



A.S.(MD)Nos.190 of 2008 and 180 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.S.(MD)No.190 of 2008
and C.M.P.(MD)No.11107 of 2018
and A.S.(MD)No.and 180 of 2020

Mothi Periyakaruppan @ M.Maharajan

...Appellant/Plaintiff
in both appeals

Vs.

1.Mothi Ayyan Ambalam (Died)
2.M.Malaichamy
3.M.Gnanasekaran
4.S.R.L.Padma
5.S.R.L.Sree Rengarajan

...Respondents/ Defendants 1 to 3, 5
& 6 in A.S.(MD)No.190 of 2020

(Memo presented in Court on 11.04.2019 and
recorded as R1-died and the sole appellant,
respondents 2 and 3 are the LRs of R1 vide
order dated 11.04.2019)

1.M.Malaichamy
2.M.Gnanasekaran

...Respondents in A.S.(MD)No.180
of 2020



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COMMON PRAYER: These Appeal Suits are filed under Section 96 of the Civil Procedure Code, to set aside the judgment and decree passed in O.S.No.448 of 2004 dated 30.11.2007 and O.S.No.11 of 2014, dated 24.04.2018 on the file of the First Additional District Court, Madurai and V Additional District Court, Madurai, respectively.

For Appellant : Mr.V.Meenakshi Sundaram
(in both appeals)

A.S.(MD)No.190 of 2020:

For R3 : Mr.M.Ajmal Khan
for M/s.Ajmal Associates
For R2 : Mr.N.Shahul Hameed
For R4 & R5 : Mr.D.Jeyam

A.S.(MD)No.180 of 2020:

For R1 : Mr.Shahul Hameed
For R2 : Mr.M.Ajmal Khan
for M/s.Ajmal Associates

COMMON JUDGMENT

Though the two appeals have been filed in respect of two different cause of action, since the subject matter of the properties and the parties are one and the same, in order to avoid conflicting judgments, this Court is of the view that both the appeals are to be dealt with separately and disposed of separately in a common judgment.



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A.S.(MD)No.190 of 2008:

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2. Aggrieved over the dismissal of the suit in O.S.No.448 of 2004 filed by the plaintiff for dividing the suit properties into four equal shares and mesne profits, the present appeal is filed.

3. For the sake of convenience, the parties are referred to herein, as per their own ranking before the Trial Court in O.S.No.448 of 2004.

4. The brief facts leading to the filing of this Appeal Suit are as follows:

(i) the first defendant is the father of the plaintiff and the second and third defendants are the brothers of the plaintiff. The father of the first defendant was a landlord and he owned large properties. By way of a registered partition, dated 12.11.1952 between the first defendant's father, the first defendant and his brothers, the properties have been partitioned.

(ii) In the above said partition, 'B' schedule of properties were allotted to the first defendant. Out of the income earned from that properties, the first defendant purchased more properties and treated the same as joint family



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properties. As the first defendant had developed illegal relationship with other women, in order to save the property, the plaintiff's mother insisted the first defendant to divide the properties to safeguard the family properties. Therefore, as per the list furnished by the first defendant, the partition deed dated 12.11.1967 was executed and registered by believing the representation of the first defendant. At that time the plaintiff was a student the second and third defendants and the other brother of the plaintiff, one Chandrasekar were also minor. The mother of the plaintiff was illiterate. Hence, the plaintiff and his mother also signed the said partition deed.

(iii) The plaintiff contended that only in the second week of January, 2003, he came to know that the first defendant had suppressed certain properties allotted to him under the partition, dated 12.11.1952 and also the properties purchased by him out of the earnings from that properties. The existence of the properties was not known to the plaintiff at the time of execution of the partition deed, dated 12.11.1967. Hence, it is the contention that the partition deed dated 12.11.1967 has to be treated only as partial partition and the entire properties of the first defendant have to be partitioned.



