



A.S.No.187 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Delivered on
24~03~2022	04~07~2022

CORAM:

THE HONOURABLE MRS. JUSTICE S. KANNAMMAL

A.S.No.187 of 2013
and
M.P.No.1 & 2 of 2013

K.Saraswathy

.. Plaintiff/Appellant

Versus

1.R.Sargunan
2.E.R.K.Krishnan
3.K.Keerthi

.. Defendants/Respondents

Appeal Suit is filed under Section 96 of the Civil Procedure Code against the Judgment and Decree dated 17.01.2013 made in O.S.No.77 of 2010 on the file of the II Additional District Court, Erode.

For Appellant	: Mr.V.Raghavachari
For R1	: Mr.V.P.Karthikeyan
For R2	: No Appearance
For R3	: Unclaimed

JUDGMENT

Challenging the Judgment and Decree dated 17.01.2013 passed by the learned II Additional District Court, Erode in O.S.No.77 of 2010, the plaintiff has come up with this appeal suit.



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2. For the sake of convenience, the parties are referred to as “plaintiff” and “defendants” as has been arrayed before the Trial Court”.

3. According to the plaintiff, the suit property was originally purchased by one Kasianna Gounder and he along with his children were in enjoyment of the suit property as a joint family property. They started business with the funds of the joint family and purchased various properties in the names of the members of the joint family. Thus, the various properties purchased by Kasianna Gounder from and out of the joint family properties constituted a joint family nucleus. It is further stated that Kasianna Gounder died in the year 1980 leaving behind his wife and four sons as his legal heirs. According to the plaintiff, the suit property is one of the joint family properties purchased in the name of “Sri Sankar and co” in the year 1984 and the same was allotted as a share of E.R.K Krishnan, son of Kasianna Gounder, on his retirement from the partnership business on 31.03.1996. The plaintiff is the daughter in law of Kasianna Gounder and wife of E.R.K Krishnan.

4. Further the plaintiff submits that her elder son Karthik died on 06.09.2000 and she succeeded the estate of her deceased son Karthik. Thereafter, the first defendant purchased the suit property from E.R.K



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Krishnan and her another son Kirthi, without the consent or knowledge of the plaintiff, through a sale deed date 08.02.2006. The plaintiff contends that the sale deed executed by her husband and younger son will not bind her 1/3 share in the suit property as she was in joint possession of the same. So, claiming her share in the suit property, the plaintiff has filed the suit for partition, separate possession and permanent injunction.

5. Resisting the suit, the first defendant who is the purchaser of the suit property from the second defendant, filed the written statement and denied all the averments in the plaint. He further states that the properties acquired in names of the members of the alleged joint family and family business for the sake of convenience is false. There was no joint family or joint family property in existence. The firm “Shri Sankar and Co, was not a joint family firm or business. The said firm had no connection with the alleged joint family. There was no productive ancestral nucleus to purchase any property.

6. It is the case of the first defendant that the suit property was purchased from one “Kavery Paper Mills Private Ltd.,” by Santhadevi, Jayalakshmi and by the husband of the plaintiff, i.e., Krishnan for and on behalf of “Sri Sankar and co” and on retirement of Krishnan, second



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defendant, from the firm was allotted a share of 8.77 acres, so it was his own property. The plaintiff is not a co-parcener in the suit property. The first defendant is not aware about the birth or death of their elder son Karthick. The first defendant had purchased the land to an extent of 4.15 acres in R.S.No.223/2 and 223/3 from plaintiff's husband E.R.K.Krishnan, by a sale deed dated 08.02.2006.

7. Further the first defendant submits that in respect of the remaining property measuring 4.25 acres out of 8.77 acres, the plaintiff's husband had executed a registered settlement deed dated 07.07.2006 in the name of the plaintiff. Subsequently the plaintiff had created a sale deed over the property got under the settlement deed to her husband's brother's son Mr. Ravishankar on 30.05.2008 in respect of the property covered in the settlement deed at 07.07.2006. Therefore, the first defendant filed a suit in O.S.No.58 of 2008 before the I Additional District Court, Erode for specific performance. The first defendant had paid a sum of Rs.11,00,000/- out of total sale consideration Rs.19,00,000/- for the properties covered under the settlement deed dated 07.07.2006. While so, the plaintiff had come forward with the present frivolous suit, with an ulterior motive to coerce the first defendant to withdraw the pending suit in O.S.No.58 of 2008. The first defendant's name is included



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in the revenue records and he had constructed a house in the suit property and residing thereof with his family. The defendants 2 and 3 are colluding with the plaintiff in filing the present suit. The plaintiff is not in joint possession of the suit property as alleged in the plaint and consequently, the court fee paid under Section 37 (1) of the Tamil Nadu Court Fee and Suit Valuation Act is not proper. The suit has been improperly valued and therefore also, the suit is not maintainable. The suit is collusive, baseless and not maintainable and therefore, the first defendant prayed for dismissal of the suit.

