *V.Vandhana and another Vs. Vijayasekaran and others* reported in 2023 (3) CTC 769.

12. Per contra, the learned counsel appearing for the first respondent would submit that absolutely there was no evidence on record to suggest that the second defendant sold the property to the first defendant for legal necessity and therefore, the sale deed executed by second defendant cannot be treated as valid in respect of the share of the plaintiff. The learned counsel submitted that even as per the case of the defendants the property was ancestral property of the family and therefore, the second defendant had no absolute right to sell the entire property to the first defendant.

13. This Court heard the submissions made by the learned counsel appearing on either side and perused the materials available on record.



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14. As far as the contention raised by the learned Senior Counsel appearing for the appellant that the suit property was sold by second defendant in his capacity as Kartha of Hindu joint family to meet the legal necessity and therefore, the same was binding on the plaintiff is concerned, it is pertinent to mention that the second defendant has not raised any such plea in the written statement. There was no specific plea in the written statement filed by the first defendant that suit property was sold by the second defendant to meet the family necessity. In fact, the first defendant had taken a plea that the suit property belonged to a Hindu Commune as per the Coromandel law applicable to Hindus in Pondicherry and as a consequence the daughters of Krishnasamy were not entitled to any share in the suit properties. Having taken a specific plea in the written statement that the Coromandel Hindu law was applicable to parties, the first defendant is not entitled to argue in the second appeal that suit property belonged to Hindu joint family property and therefore, the same was sold for legal necessity.

15. Though the first defendant had taken a plea that the Coromandel Hindu law was applicable to the parties, there is no evidence



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available on record to suggest that the parties were governed by the the

Coromandel Hindu law. In the absence of clinching evidence to show that the parties were governed by Coromandel Hindu law, we have to come to a conclusion that the parties were governed by Mitakshara school of Hindu law and provisions of Hindu Succession Act was also applicable to them after the extension of said Act to Union Territory of Pondicherry. In this regard, reference may be had to the decision of this Court in ***Gowri Vs. Subbu Mudhaliar*** and others reported in ***2017 (4) CTC 503***. I am unable to accept the submission of the learned counsel appearing for the appellant that the suit property was sold by second defendant to the first defendant to meet the legal necessity as there was no specific plea in the written statement filed by the appellant with regard to the alleged sale for legal necessity.

16. A perusal of the sale deed executed by second defendant in favour of the first defendant which had been marked as Ex.A6 would indicate that the alleged legal necessity had not been recited in the document. Further, the second defendant was not at all described as family manager in the sale deed executed by him. At the time of execution of a sale deed by the second defendant, the plaintiff was major and he was not added as a party. In such circumstances, the appellant/first defendant failed to lead any evidence to support the contention that the sale was effected to meet the



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legal necessity.

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17. It was also contended by the learned Senior Counsel appearing for the appellant that the second defendant borrowed a loan by executing a mortgage deed and in order to discharge the said mortgage debt, the sale deed was executed by him in favour of the first defendant. A perusal of P.W.1's evidence would indicate that the mortgage deed referred to by the appellant was marked as Ex.B1 through the cross examination of P.W.1. Absolutely, there was nothing on record to suggest that the mortgage debt was in existence on the date of sale by the second defendant in favour of first defendant. Therefore, nothing on record to suggest that by getting the sale consideration under Ex.A6, the mortgage debt was discharged. When there is nothing on record to show that after the sale by the second defendant in favour of the first defendant the mortgage debt was discharged out of the sale consideration, the submission made by the learned counsel for the appellant is not appealable to this Court and hence, the same is rejected.

18. In the absence of any plea as well as the evidence to suggest that the second defendant under Ex.A6 sold the suit property to the first defendant to meet legal necessity, various decisions relied on by the learned



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counsel appearing for the appellant are not helpful to advance the case of the appellant. There is no quarrel with the proposition that a Manager of a Hindu joint family is entitled to sell the properties of the joint family so as to bind the other junior members in case of legal necessity. When there is no plea or evidence regarding the sale of property for legal necessity, the appellant is not entitled to press into service various decisions cited supra in support of his argument.

19. Though it was pleaded by the appellant/first defendant that from the date of the sale in his favour, he has been in possession and enjoyment of the suit property all along exclusively and openly with necessary hostile intention so as to oust the plaintiff and other children of the second defendant, there is no evidence available on record to prove the exclusive possession of the suit property by the first defendant to the exclusion of plaintiff and other children of the second defendant. Ex.B1 mortgage deed and Ex.B2 encumbrance certificate are not useful to establish the plea of ouster. Ex.B3 letter sent by Tahsildar to the first defendant directing the parties to approach the competent civil Court to adjudicate the dispute will not be useful to support the plea of ouster. Ex.B4 to Ex.B6 came into existence subsequent to the suit. In these circumstances,

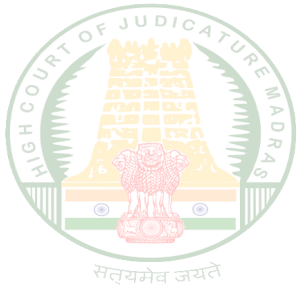


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absolutely there is no evidence on record to suggest that the first defendant enjoyed the suit property from the date of Ex.A6 i.e., 18.09.1990 to date of filing of the suit exclusively with the hostile intention. Therefore, the plea of ouster raised by the appellant/first defendant was also not established by any acceptable evidence.

20. Even as per the case of the first defendant in the written statement, the suit property was allotted to father of the second defendant in a family partition and therefore, there is no difficulty in coming to the conclusion that the suit property was ancestral property of the second defendant. As mentioned earlier, there is no evidence on the side of the defendants to establish the plea raised by the first defendant that the parties are governed by the Coromandel law applicable to Hindus in Pondicherry. In such circumstances, we can safely come to the conclusion that parties are governed by the Hindu law. The first appellate Court by applying the ordinary Hindu law came to the conclusion that the second defendant was entitled to 5/16th share in the suit property and hence, the sale deed executed by him in favour of the first defendant is valid only to the extent of 5/16th share. I do not find anything to interfere with the said finding.

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21. In the light of the discussion made earlier, the submissions

made by the learned Senior Counsel appearing for the appellant are not
appellable to this Court. Finding no substantial question of law arising for
consideration, the Second Appeal stands dismissed. There shall be no order
as to costs. Consequently, connected miscellaneous petition is closed.

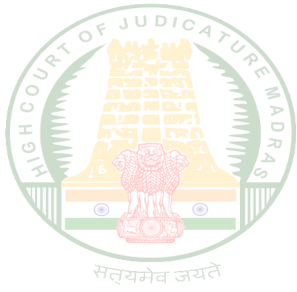
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10.07.2026

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No



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S.SOUNTHAR, J.

vsm

To

1. Third Additional District Judge, Puducherry.

2. The Principal Subordinate Judge, Puducherry

3. The Section Officer

VR Section, High Court, Madras.

Pre-Delivery Judgment made in
S.A.No.686 of 2021

10.07.2026