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(iv) According to the plaintiff, the partition of the year 1967 is a result of fraud, misrepresentation and coercion of the first defendant. The plaintiff's mother died on 14.07.1989. His other brother Chandra Sekaran died on 16.09.1987 without any issues. Therefore, the plaintiff is also entitled to 1/4 share in the properties allotted to Chandra Sekaran. Hence, the plaintiff demanded partition in the first week of April 2003 over the said properties. But, the first defendant refused for the same. Further, the first defendant had executed a released deed, dated 30.04.1973 in favour of the fourth defendant in respect of the portion of Item No.1 of the suit property. The plaintiff claims that the said release deed will not bind on the plaintiff, since he is not a party to the said deed and he is entitled to 1/4 share in the suit properties and the income therefrom. Hence, he filed the suit.

(v) Disputing the contention of the plaintiff, the first defendant filed a written statement stating that he and his brothers got properties under the registered Will, dated 17.01.1949 executed by one Alagappan Ambalam. The first defendant was having income from those properties. Hence he had independent source of income to acquire the property for himself. Further, the allegation that the properties acquired by the first defendant through his own income were treated



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as joint family property is not at all true. The acquisition of the properties in his name had never been treated as joint family properties and no property was intended to be kept in common to be divided at a later point of time. The contention of the plaintiff that the partition deed, dated 12.11.1967 is only partial partition was also denied. Having accepted the partition deed, the suit has been filed with an evil mind.

(vi) He further submitted that Item No.1 of the 'A' schedule property does not belong to the first defendant. It belongs to a third party, who alone is in possession and enjoyment of the same from the very inception. The properties were bequeathed to the first defendant and his brothers by a registered Will, dated 17.01.1949. The first defendant had been realizing income from those lands and he purchased suit items 2 and 3 from and out of the said earnings. Item No.4 is not available for partition, since it was allotted to the first defendant under the partition deed dated 18.06.1970. As far as Item Nos.6 and 7 are concerned, one of the sons, namely Chandra Sekaran died on 16.09.1987 without any legal heirs and thus, the first defendant had been in exclusive possession and enjoyment of that properties to the exclusion of all other and paying kists from then. Patta has also been duly transferred in the name of the first defendant. The plaintiff was also



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fully aware of the same and he had not claimed any right over the said properties before filing the suit. Thus, the first defendant had perfected title in suit Item Nos. 6 and 7 by adverse possession and prescription and ouster. As far as Item No.8 is concerned, the said property does not belong to the family of the plaintiff at all. It belongs to one Mothi Karuppan Ambalam and possession of the said property is with his legal heirs.

(vii) There had been an ill-feeling between the plaintiff and the first defendant for several decades and they are not at all in talking terms. The plaintiff knew about the enjoyment of the suit properties by the first defendant separately and exclusively. Hence, there was no need for the plaintiff to demand any partition in the suit properties after the partition, dated 12.11.1967, which was full and final in respect of the parties and also the properties and the suit for partition ignoring the partition deed, dated 12.11.1967 is not maintainable. Hence, he opposed the suit.

(viii) The second defendant adopting the written statement of the first defendant filed a written statement stating that the first defendant is the exclusive owner of the properties in Item Nos.6 and 7 and also the other properties are not available for partition and the plaintiff has no right over the same.



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(ix) The fourth defendant also filed a written statement stating that the release deed, dated 30.04.1973 in respect of entire first item of the suit property is binding on the plaintiff. Further, the fourth defendant demolished the old tiled building and constructed a pucca terraced building. He and his father enjoyed the property for more than the statutory period of limitation and they have also perfected title by long enjoyment. The fourth defendant and his father were in enjoyment of the first item of the property and nobody can claim any right over the said property. Hence, he disputed the claim of the plaintiff.

(x) Based on the oral and documentary evidence, the trial Court had framed the following issues:

“1. Whether item 1 of the suit property belongs to first defendant as mentioned in the plaint or belongs to the fourth defendant as mentioned in the written statement?

2. Whether the items 2 and 3 of the suit properties belongs to the first defendant exclusively and purchased out of his separate and independent income of him?

3. Whether the partition dated 12.11.1967 was full and final in respect of parties and properties or partial partition?



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4. Whether the plaintiff is entitled to 1/4 share in the suit

property?