8. Based upon the above pleadings, the trial Court framed the following issues:

- i. Whether the plaintiff is entitled to seek partition, separate possession and permanent injunction as prayed for?
- ii. Whether it is mentioned in the plaint about the joint family business or joint family property?
- iii. Whether it is correct to state that a settlement Deed was executed in the name of the plaintiff?
- iv. Whether the 1st defendant is the absolute owner of the suit property as stated in the written statement?
- v. Whether the plaintiff is not in joint possession of the suit property?



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vi. Whether the court fee paid is incorrect?

WEB COPY VII. To what other relief the plaintiff is entitled to?

Additional issue framed as on 14.03.2012

vii. Since the plaintiff had admitted the Settlement deed dated 07.07.2007, whether the plaintiff is barred from questioning the correctness of the sale deed dated 30.05.2008 as the 1st defendant had rights and possession over the said property?

9. During trial, plaintiff's power agent was examined as P.W.1 and Exs.A1 to A10 were marked on the side of the plaintiff. On the side of the first defendant, the first defendant himself was examined as D.W.1 and Exs.B1 to B.33 were marked.

10. Upon consideration of the oral and documentary evidence, the trial Court dismissed the suit filed by the plaintiff by holding that there is no evidence to show that after the death of Kasianna Gounder, all sons and their families were living as a joint family and properties were purchased from the income derived from the joint family business. Further the Trial Court held that the suit property is the self acquired property of the husband of the



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plaintiff/second defendant, but now plaintiff is claiming 1/3 share in the suit property alleging it to be a joint family property. The statement and acts of the plaintiff itself is divergent to each other, so, the trial court held that the plaintiff is not entitled to 1/3 share in the property sold to the first defendant. As it is well evident from the Exhibits and records that the property sold to the 1st defendant is neither ancestral property nor the joint family property of plaintiff's husband, the plaintiff is not entitled to the relief sought in the suit.

11. The learned counsel for the Appellant/plaintiff would contend that the suit schedule property is an ancestral property and joint family properties of Late Kasianna Gounder and his sons. The joint family has undertaken joint family business under name and style of “Shri Sankaran and Co” and has purchased several properties in the name of the members of joint family. The family had effected partition of the same and entered into a family arrangement dated 09.10.1998. As per the family arrangement, the suit property was allotted to the share of 2nd defendant. The Appellant/ plaintiff is the daughter in law of Late Kasianna Gounder who had four sons. The 2nd defendant E.R.K. Krishnan is the son of Kasianna Gounder and husband of the plaintiff. The appellant/plaintiff had two sons and the elder son Karthick died on 08.09.2000. After the death the elder son the plaintiff and her husband and her



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younger son Kirthi are the only legal heirs to succeed the property of her deceased son Karthik. The Defendants 2 and 3 without the consent or knowledge of the appellant/plaintiff had sold the property to 1st defendant. The appellant/plaintiff being the mother of the deceased son is entitled to 1/3 share in the suit property, as the property acquired by the 2nd defendant through a family arrangement is ancestral in character.

12. Further it is the case of the appellant/plaintiff that the 1st defendant had admitted the share of the younger son of the plaintiff i.e., 3rd defendant therefore the sale deed under Ex.B.5 dated 08.02.2006 in favour of 1st defendant will not bind the plaintiff in any manner. Hence the learned counsel for the appellant/ plaintiff seeks to set aside the judgment and decree of the Trial Court as the appellant/ plaintiff is the class I legal heir of her deceased elder son, as specified under Section 8 and in the Schedule of Hindu Succession Act.

