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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.01.2021

PRONOUNCED ON : 21.01.2021

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

S.A.NO.1250 OF 2008

1. Krishnaveni,
Door No.130,
Murugan Nilayam,
Hospital Road,
Udhagamandalam.
2. Leelavathi Ramesh,
Flat No.601, Ned Bank Plaza,
No.60, Darban Road,
South Africa.
Now temporarily residing at
Uthagamandalam.
3. S.Manjunath,
Door No.130, Murugan Nilayam,
Hospital Road,
Uthagamandalam.

... Appellants/Plaintiffs

.Vs.

Seetha,
Residing at Dhavan Village,
Dhavan Post,
Nilgris.

... Respondent/Defendant

PRAYER:-

Second Appeal filed under Section 100 of C.P.C., against the judgment and Decree dated 13.09.2006 in A.S.No.48 of 2005 on the file of the Subordinate Judge of Nilgiris at Uthagamandalam, reversing the judgment and decree dated 28.02.2005 in O.S.No.187 of 2004 on the file of the District Munsif, Uthagamandalam.

For Appellants : Ms.A.L.Ganthimathi

For Respondent : Mr.Srinath Sridevan



J U D G M E N T

Challenge in this second appeal is made to the judgment and decree dated 13.09.2006 passed in A.S.No.48 of 2005 on the file of the Subordinate Court, Nilgiris at Uthagamandalam, reversing the judgment and decree dated 28.02.2005 passed in O.S.No.187 of 2004 on the file of the District Munsif Court, Uthagamandalam.

2. For the sake of convenience, the parties are referred to as per the rankings in the trial court.

3. Suit for declaration and possession.

4. The plaintiffs in O.S.No.187 of 2004 on the file of the District Munsif Court, Uthagamandalam are the appellants in the second appeal.

5. The case of the plaintiffs in brief is that the deceased T.S.Rama Gowder, the father-in-law of the first plaintiff and the grandfather of the plaintiffs 2 and 3 was the freedom fighter and for the services rendered by him to the nation during the freedom struggle, he was assigned an extent of 7.36 acres of land in Survey No.102/5 of Hullathi village, Uthagamandalam in the district of Nilgiris by way of an order of assignment dated 03.10.1950 by the then Collector of the Nilgiris and the deceased Rama Gowder was succeeded by his sons namely the deceased T.R.Subramani and the deceased T.R.Halan. The deceased T.R.Subramani is the husband of the first plaintiff and the father of the plaintiffs 2 and 3. Out of the said extent of 7.36 acres, the extent of 1.00 acre was given to Mrs.Baby, the daughter of the deceased T.S.Rama Gowder and another extent of 2.00 acres was sold to T.S.Madia Gowder, the father-in-law of the defendant. The remaining extent of 4.36 acres of land was divided between the deceased T.R.Subramani and the deceased T.R.Halan and thus the deceased T.R.Subramani became entitled to an extent of 2.18 acres of land in R.S.No.102/5B which is described in the plaint schedule. The plaintiffs are the legal heirs of the deceased T.R.Subramani and entitled to the plaint schedule property after his demise and the plaint schedule property is the ancestral property of the deceased T.R.Subramani. T.R.Subramani died on 17.11.1996. Prior to his death, he was ailing for sometime and he was not in proper senses, during that period and taking advantage of the sickness of T.R.Subramani, the defendant and her husband Balasubramani made T.R.Subramani to execute the sale deed in respect of the plaint schedule property in favour of the defendant by way of a registered document dated 12.04.1996 without the consent and despite having knowledge that the plaintiffs are entitled to their respective shares in the plaint



schedule property. Even in the abovesaid sale deed, it has been clearly averred that the deceased T.R.Subramani became entitled to the plaint schedule property by virtue of inheritance. The plaintiffs are not aware of the payments if any made by the defendant to the deceased T.R.Subramani in respect of the sale transaction. The sale deed dated 12.04.1996 is invalid in law and the plaint schedule property is not the self acquired property of the deceased T.R.Subramani and the plaintiffs 1 to 3 issued the legal notice on 12.03.1997 to the defendant to get the sale deed dated 12.04.1996 declared as null and void and the defendant sent a reply on 25.03.1997 containing false allegations. Hence the plaintiffs had been necessitated to levy the suit for appropriate reliefs.