5. Whether the defendants are liable to future mesne

profits?

6. To what relief if any plaintiff is entitled? ”

The following additional issue was framed:

“1. Whether the suit as framed is maintainable? ”

(xi) Before the trial Court, on the side of the plaintiff P.W.1 to P.W.3 were examined and Ex.A1 to Ex.A21 were marked. On the side of the defendants D.W.1 to D.W.2 were examined and Ex.B1 to Ex.B73 were marked.

(xii) The trial Court after considering the evidence available on records, non suited the plaintiff by dismissing the suit. Challenging the same, the present appeal is filed.



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5. The learned counsel for the plaintiff / appellant would submit that the first defendant had executed a release deed in favour of the fourth defendant with regard to the first item of suit property, which is not valid in the eye of law. The first defendant had no right to execute the said document. Further, though Ex.A4, partition deed was entered into between the parties, all the joint family properties had not been included. At the most, the said partition can be presumed only as partial partition.

6. According to the plaintiff, Item Nos.2 to 4 were purchased in the year 1954 and 1955, respectively by his father. Therefore, when the joint family had sufficient nucleus, any purchase made by the Kartha of the family, it is only deemed to be the joint family property. Item No.4 consists of three survey numbers viz., 55/5B, 55/6A and 55/6B. It is claimed to have been bequeathed in favour of the first defendant and his brother under Ex.B1, Will. However, those properties were also treated as joint family properties.

7. He further submitted that Item Nos.5 to 8 were admittedly allotted to one of the brothers of the plaintiff under Ex.A4. The said brother, namely, Chandrasekaran died, on 16.09.1983 without any issues. The plaintiff mother also



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died. Therefore, the plaintiff being the clause-1 legal heir of his mother is entitled to a share along with the defendants in the said properties. Item No.5 was also purchased out of the joint family nucleus. Therefore, it is the contention of the plaintiff that when the joint family had sufficient nucleus, the transaction made by the Kartha of the family also available for partition. But the trial Court dismissed the suit on the ground that as far as Item Nos.5 to 8 is concerned, the first defendant had ousted the other owners. The plea of ouster has not been established on record. Therefore, the dismissal of the suit by the trial Court in its entirety is not valid in the eye of law.

8. The learned counsel for the respondents submitted that Under Ex.A4, partition deed, partition had been completed in respect of all the family properties. The self acquired properties of the first defendant had not been included in the above said partition. According to him, Item Nos.2 and 3 of the suit properties were purchased in the year 1954 and 1955, respectively, in the name of the first defendant out of his own income derived from the individual property bequeathed to the first defendant and his brothers under the Will, Ex.B1 dated 17.01.1949. The Will was executed in the year 1949 and the first defendant and his brothers were in enjoyment of the properties after the death of the testator of the Will.



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There was sufficient income from that properties to purchase Item Nos.2 and 3 of the suit properties. Therefore, it cannot be treated as joint family property.

9. Further, the plaintiff has not shown any other evidence to show that Item Nos.2 and 3 were purchased out of the joint family nucleus. Therefore, in the absence of any evidence to prove joint family nucleus, the plaintiff cannot contend that those properties are also available for partition. When the partition was already completed with regard to the joint family properties in the year 1967, the suit has been filed in the year 2003 with an evil mind. To substantiate the allegations that the partition deed is the result of undue influence, coercion, no evidence is available on record. Therefore, his contention is that the plaint has to fail.

10. As far as Item No.1 is concerned, it is established on record that the properties were originally owned by the fourth defendant and his father. Since the same has been purchased in the Court auction on behalf of the fourth defendant, the same has been released in his favour. Thereafter, the fourth defendant had been in enjoyment of the property as his own property. It was also known to the plaintiff. Therefore, claiming partition in respect of first item of the suit property is also not maintainable.



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11. As far as the properties allotted to the coparcener is concerned, it is the specific contention of the learned counsel for the respondent that Charndra Sekaran died in the year 1987. The evidence of the plaintiff itself shows that he demanded partition in the year 1989. However, the father refused for it. However, the suit has been filed in the year 2004 beyond the period of limitation. The plaintiff knowing the fact that his father is in exclusive possession and enjoyment of the said properties, cannot claim a share in that properties also.