13. The learned counsel for the appellant/plaintiff relied on the following decisions in support of his case

(i) Pulavarthi Lakshmanaswami vs. Pulavarthi Sitaramamurthi and Ors. AIR 1950 Mad 319



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(ii) *Raju Pillai vs. Palaniswami Pillai and Ors.* (1964) 1MLJ103

(iii) *Nibaran Chandra Shaha vs Lalit Mohan Brindaban Shaha.* AIR 1939Cal187

(iv) *Virupakshappa Malleshappa Sanklapur and Ors vs Akkamahadevi and ors.* AIR 2002 kant 83

(v) *Mary Jecintha vs Joseph Mary and Others* [2012](3)T.N.C.J.391 (Mad)]

(vi) *Prem Prakash alias Lillu and Another vs State of Haryana* (2011) 11 SCC 687

14. Per contra, the learned counsel appearing for the first respondent/first defendant submits that on what basis the appellant/plaintiff had averred that the suit property is a joint family property of Kasianna Gounder and his sons, is not known. The suit property was purchased from one “Kavery Paper Mills Private Ltd.,” by three parties namely Santhadevi, Jayalakshmi and husband of the plaintiff Krishnan and on retirement from the firm, Krishnan/second defendant was allotted the entire extent of land measuring 8.77 acres as his share. The first defendant had purchased an extent of 4.15 acres from second defendant and subsequent to the sale deed dated 08.02.2006, the husband of the appellant/plaintiff had executed a settlement deed dated 07.07.2006 in favour of the first defendant for the remaining extent of land measuring 4.25 acres. However, the appellant/plaintiff had created a



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sale deed in respect of the property covered under the settlement deed executed in favour of her husband's brother's son Mr. Ravishankar on 30.05.2008. Therefore, the first defendant had filed a suit in O.S.No.58 of 2008 before the learned I Additional District Judge, Erode for specific performance. According to the learned counsel, the plaintiff and her husband approached the 1st defendant and expressed their willingness to sell the properties covered under the settlement deed dated 07.07.2006 and the 1st defendant agreed to purchase the same. Accordingly, an agreement to sell the property was executed on 09.05.2007 and out of total consideration of Rs.19,00,000/- the plaintiff has received Rs.11,00,000/- on the date of agreement and the same was admitted by plaintiff herein. In view of the suit in O.S. No. 58 of 2008 filed by the first defendant, the plaintiff had come forward with the present suit with an ulterior motive to coerce the first defendant to withdraw the pending suit O.S.No.58 of 2008. It is also contended that the first defendant's name was included in the revenue records in respect of the suit property and he had constructed a house thereof and living with his family. The defendants 2 and 3 are colluding with the plaintiff, so as to get the property sold to the first defendant unlawfully. The appellant/plaintiff had not mentioned about the birth or death of the elder son during or after the execution of the settlement deed in favour of the first defendant. Therefore, the



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learned counsel for the first defendant would submit that this is a collusive suit filed by the plaintiff in which her husband/second defendant and son/third defendant remained exparte without contesting the suit. If the allegation of the plaintiff that the suit property was sold to the first defendant without the knowledge of plaintiff then the defendants 2 and 3 are the best persons to defend the present suit, but they did not contest it. Therefore, it is contended by the learned counsel for the first defendant that the trial court is right in dismissing the suit filed by the plaintiff and it does not call for any interference by this Court. Accordingly, the learned counsel for the first defendant prayed this Court to dismiss the suit and to confirm the judgment and decree of the Trial Court.

15. The learned counsel for the respondent/1st defendant relied on the below mentioned decisions:

1. Bhagawat Sharan (Dead Thr.Lrs.) Vs. Purushottam & Others, reported in 2020 (6) SCC 387.
2. Savithiri Ammal Vs. Iiyapaperumal and another, reported in 2005 (5) CTC 264.
3. Vijaya College Trust Vs. Kumta Co-operative Arecanut Sales Society, reported in AIR 1995 Karnataka 35.
4. Rajendran Vs. R.V.Saravanan, reported in 2021 (2) CTC 811.
5. T.S.Subbaraju Vs. T.A.Shivarama Setty, reported in AIR 2004 KAR 479.



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WEB COPY 16. Heard the learned counsel appearing for the appellant/plaintiff and the learned counsel for the contesting 1st respondent/1st defendant and perused the materials available on record.

The points that arise for consideration in this appeal is as to

- (i) Whether the suit property sold in favour of the first defendant under Ex.B5 was purchased out of joint family funds?
- (ii) Whether the plaintiff is having 1/3 share in the suit property on the death of her son Karthick?
- (iii) Whether the suit property has been sold by the second defendant in favour of the first defendant, without the knowledge or consent of the plaintiff?

