

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 04.04.2019

Judgment Delivered on : 25.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

O.S.A.Nos.218 and 219 of 2014
and
M.P.No.1 of 2014 in O.S.A.Nos.218 and 219 of 2014
and
M.P.No.2 of 2014 in O.S.A.No.219 of 2014

K.P. Subburaj ... Appellant in both the O.S.As./
Plaintiff in CS. 75/2010

Versus

1. V.Prabhakar
2. P.Subbulakshmi
3. P.Kumar
4. K.Bharathy
5. M.Sampathkumar

... Respondents in O.S.A.No.218 of 2014/
Defendants in CS. 75 of 2010

1. P.Kumar
2. K.Bharathy

... 1st and 2nd Respondent in OSA 219/2014/
1st and 2nd Plaintiffs in Tr CS 18/2011

3. V.Prabhakar ... 3rd Respondents in O.S.A.No.219 of 2014/
2nd Defendant in TR CS 128 of 2011

Original Side Appeal No.218 of 2014 filed under Order 36 Rule 1 of the Original Side Rules of this Court, against the judgment and decree dated 26.06.2014 passed by the learned Single Judge in C.S.No.75 of 2010 on the file of this Court.

Original Side Appeal No.219 of 2014 filed under Order 36 Rule 1 of the Original Side Rules of this Court, against the judgment and decree dated 26.06.2014 passed by the learned Single Judge in Tr.C.S.No.128 of 2011 on the file of this Court.

For appellant : Mr.S.Parthasarathy, Senior Counsel
for Mr.K.A.Vimal Kumar, in both the appeals

For respondents : No appearance for
Respondents 1, 2 and 5 in O.S.A.No.218 of 2014

Mr.G.Surya Narayanan for Respondents 3 and 4 in
O.S.A.No.218 of 2014 and for Respondents 1 and 2 in
O.S.A.No.219 of 2014

No appearance for Respondent No.3
in O.S.A.No.219 of 2014

COMMON JUDGMENT

R.SUBBIAH, J

These Original Side Appeals have been filed as against the common judgment and decrees dated 26.06.2014 passed by the learned Single Judge in C.S.No.75 of 2010 and Tr.C.S.No.128 of 2011. By the common Judgment dated 26.06.2014, the learned Judge dismissed C.S.No.75 of 2010 and partly allowed Tr.C.S.No.128 of 2011 and directed the defendants 1 and 2 therein to deliver vacant possession of the property mentioned in the plaint, within three months from the date of decree.

2. The appellant herein namely K.P. Subburaj has filed C.S.No.75 of 2010 for the following reliefs:

(i) To pass a judgment and decree:

(a) to declare the sale deed dated 25.11.2009 executed by the first defendant in favour of the defendants 3 and 4, registered as Document No.2397 of 2009 in the office of the Sub-Registrar, Mylapore, as null and void;

(b) to pass a preliminary decree for partition and separate possession of the plaintiff's half share in the properties described in Item Nos.1 to 3 in the plaint schedule properties;

(c) for rendition of accounts by the defendants 1 and 2 in respect of the income from the said properties for the last two years prior to the date of filing of this suit and to direct the defendants 1 and 2 to pay half share of income (mesne profits) from the said properties;

(d) to pass a final decree in terms of the preliminary decree to be passed as per prayer (b) above;

(e) for permanent injunction restraining the second defendant from executing a sale deed/sale deeds in favour

of the fifth defendant or any other person/s in respect of his share in Item No.3 described in the plaint schedule properties, and

(f) to pass an order directing the contesting defendants to pay the plaintiff the costs of the suit.

3. The defendants 3 and 4 in C.S.No.75 of 2010 have filed Tr.C.S.No.128 of 2011 for the following reliefs:

To pass a judgment and decree:

(a) to direct the defendants 1 and 2 to hand over vacant possession of the property measuring 450 Sq.Ft. morefully described in the plaint schedule property;

(b) to direct the first defendant to pay Rs.15,000/- per month as damages for use and occupation of the suit schedule property from January 2010 till handing over of the suit property, and

(c) for costs of the suit.

4. For the sake of convenience, the parties herein are referred to as they are ranked in C.S.No.75 of 2010.

5. Brief plaint averments in C.S.No.75 of 2010 are as follows:

(a) The appellant/plaintiff (Subburaj) is the only son of the defendants 1 and 2/respondents 1 and 2 herein. The plaintiff is employed in a software company by name I-Flex Solutions. On 28.11.2004, the plaintiff got married to one Mrs.Ramya, daughter of M.V.Venkatasamy of Srivilliputhur.

(b) As part of his employment with M/s.I-Flex Solutions, the plaintiff had been to Australia from 23.11.2008 and before leaving India, for Australia, the plaintiff and his wife were living together in the front portion of Door No.8/2 (Old No.6), Karaneeswarar Koil Street, 2nd Lane, Mylapore, Chennai-600 004, which is described as Item No.1 of the plaint schedule properties. The parents of the plaintiff, namely the defendants 1 and 2, were living in the rear portion of the said property.

(c) During the plaintiff's absence, his parents, the defendants 1 and 2 did not look after his pregnant wife and it was only her parents who took care of her. After delivery, the plaintiff's wife was residing along with her parents at Srivilliputhur. When the plaintiff returned to Chennai on 16.12.2009, to his shock and surprise, he could not find his parents in the rear portion of the said premises wherein they were living. On enquiry, the plaintiff came to know that the defendants 1 and 2, in order to deprive the plaintiff of his due share in the properties described in the plaint schedule, with ulterior motive, executed a sale deed in favour of the

defendants 3 and 4 on 25.11.2009. According to the plaintiff, the said sale deed dated 25.11.2009 in favour of the defendants 3 and 4 is sham and nominal document and it will not bind him in any manner.

(d) The property shown in Item No.1 of the plaint schedule properties is the property allotted to the first defendant in the partition that took place on 29.04.1998. The partition took place among the first defendant, his father K.Venkatasamy, his mother V.Rathinammal and his brother V.Santhanakrishnan in which item 1 of the plaint schedule properties, was allotted to the first defendant morefully set out as in D-schedule to the said partition deed. The said property allotted to the first defendant was a vacant land as on the date of the said partition deed. In fact, the partition deed dated 29.04.1998 was subjected to challenge by the plaintiff's paternal grandmother Mrs.V.Rathinammal, by filing a suit in C.S.No.1084 of 2001 for a declaration that the partition deed dated 29.04.1998 registered as Document No.1891 of 1998 in the Office of the Sub-Registrar, Mylapore, is null and void and prayed for a decree for partition and separate possession of 2292 Sq.Ft. out of the total land measuring 3438 Sq.Ft. and building bearing Door No.8/2 stated above against the first defendant and his brother V. Santhanakrishnan. The said Mrs.V.Rathinammal had also executed a Will bequeathing her right and interest over the abovesaid property in favour of her brother's son Alagarsamy and on the strength of the same, the said Alagirisamy filed a Original Petition before this Court for probate of the said Will.