6. The defendant resisted the plaintiffs' suit and would contend that the averments contained in para No.3 and 4 of the plaintiffs are not disputed and also putforth that the deceased T.S.Rama Gowder gave an extent of 1.00 acre to his daughter Mrs.Baby and further admitted that the deceased T.S.Rama Gowder sold an extent of 2.00 acres in favour of the defendant's father-in-law and further admitted that the remaining extent of 4.36 acres had been divided between the deceased T.R.Subramani and his brother, the deceased T.R.Halan and would further state that by way of the partition abovestated, the deceased T.R.Subrmani got entitled to the plaint schedule property and thus putforth the case that the deceased T.R.Subramani derived a valid title, right , claim and interest over the plaint schedule property and had every right to alienate and transfer the same to any prospective purchaser. The plaint schedule property is the self acquired property of the deceased T.R.Subramani. The defendant would further state that it is false to state that the deceased T.R.Subramani was sick and not in proper senses prior to his death and also would contend that it is false to state that the defendant and her husband made T.R.Subramani to execute the sale deed in respect of the suit property unlawfully and on the other hand, according to the defendant, the deceased T.R.Subramani was in financial distress and approached the defendant and her husband to help him with reference to the same. The deceased T.R.Subramani and the defendant's husband are close relatives. Following the same, the deceased T.R.Subramani offered to sell the suit property to the defendant to pay the debts and for meeting the family necessities and accordingly sold the plaint schedule property in favour of the defendant and executed the sale deed dated 12.04.1996 in favour of the defendant for valid consideration. Thus the plaint schedule property had been sold to the defendant only for discharging the debts and meeting the family necessities and the abovesaid sale transaction would bind the plaintiffs. The defendant had purchased the plaint schedule property in good faith. Without prejudice to the abovesaid contentions, according to the



defendant, inasmuch as, the deceased T.R.Subramani was the Karta of the family and he had every right to alienate the plaint schedule property in favour of the defendant and the same would bind the plaintiffs. The plaintiffs are not entitled to seek the relief of declaration as prayed for on the footing that the plaint schedule property is the ancestral/joint family property and the plaintiffs have no cause of action to lay the suit and the suit is liable to be dismissed.

7. In support of the plaintiffs' case, P.W.1 was examined. Exs.A1 to A3 were marked. On the side of the defendant, D.Ws.1 and 2 were examined. Exs.B1 to B8 were marked.

8. On a consideration of the materials placed on record, both oral and documentary and the submissions put forth by the respective parties, the trial court was pleased to decree the suit in favour of the plaintiffs as prayed for. Aggrieved over the same, the first appeal had been preferred by the defendant. The first appellate court on an appreciation of the materials placed on record, both oral and documentary and the arguments put forth by the respective parties, was pleased to set aside the judgment and decree of the trial court and by way of allowing the appeal preferred by the defendant, resultantly dismissed the suit laid by the plaintiffs. Impugning the judgment and decree of the first appellate court, the second appeal has been preferred by the plaintiffs.

9. At the time of admission of the second appeal, the following substantial questions of law were formulated for consideration.

a) Whether the suit property, admitted as joint family property in the hands of T.R.Subramani can be sold by him as a Kartha of the joint family?

b) When the respondents admit that the property is a joint family property, whether the sale of the said property by the Kartha of the family is valid?