17. The plaintiff filed the suit for partition and separate possession of the schedule mentioned property and to allot 1/3rd share to her and consequentially restrain the 1st defendant and his men from in any way causing any encumbrance over the suit property or from causing any damages or making any alteration in the suit property.



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18. Before venturing to deal with the rival submissions, it is necessary to mention that the suit was filed against the defendants 1 to 3. The first defendant in the suit is the purchaser of the suit property from the defendants 2 and 3. The defendants 2 and 3 are none other than husband and son of the plaintiff. It is very pertinent to mention here that the defendants 2 and 3 remained ex-parte and they did not contest the suit filed by the plaintiff. The suit was contested only by the 1st defendant, who is the 1st respondent in this appeal.

19. In the plaint, it was repeatedly harped upon by the plaintiff that the suit property is one of the properties of the Joint Hindu Family constituted by her father-in-law namely Kasianna Gounder. It is further stated that several properties were purchased in the name of the members of the Joint Family and one such property is the suit property, which fell to the share of her husband Krishnan/2nd defendant. According to the plaintiff her husband and son have sold the suit property in favour of the 1st defendant without her knowledge and consent, thereby she was deprived of 1/3 share in the suit property. This is the sum and substance of the plaint.

20. It is seen from the records that the sale deed dated 08.02.2006



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executed by the defendants 2 and 3 in favour of the 1st defendant was marked as Ex.B5 and it is not in dispute. What is disputed is that on the death of the elder son of the plaintiff by name Karthik, the plaintiff gets 1/3 share in the suit property, which she was deprived of, by virtue of the sale deed under Ex.B5. It is also stated that since the suit property is the ancestral property of her father in law, she is also entitled to a share in it on the death of her eldest son Karthick.

21. In order to prove that the suit property is one of the properties purchased out of the joint family nucleus, there is no evidence produced by the plaintiff. In this context, it may be stated that when the plaintiff had asserted that the suit property has been purchased out of joint family funds, the burden is heavy on her shoulder to prove the same either by oral or documentary evidence. Such proof is required not only with respect to jointness of family but also with respect to the fact that property concerned belongs to joint family. This aspect of the matter has been dealt with by the Hon'ble Supreme Court in the case of ***Bhagawat Sharan (Dead Thr.Lrs.) Vs. Purushottam & Others***, reported in **2020 (6) SCC 387**, wherein in paragraph 10 it was held as follows:-

“10. At the outset we may note that a lot of arguments

<https://www.mhc.tn.gov.in/judis> were addressed and judgments were cited on the attributes of



HUF and the manner in which it can be constituted. In view of the facts narrated above, in our view, a large number of these arguments and citations need not be considered. The law is well settled that the burden is on the person who alleges that the property is a joint property of an HUF to prove the same. Reference in this behalf may be made to the judgments of this Court in ***Bhagwan Dayal vs. Reoti Devi***. Both the parties have placed reliance on the this judgment. In this case this Court held that the general principle is that a Hindu family is presumed to be joint unless the contrary is proved. It was further held that where one of the coparceners separated himself from other members of the joint family there was no presumption that the rest of coparceners continued to constitute a joint family. However, it was also held that at the same time there is no presumption that because one member of the family has separated, the rest of the family is no longer a joint family. However, it is important to note that this Court in ***Bhagwati Prasad Sah and Ors. vs. Dulhin Rameshwari Kuer and Ors.***, it held as follows:-

“.... Except in the case of reunion, the mere fact that separated coparceners chose to live together or act jointly for purposes of business or trade or in their dealings with properties, would not give them the status of coparceners under the Mitakshara law.””

22. In the aforesaid judgment, the Hon'ble Supreme Court has held



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that the burden is on the person who alleges that the property is a joint family property or a Hindu undivided family. Applying the ratio laid down by the Hon'ble Supreme Court to the facts of this case, the plaintiff has not produced any document to prove that the suit property was purchased out of the joint family nucleus. On the other hand, it was the fervent defence of the 1st defendant that the second defendant, who is the husband of the plaintiff, was one of the partners of a firm called "Shri Sankar and Co. The firm had purchased the property from "Kavery Paper Mills Private Ltd.,". When the second defendant retired from the partnership firm, the property measuring 8.77 acres was allotted to him by the partnership firm. The suit property in the present case is part of the property measuring 4.25 acres out of 8.77 acres. Therefore, the plea of the plaintiff that the suit property was one of the properties purchased out of joint family nucleus has not been proved by her, by any oral and documentary evidence and it cannot be accepted.