(e) The property shown as Item No.1 in the plaint schedule is one of the joint family properties that was allotted in the name of the first defendant under the partition deed dated 29.04.1998. The building that is now in existence in Item No.1 in the plaint schedule was constructed out of the income derived from the ancestral properties and with the loan availed from the Citi Bank. The plaintiff has contributed from his salary for repayment of the loan to the Bank. The plaintiff is in possession and enjoyment of the said property. As the only son of the first defendant, the plaintiff is having right, title and interest over the said property.

(f) In the counter affidavit filed by the first defendant in Appl.No.1324 of 2007 in C.S.No.1084 of 2007 on the file of this Court, i.e. the suit filed by the said Rathinammal, the first defendant himself has categorically admitted that he was only nine years old when Item No.1 of the suit properties was purchased as a larger extent on 06.01.1959 in the joint names of his father and mother and that the said property was purchased out of the sale proceeds of the ancestral property in the hands of the plaintiff's paternal grandfather. The defendants 3 and 4 knew very well that the suit filed by Mrs.V.Rathinammal in C.S.No.1084 of 2007 on the Original Side of this Court, was pending and that the plaintiff has half share in Item No.1 of

the plaint schedule properties. Therefore, according to the plaintiff, the defendants 3 and 4 are not bona-fide purchasers.

(g) Item No.2 in the plaint scheduled property was purchased in the name of the second defendant, i.e. the mother of the plaintiff on 25.07.1997 from and out of the income derived from the joint family properties and from the sale proceeds of some of the ancestral properties. As the said property had been purchased out of the income from the properties of the joint family, of which the plaintiff is one of the members along with the first defendant, the plaintiff is entitled to have 1/2 share in the said item of the property also. The second defendant is only a house wife and she did not have any income of her own. The second defendant is only a name lender to purchase the said property and she has no right or interest in the said property.

(h) The second defendant entered into an agreement with the fifth defendant for sale of the said property for a consideration of Rs.40 lakhs. The plaintiff apprehends that in order to wreak vengeance on him, the second defendant might execute a sale deed in favour of the fifth defendant and if the second defendant executes a sale deed in favour of the fifth defendant, or any other person in respect of property described in the plaint schedule as item No.2, the plaintiff will be put to irreparable loss and hardship. Out of the funds provided by the plaintiff and out of the income accrued from the joint family properties, the apartment described as Item No.3 of the plaint schedule properties, had been purchased in the name of the defendants 1 and 2. The plaintiff being one of the co-parceners along with the first defendant, is entitled to have his half share in the said property also.

(i) The plaintiff had been living in item No.1 of the property in Door No.8/2 (Old No.6) on his own right as a member of the joint family and he has also contributed huge amount for repayment of loan availed in the name of the first defendant for construction of the building that exists at Door No.8/2 stated supra. When the plaintiff demanded half share in the suit schedule properties he came to know on 16.12.2009 that the first defendant had executed a sale deed fraudulently in favour of the defendants 3 and 4 in respect of the property described in Item No.1 of the plaint schedule properties. Hence, the plaintiff has filed the suit in C.S.No.75 of 2010 for the reliefs stated supra.

6. The first defendant, father of the plaintiff, has filed written statement in C.S.No.75 of 2010 stating as follows:

(a) The plaint schedule properties were originally purchased by his father Mr.Venkatasamy jointly in his name and in the name of his wife Mrs.V.Rathinammal. Thereafter, there was a partition in between the first defendant and his father, mother Rathinammal and elder brother V.Santhanakrishnan which was also registered before the competent registering authority. In the said partition, the vacant land was allotted to the first

defendant where he constructed a house by availing loan from Citi Bank and from his employer, which he was paying regularly till the entire repayment schedule was over. The plaintiff's wife is a distant relative and she did not treat the first and second defendants properly. Hence, item No.1 of the suit schedule properties was divided into two portions and the plaintiff stayed in the front portion along with his wife and the first and second defendants stayed in the rear portion of the property.

(b) The wife of the plaintiff was quiet for few days and later started to quarrel and abuse the first and second defendants. In the meanwhile, the plaintiff went to Australia. As the relationship between the plaintiff's wife and the defendants 1 and 2 got strained, the plaintiff decided to get his in-laws stay with his wife. The parents of the plaintiff's wife, i.e. Mr.M.V.Venkatasami and his wife, with ulterior motive, joined hands with the plaintiff's wife and started to harass the first and second defendants. The defendants, unable to withstand the harassment, executed a sale deed in favour of the defendants 3 and 4 in respect of item No.1 of the suit schedule properties. The possession was handed over in respect of the rear portion of the said property to defendants 3 and 4. The plaintiff does not have any share in the said property. It is an admitted fact that the property was allotted to the first defendant by way of registered partition which took place on 29.04.1998 between himself, his father Venkatasami, mother Rathinammal and brother V.Santhanakrishnan. Item No.1 of the suit properties was admittedly a vacant land when the said partition took place.

(c) The plaintiff's paternal grandmother, i.e. the first defendant's mother Rathinammal filed a suit in C.S.No.1084 of 2007 for declaration that the partition deed dated 29.04.1998 registered in Document No.1891 of 1998 in the office of the SRO, Mylapore, is null and void and prayed for a decree for partition and separate possession of 2292 Sq.Ft. out of the total land measuring 3438 Sq.Ft. and building bearing Door No.6, Old No.82/3, Karaneeswarar Koil Street, Mylapore, Chennai-600 004 against the first defendant and his brother Santhanakrishnan. The said suit was dismissed as abated on account of the death of the first defendant's mother Rathinammal. The first defendant is not aware of any Will executed by her bequeathing her rights and interest over the abovesaid property, in favour of her brother's son Alagarsami. The first defendant is also not aware of any Original Petition filed before this Court with regard to the Will in favour of Alagarsami.