10. The total extent of 7.36 acres in Survey No.102/5 was assigned in favour of the deceased T.S.Rama Gowder by the then District Collector, for the service rendered by him during the freedom struggle by way of an assignment dated 03.10.1950. The deceased T.S.Rama Gowder had given an extent of 1.00 acre out of the abovesaid extent of 7.36 acres to his daughter Mrs.Baby. Further the deceased T.S.Rama Gowder had sold another extent of 2.00 acres out of the abovesaid 7.36 acres in favour of T.S.Madia Gowder, the father-in-law of the defendant. The remaining extent of 4.36 acres, out of the abovesaid extent of 7.36 acres had been divided between the deceased T.R.Subramani



and his brother, the deceased T.R.Halan, who are the sons of the deceased T.S.Rama Gowder and by way of the abovesaid partition, the deceased T.R.Subramani had derived the extent of 2.18 acres in R.S.102/5B which is the plaint schedule property. The first plaintiff is the wife and the plaintiffs 2 and 3 are the children of the deceased T.R.Subramani. With reference to the abovesaid facts, the parties are not in dispute.

11. According to the plaintiffs, the plaint schedule property derived by the deceased T.R.Subramani by way of the abovestated partition effected with his brother is the ancestral/joint family property of the plaintiffs and thus T.R.Subramani derived the plaint schedule property by way of inheritance and thus the plaintiffs are entitled to their respective shares in the plaint schedule property and further according to the plaintiffs, taking advantage of the sickness of the deceased T.R.Subramani and his lack of proper senses, prior to his death, they had putforth the case that the defendant and her husband T.R.Balasubramani made the deceased T.R.Subramani to execute the sale deed dated 12.04.1996 in favour of the defendant without the consent and despite having knowledge that the plaintiffs are entitled to their respective shares in the plaint schedule property and therefore according to the plaintiffs, the sale deed dated 12.04.1996 is null and void and not binding upon the plaintiffs and hence seeking the delivery of the possession of the suit property from the defendant, the plaintiffs issued a legal notice dated 12.03.1997 and inasmuch as, the defendant repudiated the case of the plaintiffs putforth in the legal notice, by way of the reply notice dated 25.03.1997, according to the plaintiffs, they had been necessitated to institute the suit against the defendant for appropriate reliefs.

12. Per contra, according to the defendant, the plaint schedule property derived by T.R.Subramani by way of the partition effected with his brother, is the self acquired property of T.R.Subramani and not the ancestral /joint family property of T.R.Subramani and therefore, according to the defendant, the deceased T.R.Subramani is entitled to alienate and transfer the plaint schedule property to any prospective purchaser and further putforth the case that the case of the plaintiffs that the deceased T.R.Subramani was sick and not having proper senses prior to his death is absolutely false and also contended that the case of the plaintiffs that the defendant and her husband made the deceased T.R.Subramani to execute the sale deed dated 12.04.1996 in favour of the defendant without the consent and having knowledge about the plaintiffs' shares in the plaint schedule property is false and on the other hand, according to the defendant, the deceased T.R.Subramani was in financial distress and for discharging his



debts and also for meeting his family necessities, alienated the plaint schedule property in favour of the defendant for valid consideration by way of the sale deed dated 12.04.1996 and therefore the abovesaid sale deed is valid and binding on the plaintiffs and the defendant had acquired the plaint schedule property under the abovesaid sale deed in good faith and further also putforth the case that even assuming that the plaint schedule property is the joint family property as putforth by the plaintiffs, inasmuch as, the deceased T.R.Subramani alienated the plaint schedule property in favour of the defendant for meeting the family necessities and for discharging the debts, according to the defendant, the sale deed dated 12.04.1996 would bind the plaintiffs and therefore contended that the plaintiffs' suit is totally devoid of any cause of action and liable to be dismissed.