23. The first defendant has categorically mentioned in his written statement that the sale deed under Ex.B5, dated 08.02.2006, was executed by her husband Krishnan/2nd defendant in favour of the 1st defendant. In fact the 1st defendant, has an abundant caution, demanded the third defendant also to sign the sale deed. The third defendant is the son of the plaintiff and the second



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defendant. However, the plaintiff feigns ignorance about the execution of the sale deed by her own husband and son in favour of the 1st defendant. If that be so, the defendants 2 and 3 are the best persons to enter into the witness box and say as to whether the sale deed was executed in favour of the 1st defendant with the consent of the plaintiff or not. However conveniently, the defendants 2 and 3 did not step into the witness box. Besides they also remained ex-parte before the trial Court. They did not contest the suit. The second defendant having executed the sale deed for a valuable sale consideration in favour of the first defendant ought to have stepped into the witness box and deposed as to the manner in which the sale deed came to be executed in favour of the first defendant. As the defendants 2 and 3 remained ex-parte before the trial Court as well as this Court, a presumption can be made that the suit, as filed by the plaintiff, is collusive in nature. This was also rightly appreciated by the trial Court while dismissing the suit filed by the plaintiff.

24. According to the plaintiff, she came to know about the sale deed under Ex.B5 in favour of the first defendant only when the first defendant filed a suit against her and the defendants 2 and 3 for specific performance of the contract. In this context, it is required to be stated that the plaintiff and her husband/ second defendant have expressed their willingness to sell the



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remaining 4.52 acres in favour of the 1st defendant. A sale agreement dated 09.05.2007 came to be entered into between the plaintiff as well as the second defendant with the first defendant. On execution of the agreement, the plaintiff and her husband/2nd defendant received a total sum of Rs.11,00,000/- as advance sale consideration out of Rs.19,00,000/-. Subsequently a further a sum of Rs.5,00,000/- was paid by the first defendant. However the plaintiff and the second defendant failed to execute the sale deed which prompted the first defendant to file the suit in O.S.No.58 of 2008 for specific performance. According to the first defendant, only in order to threaten the first defendant to withdraw the suit in O.S.No.58 of 2008, the plaintiff has filed the present suit for partition of the suit property. Therefore, this Court is of the view that the cause of action said to have arisen for filing the present suit by the plaintiff is imaginary. The plaintiff even before filing the present suit was fully aware of the sale deed executed in favour of the first defendant under Ex.B5 by her husband and son. Therefore, this Court is of the view that the suit was filed by the plaintiff knowing fully well about the execution of sale deed under Ex.B5 in favour of the 1st defendant.

25. Yet another reason why the plaintiff is not entitled to a decree for partition is that in the suit, the 1st defendant has filed a written statement



specifically stating that under Ex.B5, sale deed in respect of the suit property was executed in his favour by none other than her husband, which was witnessed by her son/3rd defendant. However the plaintiff did not subject the sale deed under Ex.B5 to challenge by seeking a relief of declaration to declare that the sale deed under Ex.B5 is non-est under law in so far as it relates to sale of 1/3 share in favour of the 1st defendant. However, the plaintiff throughout plaint maintained that the suit property has been sold by the defendants 2 and 3 in favour of the 1st defendant without her knowledge and consent. Even assuming that such sale deed was executed without the knowledge or consent of the plaintiff, after the written statement was filed the first defendant, the plaintiff ought to have taken steps to amend the pleading in the plaint. In the absence of the same, the prayer for passing a preliminary decree for partition in respect of 1/3 share of the plaintiff cannot be legally sustained.

26. On perusal of the written statement filed by the first defendant, it is evident that the first defendant is in possession of the suit property. He has also stated that after purchase of the suit item no.1 under Ex.B5 he has mutated the revenue records and also sub-divided the land covered under the sale deed/Ex.B5. He has also stated that after getting approval from the local body he had put up construction in the suit property and living thereon along with



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his family. When such an averments has been raised by the 1st defendant, the averments in the plaint that the plaintiff is in joint possession of the suit property is nothing but a falsehood. In such circumstances, the plaint, as rightly pointed out by the counsel for the first defendant, ought to have been valued under Section 37 (1) of the Tamil Nadu Court Fee and Suit Valuation Act. However by raising a plea that the plaintiff is also in joint possession of the suit property, the plaint has been valued under Section 37 (2) of the said act. Therefore, also this Court is of the view that the valuation of the suit is improper and on that ground also the suit filed by the plaintiff deserves to be dismissed.