(d) The first defendant denies that the suit schedule properties are joint family property. It is a fact that the property had been exclusively allotted to the first defendant, in the partition deed dated 29.04.1998 and he had constructed

the house out of his own income. Even though the plaintiff is the only son of the first defendant, the plaintiff has no right, title or interest in the said property. The first defendant filed a detailed written statement in the suit in C.S.No.1084 of 2007, which stood abated. The allegation that the plaintiff is entitled to his share, is not correct.

(e) Similarly, with regard to item No.2 of the plaint schedule properties, it is an admitted fact that the second defendant entered into an agreement of sale and subsequently after receiving the entire sale amount from the fifth defendant, sale was completed and possession was also handed over to him. The second item of the suit properties was purchased in the name of the second defendant on 20.05.1997 out of the provident fund loan availed from his employer by the first defendant. Hence, the plaintiff is not entitled to a share in this property.

(f) The first defendant stated that the suit properties are not joint family property. The first defendant intended to get rid of the plaintiff and his wife and therefore, he agreed to sell the property for Rs.40 lakhs, even though the value of the property was more than that. The sale of the suit item No.1 property in favour of the defendants 3 and 4 is valid and proper and the first defendant has saleable right to sell the property to the defendants 3 and 4, hence, the first and second defendants prayed for dismissal of the suit.

7. The third and fourth defendants, who are the subsequent purchasers of the property in question, have filed written statement contending as follows:

(a) Item No.1 of the plaint schedule property is said to have been purchased by Mr.Venkatasamy and Rathinammal from and out of their own earnings during their lifetime itself. They, along with their sons Mr.V.Santhakrishnan and V.Prabhakar, the first defendant in the suit, had entered into a partition deed on 29.04.1998 registered as Document No.1891 of 1998 on the file of the SRO, Mylapore. In the said partition, the two sons were allotted different portion of vacant land. The first defendant who was employed, out of his own funds borrowed from his employer and Citi Bank, had put up the construction in the 1st item of the suit properties.

(b) The first defendant has declared the present property as his separate property and had constructed the building thereof from out of his own earnings. It was also represented by the first defendant to the defendants 3 and 4 that they require money for purchase of the third item of the properties. The suit item No.1 of the property has not been purchased from and out of the sale proceeds of the ancestral property as stated by the plaintiff and as averred by Rathinammal in C.S.No.1084 of 2007. As on the date of sale deed in favour of the third and fourth defendants, the suit in C.S.No.1084 of 2007 stood abated and therefore, the said suit has got nothing to do with the purchase

of item No.1 of the property by the defendants 3 and 4. The first item of the suit properties is not available for partition and the defendants 3 and 4 being bona-fide purchasers for value, are entitled to assert a right over the property. They have purchased the property for a valuable sale consideration and the recitals in the sale deed would reveal that correct market value of the property is shown therein and which was also accepted by the registering authorities. Thus, the defendants 3 and 4 prayed for dismissal of the suit.

8. The defendants 3 and 4 in C.S.No.75 of 2010, who have purchased the said item No.1 of the suit properties from the first defendant-Prabhakar, the father of the plaintiff, have filed a separate suit in O.S.No.7951 of 2010 before the City Civil Court, Chennai, which stood transferred to this Court and was re-numbered as Tr.C.S.No.128 of 2011 praying to direct the defendants 1 and 2 therein to hand over vacant possession of the property in question and for other consequential relief, as stated earlier. But however, the said suit in Tr.C.S.No.128 of 2011 was opposed by the plaintiff (in C.S.No.75 of 2010) by filing written statement stating that the defendants 3 and 4 in C.S.No.75 of 2010, are not bona-fide or genuine purchasers of the item No.1 of the suit schedule properties. Though the first defendant in C.S.No.75 of 2010 had sold the item No.1 of the property to defendants 3 and 4 therein, who are the plaintiffs in Tr.C.S.No.128 of 2011, the first defendant in C.S.No.75 of 2010 had handed over only a portion of the first item of the property to the defendants 3 and 4 therein, i.e. except the front portion of item No.1 of the property consisting of a hall, kitchen, pooja room and a toilet and hence, the defendants 3 and 4 have filed the said suit in Tr.C.S.No.128 of 2011 for recovery of possession of the property measuring 450 Sq.Ft. of the plaintiff schedule property in Tr.C.S.No.128 of 2011, i.e. a part of item No.1 of the suit schedule properties in C.S.No.75 of 2010. Since the parties in both the suits, namely the plaintiff in C.S.No.75 of 2010, who is the first defendant in Tr.C.S.No.128 of 2011 and the defendants 3 and 4 in C.S.No.75 of 2010 who are the plaintiffs in Tr.C.S.No.128 of 2011, are one and the same, and since the averments are almost replica in both the suits, as such we are not dealing with the averments made in the plaint and written statement in Tr.C.S.No.128 of 2011.

9. Before the learned single Judge, on the side of the plaintiff, he examined himself as P.W.1 and Exs.P-1 to P-20 were marked. The first defendant examined himself as D.W.1 and D.W.2 was also examined and Exs.D-1 to D-8 were marked. After framing necessary issues, the learned Single Judge, on an analysis of the entire evidence, dismissed C.S.No.75 of 2010 and partly allowed (decreed) Tr.C.S.No.128 of 2011, directing the plaintiff in C.S.No.75 of 2010 to hand over disputed portion of the suit item No.1 of the plaintiff schedule properties. The learned Single Judge has concluded that the property(ies) in question, acquired

by the said Venkatasamy and his wife Rathinammal, i.e. the father and mother of the first defendant in C.S.No.75 of 2010 and grandparents of the plaintiff in C.S.No.75 of 2010, will not be presumed to be joint family property(ies). However, there was a partition among the said Venkatasamy and his two sons along with his wife, in the year 1998 under Ex.P-11. Though there was a recital to the effect that they are partitioning their ancestral joint family properties, absolutely, there is no proof that the said Venkatasami and Rathinammal had purchased Item No.1 of the suit properties from and out of the income of the joint family properties and the said joint family got separated in 1998. What has been divided between the two sons was the separate property of Venkatasami and his wife, which otherwise would have devolved upon them under Section 8 of the Hindu Succession Act, 1956 on the demise of Venkatasami. Since the properties were found to be separate properties of the first defendant, the plaintiff is not entitled to the relief of declaration that the sale deed in favour of the defendants 3 and 4 is null and void and therefore, the plaintiff in Tr.C.S.No.128 of 2011 is entitled for possession, as they have purchased the property from the first defendant, validly. Thus, the learned Single Judge dismissed C.S.No.75 of 2010 and partly allowed (decreed) Tr.C.S.No.128 of 2011 and the defendants 1 and 2 were directed to deliver the vacant possession within three months from the date of decree. Aggrieved by the above findings of the learned Single Judge, the appeals have been filed by the plaintiff in C.S.No.75 of 2010, who is the second defendant in Tr.C.S.No.128 of 2011.