13. Considering the abovesaid pleas putforth by the respective parties, the crucial aspect that has to be determined in this case is as to the nature of the property derived by the deceased T.R.Subramani by way of the partition effected with his brother, the deceased T.R.Halan. As above pointed out, the deceased T.R.Subramani derived the plaint schedule property by way of effecting the partition of the remaining extent 4.36 acres derived from his father T.S.Rama Gowder. When the parties are not at issue that the extent of 7.36 acres in Survey No.102/5 had been assigned to the deceased T.S.Rama Gowder, it is obvious that the abovesaid property ie., the extent of 7.36 acres in Survey No.102/5 is the separate property of the deceased T.S.Rama Gowder. Accordingly, it is seen that T.S.Rama Gowder during his life time had given an extent of 1.00 acres to his daughter Mrs.Baby and further sold an extent of 2.00 acres to the deceased T.S.Madia Gowder, the father-in-law of the defendant out of the abovesaid extent of 7.36 acres and the abovesaid transactions had not been challenged by any one, both by the sons of the deceased T.S.Rama Gowder or the plaintiffs as the case may be. On the other hand, it is found that the sons of the deceased T.S.Rama Gowder namely T.R.Subramani and T.R.Halan had chosen to effect the partition of only the remaining extent of 4.36 acres in survey No.102/5 and thus by way of the abovesaid partition only, it is seen that the plaint schedule property had been allotted to the share of the deceased T.R.Subramani. In view of the abovesaid factual matrix, when it is noted that the total extent of 7.36 acres in Survey No.102/5 is the separate property of the deceased T.S.Rama Gowder and by way of effecting the partition qua the remaining extent, when it is seen that the deceased T.R.Subramani had obtained the plaint schedule property, in such view of the matter, the property derived by T.R.Subramani by way of the partition would only be his separate property and not his ancestral/joint family property as alleged by the plaintiffs. In this connection, I had



an occasion to consider the position of law with reference to the nature of the property derived by the father in the partition in the decision reported in 2017 (1)MLJ 759 LNIND 2016 MAD 3634 [Chinna Palanisamy Gounder Vs. Latha and Others] and after relying the Full Bench decision of our High Court and the decision of the Apex Court, proceeded to hold that, considering the devolution of interest under section 8 of the Hindu Succession Act 1956, the property derived by the father could only be treated as the separate property and not as the joint family property of the father and his children and further held that as per section 8 of the Hindu Succession Act 1956, the father does not take the property as the Karta of his own family, but take it in his individual capacity and thus held that the property derived by the father is only to be treated as the separate property and not the joint family property of the father and his children based on conjoint reading of sections 4, 8, 19 and 30 of Hindu Succession Act 1956 and the position of law has been outlined in the above decision are as follows:

Succession Laws - Kartha - Separate Properties - Hindu Succession Act, 1956(Act 1956), Sections 4,8,19 and 30 - Suit laid by plaintiffs claiming partition of 2/3 shares of plaintiffs 2 and 3 in suit properties and claiming maintenance for First Plaintiff from First Defendant - Trial Court found that First plaintiff is entitled to seek maintenance as claimed and held that it is only Second Plaintiff entitled to claim share in suit properties - Second Defendant has preferred present appeal, challenging judgment and decree of First Appellate Court in so far as it went against him - Whether Courts below are correct in holding that Sale Deed executed by First Defendant in favour of Second Defendant is not binding on Second Plaintiff in respect of $\frac{1}{2}$ share ignoring fact that sale was made by Kartha of joint family for welfare of family and for discharging loan borrowed for expenses of joint family - Whether Courts below are correct in allowing suit partly and holding that Sale Deed is not binding on Second plaintiff as far as his $\frac{1}{2}^{\text{th}}$ share is concerned, in absence of any document or proof that First Defendant acted against interest of family and children and used sale proceeds for illegal purpose - Held, suit properties derived by First Defendant under Partition Deed could only be treated as separate properties of First Defendant and not joint family properties of First Defendant and Plaintiffs 2 and 3 - If self acquired property or joint family property, once they get devolved in accordance with



