

**A.Nos.5505 and 5506 of 2015  
in  
C.S.No.136 of 1951**

**P.KALAIYARASAN, J**

These two applications have been filed (1) to declare that the sale deed, dated 30.11.2007 bearing Doc.No.9993 of 2007 on the file of the Sub-Registrar, Arakkonam pertaining to the schedule property is not binding on the applicant and the same is null and void and (2) to direct the Sub-Registrar, Arakkonam to register the sale deed presented by the applicant conveying the schedule property by way of absolute sale in favour of Mr.K.Govindaraj as permitted by this Court in A.No.7311 of 2014 in C.S.No.136 of 1951 by order, dated 20.11.2014.

2. It is averred in the application that Veera Anandanda Swamigal purchased the suit property in his individual name with the funds provided by his devotees. He also purchased other properties including the property in Perambur Barracks Road, Chennai as Madathipathi of the Veerasubbiah Swamigal Mutt. By registered Will, dated 09.01.1956, the said Veera Anandananda Swamigal appointed Adhimoolaswami @ Vidyanandagiri Swamigal as his successor Madathipathi and bequeathed the properties at Perambur in favour of Adhimoolaswami @ Vidyanandagiri Swamigal for the sole purpose of the upkeep of the mutt. After the demise of

the above Veera Anandananda Swamigal, Vidhyanandagiri Swamigal as the lawful legatee under the above referred Will succeeded to the schedule property. In the meantime certain persons interested in the Veerasubbiah Swamigal Mutt Trust filed a scheme suit in C.S.No.136 of 1951 before this Court under Section 92 of the CPC for framing a scheme.

3. In the appeal proceedings in O.S.A.No.1 of 1955, the Veerasubbiah Swamigal Mutt was converted into a religious charitable trust by name Anandaswami Maha Sangam Trust. As such the schedule property became the property of the above referred Trust. Even though the schedule property is the individual property of Sri Adhimoolaswami @ Vidyanandagiri Swamigal with all rights of sale, he treated the schedule property as the property of the Trust and filed application A.No.5689 of 2009 in the scheme suit seeking permission to sell the schedule property after issuance of public notice. This Court by order, dated 07.01.2009 granted permission. After issuance of public notice by the Administrator of the Trust, received offer from one K.Govindaraj. Permission has also been obtained from this Court for the sale of the property to the said K.Govindaraj and the Trust also received the sale consideration of Rs.30 lakhs. When the Trust presented the sale deed for registration, it came to know that the first respondent

represented by its power of attorney Mr.V.Manohar s/o.P.K.Venugopal executed the sale deed in favour of the second respondent herein. Without any right over the property, the above sale deed has been executed fraudulently. Therefore, the above sale deed is to be declared as null and void.

4. The learned counsel appearing for the second respondent filed a memo saying that the second respondent has no objection for passing an order and decree in A.No.5505 of 2015.

5. The copy of the sale deed sought to be declared as null and void has also been filed along with the typed set of papers. Without any right over the property, the above sale deed has been executed. The Trust after obtaining orders from this Court received the sale consideration and send the documents for registration in favour of Govindaraj.

6. With respect to the affairs of the Trust, the application can be filed with a court fee of Rs.10/-. But when the trust instead of filing a suit, to declare the sale deed executed by a third party as null and void, who has nothing to do with the Trust, has filed this application in the scheme suit, to declare the document as null and void on the ground of fraud, the Court fee is to be paid under

Section 40 of the Tamil Nadu Court Fees and Suits Valuation Act. Therefore, the applicant is directed to pay a Court fee of Rs.25,865/- as calculated by the Registry.

7. For the aforesaid reasons, the Application in A.No.5505 of 2015 is allowed and the sale deed, dated 30.11.2007 bearing Doc.No.9993 of 2007 on the file of the Sub-Registrar, Arakkonam is declared as null and void on payment of Court fee of Rs.25,865/- by the applicant.

8. It is averred in A.No.5506 of 2015 that the Trust is the absolute owner of the schedule mentioned property and the Trust has got the order of this Court in A.No.5689 of 2009 for the sale of the property to Govindaraj.

9. The application in A.No.5505 of 2015 filed by the Trust to declare the sale deed, dated 30.11.2007 bearing Doc.No.9993 of 2007 on the file of the Sub-Registrar, Arakkonam has been ordered today on payment of Court fee of Rs.25,865/- (Rupees Twenty Five Thousand Eight Hundred and Sixty Five only) by the applicant. Consequently, A.No.5506 of 2015 is also allowed and the Sub-Registrar, Arakkonam is directed to register the sale deed presented

by the applicant conveying the schedule of property by way of absolute sale in favour of Mr.K.Govindaraj as permitted by this Court in A.No.7311 of 2014 in C.S.No.136 of 1951, by order dated 20.11.2014.

In fine both the applications are allowed as indicated above.

**30-06-2017**

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