10. The learned Senior Counsel appearing for the appellant-Subburaj submitted that the first item of the suit properties, which was sold to third and fourth defendants by the first defendant, was allotted to the first defendant and his brother under Ex.P-11, namely the partition deed, dated 29.04.1998 executed between the first defendant's father Venkatasamy, his mother Rathinammal, his brother Santhanakrishnan and the first defendant/Prabhakar. It is the case of the plaintiff that originally, on 16.06.1956, Ex.P-2 partition deed was entered into between the grandfather of the plaintiff, namely Krishnasamy Naidu and his two sons, in which the father of the first defendant, namely K.Venkatasamy Naidu was allotted II schedule of the properties therein. In the said partition deed, a vast extent of agricultural land and several house properties were allotted to K.Venkatasamy under II schedule of the said partition. Thereafter, based upon the income yielded from the said properties, the first item of the suit properties was purchased by K.Venkatasamy and his wife Rathinammal under Ex.D-1 sale deed, dated 06.01.1959. Subsequently, on 29.04.1998, under Ex.P-11 partition deed, the ancestral properties of Mr.K.Venkatasamy were partitioned between himself, his wife and his two sons, namely

Santhanakrishnan and the first defendant/V.Prabhakar. In the said partition, the suit first item was allotted to V.Prabhakar/first defendant morefully set out as Schedule-D in the partition deed, hence, the said property is the ancestral property in the hands of the plaintiff and the first defendant, in which the plaintiff has a share as legal heir of the first defendant.. In the above context, the learned Senior Counsel appearing for the appellant invited the attention of this Court to the recitals made in Ex.P-11 partition deed, which reads as follows:

"நம்மில் 1வது பார்ட்டி, 2வது பார்ட்டியின் கணவரும், 3வது, 4வது பார்ட்டிகளின் தகப்பனாரும் ஆவார். நாம் எல்லோரும் சேர்ந்து ஒரே இந்து கூட்டு குடும்பமாக இருந்து வருகிறோம், நம்மில் 3வது, 4வது பார்ட்டிகளுக்கு ஏற்கனவே திருமணமாகிவிட்டது. நம்மில் 1வது பார்ட்டிக்கும் 2வது பார்ட்டிக்கும் அதிக வயதாகிவிட்டபடியால், அவர்களின் ஜீவதிசைக்கு பிறகு நம் குடும்பத்தில் சண்டை சச்சரவுகள் இல்லாமல் இருக்கும் பொருட்டு இப்பொழுதே நமது பிதூராஜிதமாய் பாத்நியப்பட்டதும் நமது குடும்ப பொது சொத்துமான கீழ்க்கண்ட சொத்துக்களை பிரித்துக் கொள்வது நலம் என்று தோன்றியதால் இந்த பாகப்பிரிவினை செய்து கொள்ளலானோம்".

11. By relying upon the above recitals in Ex.P-11 partition deed, the learned Senior Counsel appearing for the appellant submitted that in the said recitals, it has been stated that the property is ancestral joint family property. Therefore, it is clear that there was a partition of the joint family ancestral property in which the properties were allotted to the father of the plaintiff, namely the first defendant/V.Prabhakar. Such allotment of the property in favour the first defendant would automatically entitle the plaintiff to get a share in it. The possession of the property by the first defendant partakes the character of a joint family property intended for partition among his successor namely the plaintiff herein who can be treated as a coparcener of the property. Consequently, the plaintiff is entitled to a share and his share cannot be sold by his father. In support of this submission, the learned Senior Counsel appearing for the appellant relied on a decision of a Division Bench of this Court reported in 2003 (3) LW 866 (K.K.Palanisamy Gounder and others Vs. Amirthammal), wherein this Court observed as follows:

"5. We have perused the document, Ex.B-1 and there is no dispute that the deed of partition dated 29.07.1936 by which the partition among the members of the joint family was effected included the properties

purchased in the name of Kandalkal, mother of Kandasami Gounder apart from other joint family properties. The recitals in the deed also show that all the three brothers were enjoying the properties as joint family properties and all the properties, both joint family properties as well as the properties obtained from the mother Kandalkal, on her death, were pooled together and the partition of all the properties was effected among the three brothers. The deed also provides for the payment of owelty to Kandasami Gounder by other two brothers as the value of the properties allotted to Kandasami Gounder was much less than the value of the properties allotted to other two brothers. We also find that apart from the properties covered in the documents, Exs.A-1, A-4 and A-9 which were allotted to Kandasami Gounder, other items of joint family properties were allotted to Kandasami Gounder and he was also required to discharge certain family debts and it implies that Kandasami Gounder was required to discharge the family debts from and out of the properties allotted to him. The deed of partition proceeds on the basis that after the death of Kandalkal, mother of Kandasami Gounder, the properties devolved on the three sons and they treated the same as their joint family properties and all the joint family properties were divided in the manner indicated in the deed. Further, the deed makes no distinction or difference between the properties of Kandalkal devolving on the three sons and other joint family properties. No doubt, it is true that a Hindu female member of the joint family cannot impress her separate property as joint family property by throwing the same into the joint family hotchpot, however, it is not the case here that the female member treated her properties as joint family properties. On the other hand, it is a case where after the death of the mother, her sons on whom the properties devolved had treated the properties as joint family properties along with other joint family properties and divided the properties in the year 1936.