27. The learned counsel for the appellant/plaintiff relied on the decision of this Court in ***Mary Jecinta vs Joseph Mary and Others*** reported in *[2012](3)T.N.C.J.391 (Mad)]* to buttress his submissions. In that case it was held that the daughters of the deceased Periyannayagam, who died intestate on 19.02.1984, have been excluded from the partition of the ancestral property on the ground that they have orally relinquished their right. Such a plea of oral relinquishment has to be established only by the defendant in that suit. In the present case, no such exclusion has been made against the plaintiff. As mentioned above, the plaintiff in the present suit was fully aware of the sale



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made in favour of the 1st defendant under Ex.B5. However in the plaint she feigned ignorance about it. While so, the ratio laid down in the decision cited by the learned counsel for the appellant will not lend support to this case.

28. On the other hand, in the decision relied on by the learned counsel for the 1st respondent/1defendant in ***T.S.Subbaraju Vs. T.A.Shivarama Setty***, reported in ***AIR 2004 KAR 479***, the Division Bench of the Hon'ble Karnataka High Court had an occasion to consider whether the mere joining of son of the executor of the sale deed would lead to the presumption that the property covered thereof is a joint family property. The Hon'ble Division Bench of the Karnataka High Court held that merely because the son was made to sign the sale deed such sale deed would not partake the character of the property covered thereunder as an ancestral property. In paragraph No.48, the Division Bench of the Karnataka High Court held as follows:

“48.The contents of Ex.P1 no doubt states the reason for sale, to be, to muster, capital for the business of the sons of Adinarayana Setty as also for repayment of the debts of the said Adinarayana Setty. The sale deed does not anywhere covenants that the immovable property conveyed therein was ancestral property. Quite contrary to the claim of the plaintiff, the document contains recitals that the immovable property was the self-acquired property of Adinarayana Setty. Amongst Hindus, it is common knowledge for the children of the vendor to join the execution of the sale deed of immovable property for and by way of abundant caution. Merely, because the sons of Adinarayana Setty joined in the execution of Ex.P1 sale deed, it cannot be inferred that the



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immovable property conveyed under the said Deed was ancestral property. The fact that Ex.P1 sale deed recites that it is a self-acquired property of Adinarayana Setty is not controverted by the plaintiff but however, he would admit, in his cross-examination, that his grandfather did tell him that the suit property was his self-acquired property. Whatever may be ambiguity in the document Ex.P1, it is dispelled by one important admission of the plaintiff that the property was self-acquired property of the grandfather. The plaintiff having failed to discharge the initial burden, the civil Court was justified in recording a finding to that effect. If this is the correct view to take which we think it is. It would furnish a complete answer to the contentions of the plaintiff.”

29. In the present case, the 3rd defendant, son of the plaintiff and the second defendant, was made to sign as an attesting witness to sale deed under Ex.B5 in favour of the 1st defendant. According to the 1st defendant, the third defendant was asked to sign the sale deed as an abundant caution and nothing more. Therefore, as held by the Division Bench of Karnataka High Court merely because the third defendant signed the sale deed under Ex.B5 it does not mean that the property covered thereof is an ancestral property. On the other hand, it is very much in evidence that the suit property involved in this case was allotted to the 2nd defendant on his retirement from the partnership firm called “SHri Shnkar and Co.Ltd.,”. While so, the said decision of the Division Bench of the Karnataka High Court, relied on by the learned counsel for the first defendant, squarely applies to the facts of the present case.

Therefore, the points for consideration 1 to 3 are answered in favour of the 1st



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respondent/1st defendant and as against the appellant/plaintiff accordingly.

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30. For all the reasons, this Court hereby confirms the decree and judgment dated 17.01.2013 passed by the trial Court in O.S.No.77 of 2010, resultantly, the appeal suit fails and it is dismissed. No costs. Accordingly, connected Miscellaneous Petitions are closed.

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Internet :Yes/No

To

The II Additional District Judge,
Erode.



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S. KANNAMMAL, J

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