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Section 8 of Act 1956 on principles of intestacy, joint family property ceases to be joint family property in hands of various persons who have succeeded to it as they hold property as tenants in common and not as joint tenants - First Defendant has rightly described suit properties as his own properties in sale deed - First Defendant is not shown to have been indulging in illegal/immoral activities or excluded Plaintiffs and discarded their interest and welfare - First Defendant not required to seek sanction from court to convey his separate properties in favour of Second Defendant - Suit Properties are separate properties of First Defendant, claim of 2/3 share by Plaintiffs 2 and 3 on footing that suit properties are joint family properties of First Defendant and Plaintiffs 2 and 3 is completely ruled out - Plaintiffs 2 and 3 not entitled to claim any share in properties as suit properties are separate properties of First Defendant - Judgment and decree of courts below set aside - Suit filed by Plaintiff dismissed-Appeal allowed.

Para 24. As per the provisions of Hindu Succession Act, 1956, considering the devolution of interest under Section 8 of the Hindu Succession Act, 1956, amongst the Class-I heirs, the properties derived by the first defendant from his father could only be treated as his separate properties and not as the joint family properties of the first defendant and his children viz, the plaintiff 2 and 3. With reference to the above position of law, there are ample authorities and in this connection, a useful reference may be made to the decisions reported in Additional Commissioner of Income-tax, Madras-1 v. P.L.Karuppan Chettiar, AIR 1979 MADRAS 1:LNIND 1978 MAD 34, Commission of Income Tax v. P.L.Karuppan Chettiar, 1993 Supp (1) SCC 580, Commissioner of Wealth Tax, Kanpur and Others v. Chander Sen and Others, AIR 1986 SC 1753: (1986) 3 SCC 567: LNIND 1986 SC 214, Bhanwar Singh v. Puran and Others, AIR 2008 SC 1490 : (2008) 3 SCC 87: LNIND 2008 SC 317 : (2008) 2 MLJ 1158 and the latest decision Uttam v. Saubhag Singh and Others, AIR 2016 SC 1169:(2016) 4 SCC 68:LNIND 2016 SC 101: (2016)2MLJ536. A perusal of the above said decisions would go to show that when the son inherits the property, as per Section 8 of the Hindu Succession Act, 1956, he does not take it as Kartha of his own undivided family, but take it in



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his individual capacity. Therefore, it could be seen that as per the authoritative pronouncements of the Apex Court and our High Court, the suit properties derived by the first defendant under Ex.A6 could only be treated as the separate properties of the first defendant and not the joint family properties of the first defendant and the plaintiffs 2 and 3 as claimed by the plaintiffs. It could be seen that in toto, on a conjoint reading of Sections 4,8,19 and 30 of the Hindu Succession Act, 1956, if the self acquired property or joint family property, once they get devolved in accordance with Section 8 of Hindu Succession Act, 1956, on principles of intestacy, the joint family property ceases to be joint family property in the hands of the various persons, who have succeeded to it as they hold the property as tenants in common and not as joint tenants.

25. In the light of the above decisions, when it is found that as per law, the properties derived by the first defendant under Ex.A6 are his separate properties, the Courts below have erred in findings fault on the part of the defendant in describing the suit properties as his own properties in the sale transaction Ex.B1. Therefore, it could be seen that the first defendant has rightly described the suit properties as his own properties in Ex.B1 sale deed. So, when it could be seen that the suit properties are the separate properties of the first defendant and when there is no impediment on his part to alienate the same and when as found earlier, the first defendant is not shown to have been indulging in illegal/immoral activities or excluded the plaintiffs and discarded their interest and welfare, it could be seen that the first defendant is not required to seek sanction from the court to convey his separate properties in favour of the second defendant. Further, it could be seen that when it is found that the suit properties are the separate properties of the first defendant, the claim of 2/3 share by the plaintiffs 2 & 3 on the footing that the suit properties are the joint family properties of the first defendant and the plaintiffs 2 & 3 is completely ruled out. Therefore, it could also be seen that the plaintiffs 2 & 3 and in particular, the second plaintiff is not entitled to claim any share in the properties as the suit properties are the separate properties of the first defendant.