6. Though the defendants have not established that Kandalkal was a benamidar of

the father of Kandasami Gounder, nor they established that the properties were purchased in the name of Kandalkal from and out of the funds of joint family properties, we are of the view that the recitals in the deed of partition should be given due weight and the fact that the parties have acted according to the deed of partition from the year 1936 shows that the three brothers have treated the properties as joint family properties and effected a partition among themselves. Once we hold that the deed makes no distinction between the properties of joint family members and the properties of Kandalkal, the necessary consequence is that all the properties covered in the deed of partition should be taken to be joint family properties and the plaintiff would be entitled to a share only on the basis that the properties are joint family properties. Further, the employment of the expression in the deed, namely @gpJuhh;\$pj tifapy; ghj;jpag;gl;L ehkd; mDgtpj;J tUfpw@ shows that the properties were obtained from ancestral sources and they also enjoyed them as joint family properties. The recitals show the unequivocal intention of the three brothers of having treated the properties obtained from their mother as joint family properties. Learned Single Judge was of the view that there was no independent evidence let in by the defendants that the properties in question are joint family properties. A careful reading of the document shows that when there are intrinsic evidence in the document itself to show that the properties in question are joint family properties, the case pleaded by the defendants cannot be rejected on the score that they failed to lead independent evidence on that aspect of the matter."

12. Thus, by relying upon the above judgment, the learned Senior Counsel appearing for the appellant submitted that the dictum laid down in the above judgment will squarely apply to the facts of the present case on hand, since in the instant case, in Ex.P-11 partition deed, it is clearly stated that the properties are ancestral joint family properties. However, the learned Single Judge has come to an erroneous conclusion that

the recitals in Ex.P-11 partition deed are introductory in character in describing the properties involved and it is not a conclusive proof. This finding of the learned Single Judge is unsustainable in the eye of law.

13. The learned Senior Counsel appearing for the appellant would further submit by inviting the attention of this Court to the counter affidavit filed by the first defendant in A.No.1324 of 2007 in C.S.No.1084 of 2007, i.e. the suit filed by his mother Rathinammal as against the defendants therein in which he has admitted that he was informed by his parents that his father has an ancestral property and by selling/mortgaging the same, he got his share and invested the amount in the property along with his mother, the applicant therein. Thus, the father of the plaintiff himself in the earlier proceedings initiated by his mother Rathinammal, categorically admitted that the present 1st item of the suit properties was purchased out of the income derived from the ancestral property.

14. The learned Senior Counsel appearing for the appellant also invited the attention of this Court to the proof affidavit filed by the third defendant/P.Kumar in Tr.C.S.No.128 of 2011 wherein he has admitted that since the property had been purchased by Venkatasami and Rathinammal, parents of the first defendant, which has been partitioned between the family members during their lifetime, the property becomes separate and absolute property of the second defendant. But during the course of cross examination, P.W.1 P.Kumar has admitted that he was interested to know the family background of first defendant and he has also admitted in Ex. P-11 partition deed that there is recital with regard to the ancestral nature of the family properties. Therefore, it is clear that the third defendant was aware of the character of the property purchased by him viz., it is an ancestral property. Further, Ex.P-1 sale deed under which the third defendant purchased the first item of the suit properties, had a recital to the following effect:-

"Whereas the said Mr.K.Venkatasamy, vendor's father, Mrs.V.Rathanamma, Vendor's mother, the vendor and the vendor's brother Mr.V.Santhanakrishnan entered into a family partition dated 29.04.1998 registered as Doc.1891/1998 SRO Mylapore whereby the schedule mentioned land was allotted to the VENDOR as Schedule "D" therein. "Land be having acquired the same by the said family partition. ..."

15. By relying upon the above recitals, it is submitted by the learned Senior Counsel appearing for the appellant that the main defence of the third defendant in the suit is that once

partition takes place between the parties under Ex.P-11 partition deed, the property allotted to the first defendant was his separate property and not ancestral property. But the said defence is totally axiomatic to the principle of Hindu Law. The learned Senior Counsel appearing for the appellant relied on the Hindu Law, by Mulla, 23rd Edition, paragraph 221, which deals about ancestral property in that sub-para (4), as follows:

"(4). Share allotted on Partition: The share, which a coparcener obtains on partition of ancestral property is ancestral property as regards his male issue. They take an interest in it by birth. Whether they are in existence at the time of partition or are born subsequently, such share, however is ancestral property only as regards his male issue."

16. To strengthen his submission further, the learned Senior Counsel appearing for the appellant also relied on the judgment of the Supreme Court reported in 1978 (3) SCC 383 (Magdum Vs. Magdum), wherein the Full Bench of the Supreme Court held as follows:

"13. All the consequences which flow from a real partition have to be logically worked out, which means that the share of the heirs must be ascertained on the basis that they had separated from one another and had received a share in the partition which had taken place during the lifetime of the deceased. The allotment of this share is not a processual step devised merely for the purpose of working out some other conclusion. It has to be treated and accepted as a concrete reality, something that cannot be recalled just as a share allotted to a coparcener in an actual partition cannot generally be recalled. The inevitable corollary of this position is that the heir will get his or her share in the interest which the deceased had in the coparcenary property at the time of his death, in addition to the share which he or she received or must be deemed to have received in the notional partition."

17. The learned Senior Counsel appearing for the appellant

also relied on the judgment of the Supreme Court reported in 1986 (3) SCC 567 (C.W.T Vs. Chander Sen), wherein the Apex Court held as follows:

"2. One Rangilal and his son Chander Sen constituted a Hindu undivided family. This family had some immovable property and the business carried on in the name of Khushi Ram Rangilal. On October 10, 1961, there was a partial partition in the family by which the business was divided between the father and the son, and thereafter, it was carried on by a partnership consisting of the two. The firm was assessed to income tax as a registered firm and the two partners were separately assessed in respect of their share of income. The house property of the family continued to remain joint. On July 17, 1965, Rangilal died leaving behind his son, Chander Sen, and his grandsons i.e. the sons of Chander Sen. His wife and mother predeceased him and he had no other issue except Chander Sen. On his death there was a credit balance of Rs.1,85,043 in his account in the books of the firm. For the assessment year 1966-67 (valuation date October 3, 1965), Chander Sen, who constituted a joint family with his own sons, filed a return of his net wealth. The return included the property of the family which on the death of Rangilal passed on to Chander Sen by survivorship and also the assets of the business which devolved upon Chander Sen on the death of his father. The sum of Rs.1,85,043 standing to the credit of Rangilal was not included in the net wealth of the family of Chander Sen (hereinafter referred to as 'the assessee-family') on the ground that this amount devolved on Chander Sen in his individual capacity and was not the property of the assessee-family. The Wealth Tax Officer did not accept this contention and held that the sum of Rs.1,85,043 also belonged to the assessee-family."

18. By relying upon the above judgment of the Supreme Court, the learned Senior Counsel appearing for the appellant submitted that the facts quoted in the above judgment would reveal that originally one R and his son C constituted a Hindu Undivided Family (HUF) and the family had some immovable property and the

business carried on was in the name of "Kushi Ram Rangil Lal". There was a partial partition in their family. The business was divided between the father and the son and after division, the father and son carried on the business in partnership. The firm was assessed to income tax as a registered firm. The father and son who were partners, were separately assessed in respect of their share of income from the firm. The house property continued to remain joint and the father R died in 1965. He was survived by his son C and his grandsons, namely the sons of C. His wife and mother had predeceased him and he had no other issues except C. On his death, there was a credit balance in his account in the books of the firm. For the assessment year 1966-67, C, son of R, who constituted a joint family with his own sons, filed a Return of his net wealth. This Return of wealth included the property of the family, which on the death of R, passed on to C by survivorship and also the assets of the business which devolved upon C on the death of his father R. In the Return, the credit balance of Rs.1,82,742/- was not included in the net wealth of the family of C. This was on the ground that this amount devolved on C in his individual capacity and was the property of assessee-family. The Wealth Tax Officer refused to accept and included the aforesaid amount as wealth of the family. The question framed in paragraph 4 of the judgment therein, is relevant for our case. On the aforesaid issue and on account of the partial partition, this amount devolved on C as his separate property because he inherited the same from his father, as far as the assets of the family on the death of R went by survivorship to C recognising the coparcenary character.

19. The learned Senior Counsel appearing for the appellant also relied on the following judgments in support of his submissions to drive home the point that the share allotted to the first defendant, father of the plaintiff, in partition, is only ancestral property and the sale of the appellant's share is not binding on the appellant.

- (i) 2011 (3) LW 317 (B.Nalina Vs. Arumugam):
- (ii) AIR 2017 Madras 175 (Sadasivam Vs. Sankar), and
- (iii) 2018 (7) SCC 646 (Shyam Narayan Prasad Vs. Krishna Prasad).

20. Countering the above submissions, the learned counsel for the respondents 3 and 4 in O.S.A.No.218 of 2014, who are respondents 1 and 2 in O.S.A.No.219 of 2014, submitted that, first of all, the plaintiff did not prove by concrete evidence that the first item of the suit properties, was joint family property. Similarly, he has also not proved that the construction of first item was made out of the sale proceeds of the ancestral properties. The first item of the suit properties was purchased by Venkatasamy and Rathinammal, parents of the first defendant, on 06.01.1959. But it was not proved by the

plaintiff that the said property was purchased by Venkatasamy out of the income derived from the ancestral joint family properties. Only in the event of proving that the first item of the properties was purchased from the income yielded from the joint family, it will acquire the character of ancestral property. In this regard, learned counsel for the respondents 3 and 4 in O.S.A.No.218 of 2014, who are respondents 1 and 2 in O.S.A.No.219 of 2014 invited the attention of this Court to Ex.P-2 partition deed executed between the father of the plaintiff, i.e. Venkatasami, his wife and his brother on 16.06.1956 and submitted that in the said partition deed, certain ancestral properties were allotted to the said Venkatasami. But the suit item No.1 was purchased on 06.01.1959. In order to establish that item No.1 of the suit properties was purchased on 06.01.1959 from the income yielded from the ancestral properties allotted to Venkatasamy in 1956 partition, the plaintiff has marked Exs.P-3 to P-10, which are sale deeds executed by the said Venkatasamy in favour of third parties to show that certain ancestral properties were sold to third parties. On a perusal of Exs.P-3 to P-10, it is clear that all those documents came into existence between 1962 and 1990 and not prior to 1959, and therefore, it cannot be said that the suit item No.1 of the schedule of properties was purchased from the income yielded from the ancestral properties. All these sale deeds executed by the father of the first defendant, were much earlier to the construction in the first item of the suit properties, which was made in 2000, i.e. much later to the execution of the sale of the ancestral properties. Therefore, it cannot be said that the construction was made out of the money yielded from the ancestral properties. In fact, the suit property in first item was constructed in 2000. The appellant completed education only in 2002 and there was no proof for his contribution or use of ancestral income for such construction. Learned counsel further submitted that in paragraph 7 in page 3 of the plaint in C.S.No.75 of 2010, it is stated as follows:

"7. The plaintiff states that the property shown as Item No.1 in the schedule hereunder is one of the joint family properties that was allotted in the name of the 1st defendant under the deed of partition dated 29.04.1998. The building that is now in existence in Item No.1 in the schedule hereunder was constructed out of the income from the ancestral properties and with the loan availed from Citi Bank."

21. By relying upon the above averments made in the plaint, the learned counsel for the respondents 3 and 4 submitted that in the plaint, except a vague statement that suit item No.1 is

one of the joint family properties, no joint family nucleus is pleaded and proved. With regard to the construction of the property from ancestral income is concerned, it was not pleaded in the plaint to the effect that there was only ancestral income and from and out of it, the building in suit item No.1 was constructed.

22. The learned counsel for the respondents 3 and 4 further submitted that the suit in C.S.No.75 of 2010 was a collusive suit between the plaintiff and the first defendant. A reading of the plaint and further turn of events will prove the same. The plaintiff will state that his father had offered to give him half of the sale proceeds. The plaintiff's father, as first defendant, also filed written statement through the same counsel originally supporting the case of the defendants 3 and 4, but gave evidence supporting his son, which will show the collusion between the appellant and the first defendant/first respondent. In the cross examination of P.W.1, he has stated that Ex.D-1 is the document by which item No.1 of the suit property was purchased. There is no recital to the effect that the item No.1 of the suit properties was purchased under Ex.D-1, dated 06.01.1959 out of the income derived from the ancestral joint family properties, which would clearly show that the said property is a separate property of Venkatasamy. In this regard, learned counsel for the respondents 3 and 4 submitted that when the property in question is self-acquired property of Venkatasamy and Rathinammal, it cannot be contended that it was an ancestral property without any pleading to that effect in the plaint. Thus, according to the learned counsel for the respondents 3 and 4, the appellant failed to establish that the property is an ancestral property. Since the first item of the suit properties is not purchased from and out of the sale of any ancestral property, the appellant is not entitled to the relief sought for in the suit. In support of his submissions, learned counsel for the respondents 3 and 4 relied on the following judgments:

(a) 2015 (9) SCC 755 (Nandkishore Lalbhai Mehta Vs. New Era Fabrics Pvt. Ltd., and others);

(b) 2016 (4) SCC 68 (Uttam Vs. Saubhag Singh and others);

(c) AIR 1979 Madras 1 (Full Bench) (Madras High Court) (Additional Commissioner of Income Tax, Madras Vs. P.L.Karuppan Chettiar);

(d) 2009 (3) CTC 59 (Madras High Court) (M.B.Subramaniam Vs. A.Ramasamy Gounder and others);

(e) 2004 (4) CTC 208 (Division Bench of Madras High Court) (R.Deivanai Ammal (died) Vs. G.Meenakshi Ammal and others) and

(f) 2004 (4) CTC 424 (Madras High Court) (K.S.Ananthanarayanan Vs. S.Vaidy and others).