14. In the light of the abovesaid legal position, it is seen that the property acquired by T.R.Subramani by way of the partition with reference to the separate property of his father, the deceased T.S.Rama Gowder, would only be the separate property of the deceased T.R.Subramani and not the ancestral / joint family property of the deceased T.R.Subramani and the plaintiffs as putforth by the plaintiffs and in view of the abovesaid position, it is obvious that the deceased T.R.Subramani would be entitled to alienate the plaint schedule property to any prospective purchaser as he wished and in such view of the matter, the sale deed effected by him dated 12.04.1996 in favour of the defendant is a valid sale deed and the plaintiffs are not entitled to purforth any challenge to the same as pleaded by them.

15. In the light of the abovesaid factors, the contention putforth by the plaintiffs' counsel that the suit property is the ancestral/joint family property of the deceased T.R.Subramani and the plaintiffs, as such, cannot be countenanced.

16. The case projected by the plaintiffs that the deceased T.R.Subramani was not having proper senses and remained sick prior to his death and taking advantage of the same, the defendant and her husband had obtained the sale deed dated 12.04.1996 qua the suit property has been vehemently and stoutly repudiated by the defendant even in the legal notice and also in the written statement. The position being above, yet there is no material on record to show that T.R.Subramani was not having proper senses and having bad health prior to his demise on the part of the plaintiffs. Therefore the abovesaid case projected by the plaintiffs for seeking the declaration of the sale deed dated 12.04.1996 as null and void cannot be totally accepted in any manner.

17. The defendant would contend that the deceased T.R.Subramani was in financial distress and for meeting the family necessities and for discharging the debts, chose to alienate the suit property in favour of the defendant for valid consideration. Considering the materials placed on record by the defendant marked as Exs.B1 to B7 and also the deposition of the first plaintiff examined as P.W.1 as extracted by the first appellate court, in toto, it is seen that the deceased T.R.Subramani was in financial distress and accordingly for discharging the same and also for meeting the family necessities, proceeded to alienate the suit property in favour of the defendant. As rightly contended by the defendant's counsel, no material has been placed to show that the deceased T.R.Subramani had any other means of income to discharge the said debts and for meeting the family necessities. Accordingly,



it is seen that, inasmuch as, T.R.Subramani had derived the plaint schedule property as his separate property in the partition, he had rightly described the plaint schedule property as his absolute property in the sale deed dated 12.04.1996 and no exception could be taken to the same, as sought to be projected by the plaintiffs' counsel.

18. Without admitting the case of the plaintiffs, assuming for the sake of arguments, that the plaint schedule property is the joint family property of the deceased T.R.Subramani and the plaintiffs, when it is noted that T.R.Subramani was the Karta of the family consisting of himself and the plaintiffs and when according to the defendant, only for discharging the debts and for meeting the family necessities, he had chosen to alienate the suit property in favour of the defendant, even assuming that the plaint schedule property had been alienated by the deceased, T.R.Subramani, for his own requirements, when there is no plea on the part of the plaintiffs and no material projected by the plaintiffs to show that the sale transaction dated 12.04.1996 was tainted with any immoral or illegal purpose and on the other hand, when the materials placed on record conjointly viewed, would go to show that the plaint schedule property had been alienated only for discharging the debts and for meeting the family necessities by the deceased T.R.Subramani, it is seen that in the light of the decision of the Apex Court reported in 1997(9) SCC 701 [Sunder Das and Others Vs. Gajananrao and Others], the alienation made by the deceased T.R.Subramani in favour of the defendant would be binding on the plaintiffs and therefore the plaintiffs would not be entitled to seek the relief of declaration and the relief of possession as prayed for by them. The position of law has been explained by the Apex Court in the abovesaid decision as follows:

A. Hindu Law- Alienation- Legal necessity - Alienation by father as karta of joint Hindu family - Father-karta legally entitled to alienate the property of the joint family and interest of minor member of the family for his own requirement unless it is shown that the transaction was tainted by any immoral or illegal purpose- Recital contained in sale deed that sale of the ancestral house was for family necessity - No evidence led to rebut the clear recital - Seller who was presumed to be well acclimatised with court proceedings (as he was an Upper Division Clerk in Civil Court at the relevant time) standing by the transaction and the recitals in the sale deed - Evidence showing that the house sold as the house being in a dilapidated and ruinous condition found to be a dead burden to the family and the seller was in



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debts-Father-karta not shown to be tainted by any immoral conduct-After purchase, substantial construction made by the purchaser at a huge cost - Eleven and a half years after the sale sons of the seller filing suit by joining their father as co-plaintiff on ground that the sale deed was not binding on them since the house being ancestral property in which they had equal interest, their father had no right to sell it -Held, the suit got filed by the father only with a view to knock out more money from the purchasers and was a collusive suit - Plaintiffs had made out no case for getting any relief from the Court in the present proceedings and their suit was, therefore, liable to be dismissed.

B. Limitation Act, 1963 - Art.109 and S.14 - Exclusion of period bonafide spent in litigation - Suit by Hindu governed by Mitakshara law to set aside his father's alienation of ancestral property - Limitation period of 12 years from the date of taking possession of the property by the alienee - Alienees taking possession of the suit property on 30-05-1959 when they got registered sale deed in their favour. Suit filed on 20.08.1970 i.e, before expiry of period of 12 years on 29-05-1971 in a court lacking pecuniary jurisdiction - High Court on 22-11-1995 ordering returning of the plaint for presentation to proper court - Accordingly suit filed in proper court on 26-11-1975 - Held suit not barred by limitation - contention that limitation period for filing the suit should be counted from the date of filing the second suit in proper court and so counted suit was filed beyond the period of 12 years and hence barred, held, cannot be accepted.

19. In the light of the abovesaid discussions, it is held that the plaint schedule property is the separate property of the deceased T.R.Subramani and not the ancestral property/joint family property of the deceased T.R.Subramani and the plaintiffs as projected by the plaintiffs and therefore the sale deed dated 12.04.1996 effected by the deceased T.R.Subramani in favour of the defendant is valid and binding on the plaintiffs and therefore, the plaintiffs are not entitled to seek the relief as prayed for. Even assuming that the plaint schedule property is the joint family property of the deceased T.R.Subramani and the plaintiffs, still in the absence of any material projected on the part of the plaintiffs that the alienation effected by T.R.Subramani in favour of the defendant vide the sale deed



dated 12.04.1996 is vitiated by any immoral or illegal purpose and on the other hand, when it is seen that the sale deed had been effected only for meeting the family necessities and for discharging the debts, on that score also it is held that the abovesaid sale transaction effected by the deceased T.R.Subramani is valid and binding on the plaintiffs. The substantial questions of law formulated in the second appeal are accordingly answered in favour of the defendant and against the plaintiffs.

20. For the reasons aforesaid, the judgment and decree dated 13.09.2006 passed in A.S.No.48 of 2005 on the file of the Subordinate Court, Nilgiris at Uthagamandalam, reversing the judgment and decree dated 28.02.2005 passed in O.S.No.187 of 2004 on the file of the District Munsif Court, Uthagamandalam are confirmed and resultantly the second appeal is dismissed with costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Deputy Registrar (TNMCC)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Subordinate Judge of Nilgiris at Uthagamandalam.
2. The District Munsif,
Uthagamandalam.

Copy To:

The Section Officer,
V.R. Section,
High Court.

+1cc to Ms.A.L.Ganthimathi, Advocate, S.R.No.2992

S.A.NO.1250 OF 2008

VG-I (CO)
PBS/27/10/2021