23. By relying upon the above judgments, learned counsel for the respondents 3 and 4 submitted that even assuming for a

moment that the property in question is an ancestral property at the hands of the first defendant, the plaintiff will not have any interest in the property. In support of this contention, learned counsel for the respondents 3 and 4 relied upon the decision of the Full Bench of this Court reported in AIR 1979 Madras 1 (cited supra), wherein it has been held as follows:

"This is a case where a person who had obtained the property under partition deed. His name was Palaniappa. When he died, his son, Karuppan, was alive. We are concerned with the property which Palaniappa had obtained in the partition. In that partition, Karuppan was also a party. We are concerned with the question of devolution of the property of Palaniappa which he obtained in the partition and which had devolved on some persons, after his death. ... But where the son as well as his own are the persons concerned, by applying section 8, we have to come to the conclusion that the son alone, namely, Karuppan, in this case will inherit the property to the exclusion of the grandson. This being the effect of the statutory provision, no interest will accrue to the grandson in the property which belonged to Palniappa. Even assuming Palaniappa's property is ancestral property in the hands of karuppan, still because of the effect of the statute, Karuppan's son will not have an interest in the property. ... Proceedings further, the learned Chief Justice referred to a passage from Mulla's Principles of Hindu Law, fourteenth edition, edited by S.T.Desai. Illustration (a) at page 849 of the commentary is then extracted and the learned Chief Justice agreed with the commentary and the illustration. With very great respect, we are unable to agree with the view expressed by the learned Chief Justice. The passage quoted from the commentary did not deal with the effect of section 8 of the Act. What has been illustrated also is the position under the Hindu law untrammelled by statutes and it occurs in the commentaries to section 6 of the Act which deals with survivorship and the saving by section 6 of that principle to the extent to which it had been done. This passage is of no assistance in determining

the impact of section 8 on the principles of devolution of property on the death, on the principles of inheritance. We have dealt with the effect of section 8 earlier and it is clear that here Karuppan alone took the properties of his father, Palaniappa which the latter had obtained in the partition, and irrespective of the question whether it was ancestral property in the hands of Karuppan or not, he would exclude his son."

24. We have heard the counsel for both sides and perused the materials placed on record. Though it is the submission of the learned Senior Counsel appearing for the appellant that item No.1 of the suit properties is ancestral in nature in which the plaintiff has right, title and interest and the sale in favour of the defendants 3 and 4 is invalid, it is the submission of the learned counsel for the respondents 3 and 4 that it is only self-acquired property of the first defendant, and as such, the first defendant has every right to alienate the property in their favour. Alternatively, learned counsel appearing for the respondents 3 and 4 submitted that even assuming for a moment that it is the ancestral property in the hands of the first defendant, the plaintiff will not have any interest in the property, because, it would exclude the first defendant's son, namely the plaintiff herein from asserting any right or share therein. However, only in the event of this Court coming to the conclusion that suit item No.1 is not self-acquired property, the alternative submission of the learned counsel for the respondents 3 and 4 has to be dealt with in relation to the inheritance of the ancestral property. Hence, at the first blush, it has to be decided as to whether the first item of the suit properties, is a self-acquired property or it is an ancestral property. Only in the event of coming to the conclusion that the property is ancestral in nature, the question relating to the alternative submission made by the learned counsel for the respondents 3 and 4 to decide the inheritance of the property would arise. On the other hand, if it is concluded that it is a self-acquired property, dealing with the alternative submission made by the learned counsel for respondents 3 and 4 is not necessary.

25. It is the case of the plaintiff that from the sale proceeds yielded from the ancestral properties, the said Venkatasamy and his wife Rathinammal, who are his grandparents, purchased item No.1 of the suit properties under Ex.D-1 on 06.01.1959. Therefore, at the outset, it is necessary for this Court to decide the question as to whether the plaintiff has established that item No.1 of the suit properties is ancestral in nature or not.

26. It is the first and foremost submission of the learned Senior Counsel appearing for the appellant/plaintiff that on 16.06.1956, a partition deed was entered into between Krishnasamy Naidu and his sons. The said Krishnasamy Naidu, who is none other than the father of Venkatasamy Naidu, the great grandfather of the plaintiff and the grandfather of the first defendant. In the said partition, a vast extent of agricultural lands and several house properties were allotted to K.Venkatasamy under II Schedule to the partition deed. Based on the income yielded from the ancestral properties, the first item of the suit properties was purchased by K.Venkatasamy and his wife Rathinammal on 06.01.1959 under Ex.D-1. Therefore, according to the plaintiff, the suit item No.1 of the properties was purchased from the income yielded from the ancestral properties and it is ancestral in nature, consequently, the plaintiff is entitled to a right over such ancestral properties. Thus, according to the plaintiff, the sale deed executed by the first defendant in favour of the defendants 3 and 4 is null and void and is unenforceable under law.

27. On 29.04.1998, under Ex.P-11 partition deed, item No.1 of the suit properties along with the other properties was partitioned between K.Venkatasamy and his father, the first defendant and his brother Santhanakrishnan and his mother Rathinammal. In the said partition deed, suit item No.1 of the properties was allotted to the first defendant. According to the plaintiff, since item No.1 of the property is ancestral in nature, at the hands of the first defendant, the sale in favour of the defendants 3 and 4 is null and void. Therefore, according to the learned Senior Counsel appearing for the appellant, the sale of the appellant/plaintiff's share in favour of the defendants 3 and 4, is not binding on him, and hence, the plaintiff is entitled to preliminary decree as prayed for.

28. To the above submissions, it is the reply of the learned counsel for the respondents 3 and 4 that no evidence is produced to show that first item of the suit properties was purchased on 06.01.1959 from the income yielded from the joint family ancestral properties. When the first defendant is alive and the first item of the suit property has not been purchased from and out of the income derived in the joint family property, the plaintiff cannot seek for the relief of partition.

29. We find that except the partition deed, dated 16.06.1956 Ex.P-2, to show that certain ancestral properties have been allotted in favour of the first defendant, no evidence is produced by the plaintiff to show that from the income derived from the said properties, item No.1 of the suit properties was purchased. However, the plaintiff has produced Exs.P-3 to P-10 sale deeds executed by Venkatasamy in favour of third parties in respect of the properties allotted to him in order to show that from the sale proceeds of Exs.P-3 to P-10, the first item was purchased by Venkatasamy and Rathinammal,

but, those sale deeds are subsequent to the date of the purchase of the first item of the suit properties. Therefore, in between 1956 and 1959, absolutely there is no documentary evidence produced to show that from the income yielded from the joint family ancestral property allotted to the grandfather of the first defendant, first item of the suit properties was purchased. In the absence of evidence, the case of the first defendant has to be accepted that first item No.1 of the suit properties was purchased out of the income of Venkatasamy and his wife.

30. It is the assertive submission of the learned Senior Counsel appearing for the appellant that in Ex.P-11 partition deed, the recital shows that item 1 is the ancestral and joint family property and the said recital attracts significance, therefore, the sale of the property in favour of the third and fourth defendants, and the share allotted to the appellant's father in the partition, is ancestral in nature. In the above context, it is useful to refer the judgment of this Court reported in 2003 (3) LW 866 (cited supra) and relying on the said judgment, it is submitted by the learned Senior Counsel appearing for the appellant that traversing into the factual aspects of the matter, the Division Bench of this Court in that decision held that the partition deed therein shows that all the brothers were only enjoying the properties as joint family properties and the properties obtained from the mother were pooled together and it proceeds on the basis that after the death of the mother, the properties devolved on the two sons therein and hence, the plaintiff therein was entitled to a partition only on the basis that they are joint family properties. Further, the Division Bench therein held that the employment of the expression in the deed, namely, @gpJuhh;\$pj tifapy; ghj;jpag;gl;L ehk; mDgtpj;J tUfpw@ shows that the properties therein were obtained from ancestral sources and they also enjoyed them as joint family properties therein.

31. So far as the present case is concerned, absolutely there is no evidence produced before this Court to show that the first item of the properties was purchased by Mr.K.Venkatasami in 1959 from the income yielded from the properties allotted to the grandfather of the plaintiff in the 1956 partition. As observed earlier, all the sale deeds executed in favour of the third parties in respect of the properties allotted to Venkatasamy were made only after the purchase of the first item of the properties. Therefore, the submission of the learned counsel for the appellant that the income derived from selling ancestral properties allotted to the grandfather was utilised for purchasing the suit first item on 06.01.1959 cannot be accepted. In such circumstances, no significance can be attached to the recitals made in Ex.P-11 partition deed, dated 29.04.1998.

32. It is yet another submission of the learned Senior

Counsel appearing for the appellant that the plaintiff has contributed for the construction of first item of the suit properties and that under the Specific Relief Act, a person having a right can only maintain a suit, and therefore, the declaration sought for is not automatic and the fact of joint family sale proceeds, has to be proved independently and mere cross-examination will not make the self-acquired property a joint family property. In fact, both the parties had admitted the sale of the ancestral properties between 1962 and 1986 and the sale deed in Ex.D-1 is dated 06.01.1959 and registered on 07.01.1959, wherein it is stated that the sale consideration has already been paid. The plaintiff has miserably failed to prove that the proceeds of the ancestral properties were used for purchase of item No.1 of the suit properties and similarly the so-called contribution made for construction of item No.1 of the suit properties by the plaintiff, has no meaning, in view of the declaration of the first defendant that he had constructed the suit item No.1 property from and out of his income and the ancestral properties had been shown to have been sold only after 1962, much before the first item of the suit property was purchased in 1959 and the fact that the plaintiff completed his education only in 2002 and there was no proof for his contribution or use of ancestral income for such construction of first item of the suit properties, the relief prayed for by the plaintiff cannot be granted. There is absolutely no evidence produced by the appellant to show that from the sale proceeds of the ancestral properties, which were allotted to the father of the first defendant, the first item of the suit properties was purchased. However, on the side of the plaintiff, one mortgage deed was marked as Ex.P-9 dated 08.08.1958 to show that a property was mortgaged prior to purchase of property under Ex.D-1, dated 06.01.1959 to avail the loan. On a perusal of the said document, it shows that the property referred to in the mortgage deed is self-acquired property of Rathinammal and the mortgage covered under Ex.P-9, is not a property allotted in the partition deed executed in favour of the first defendant in the year 1956. In fact, in cross-examination, P.W.1 had admitted that in Ex.P-9 mortgage deed, reference was made to the effect that it is the self-acquired property of her grandmother Rathinammal. The said property was not allotted to his father Venkatasami in the partition that took place in 1956. Thus, there is absolutely no documentary evidence produced to show that after partition in 1956, between Venkatasami, the father of the first defendant and his brother in between 1956 and 1959 that the grandfather of the plaintiff was receiving income from the ancestral properties, by which he had purchased the item No.1 of the suit properties, by Ex.D-1, dated 06.01.1959. Therefore, it is clear that the item No.1 of the suit properties is only self-acquired property of the first defendant.

33. Since this Court has come to the conclusion that suit

first item of the properties is self-acquired property of the first defendant, the question of considering the inheritance of the ancestral properties does not arise in this case. Hence, the judgments relied on by the learned counsel for the parties in that regard, cannot be made applicable to the facts of the present case. In such view of the matter, we do not find any compelling circumstance warranting this Court to make interference in the impugned common judgment and decrees of the learned Single Judge.

34. In the result, the Original Side Appeals are dismissed, confirming the common judgment and decrees dated 26.06.2014 passed by the learned single Judge in C.S.No.75 of 2010 and Tr.C.S.No.128 of 2011. No costs. Consequently, the miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

cs/rsh

To

Sub-Assistant Registrar,
Original Side,
High Court,
Madras.

+2cc to Mr.Jayasudha Surya Narayana, Advocate, S.R.No.
39838,39839

O.S.A.Nos.218 & 219 of 2014

VG I(CO)
GN(21/05/2019)

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