12. In the light of the above submissions, now the points arise for consideration are:

(1)Whether the partition deed, dated 12.11.1967 is a result of undue influence, fraud and coercion?

(2)Whether Item 2, 3 and 5 were purchased out of the joint family nucleus?

(3)Whether the plaintiff is entitled to the partition as prayed for?

13. Heard the learned counsel appearing on either side and perused the materials available on record.



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14. It is an admitted fact that the plaintiff and the first defendant are father and son. The second and third defendants are the brothers of the plaintiff. It is the specific case of the plaintiff that his father was leading an immoral life. Only in order to safeguard the family properties, the partition deed came into existence in the year 1967. It is relevant to note that Ex.A4, dated 12.11.1967 was entered into between the father and sons. At the relevant point of time, the plaintiff alone was major as per the pleadings. He has not questioned the said document till the filing of the suit in the year 2004.

15. It is the contention of the plaintiff that the father was allotted some properties under Ex.A1, partition deed, dated 12.01.1952. These facts are not in dispute. According to the plaintiff, those properties are the family properties of the first defendant and the first defendant had generated income from that properties and it was the source for the purchase of other properties in Item Nos.2, 3 and 5. Admittedly, it is the case of the plaintiff that his father was leading an immoral life. Therefore, the partition deed, under Ex.A4 of the year 1967 came to be executed and according to him, it is a result of undue influence, fraud and coercion. Even in the pleadings, except the plea that the father of the plaintiff was living with some other lady, no details whatsoever were given with regard to the



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same. When the plaintiff comes with the plea of undue influence, fraud and coercion, necessary particulars with regard to the dates and items have to be pleaded in the plaint. However, no details had been pleaded in the plaint.

16. The property shown as item No.1 in the present suit schedule properties was shown as Item No.28 in the 'B'-Schedule properties in Ex.A1. It is to be noted that though Item No.1 of the suit schedule property was also allotted to the first defendant under Ex.A1, partition deed, a portion of the house has been released in favour of the fourth defendant. This fact is not disputed. Ex.A3, recitals indicate that the first item of the suit property was originally owned by the fourth defendant. In the Court auction, the said property had been purchased in the name of the father of the plaintiff in benami of the father of the fourth defendant in the year 1973. That apart, the said portion has been reverted back to the family of the fourth defendant. The documents filed on the side of the fourth defendant and the evidence of the plaintiff itself clearly show that only the fourth defendant was in absolute enjoyment of the property for all these years. The documents under Ex.B14 to Ex.B25, Ex.B26 to Ex.B71, receipts also stand in the name of the fourth defendant's father and fourth defendant. The plaintiff also admitted in his evidence that only the fourth defendant was enjoying the portion of



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the first item of the suit properties. These facts clearly establish the facts that there are some arrangements between the fourth defendant's father and the first defendant's father. Since the portion of the first item of the suit property was allotted under the partition deed of the year 1952 and retained by the first defendant, this Court is of the definite view that the plaintiff is entitled to a share in the property retained after release of other portion in Ex.A3.

17. It is relevant to note that original partition deed was executed in the year 1967. The plaintiff has not raised any issues and the same was also acted upon. The first defendant also spoken that he is in possession of the property allotted to him under Ex.A4. Only for the first time in the year 2003, the plaintiff made a plea that he came to know that some other properties were omitted in the partition deed. It is relevant to note that Item Nos.2 and 3 were purchased in the year 1954. The documents filed viz., Ex.A2, when carefully perused, it is evident that the first defendant had purchased the property in the year 1954.

18. During the partition in the year 1967, the plaintiff was very much aware that these properties are also available in the name of the first defendant. The plaintiff was major at the time of entering into the partition deed under Ex.A4.



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Therefore, the contention of the plaintiff that he came to know about the left out properties only in the year 2003 is highly improbable and cannot be countenanced.

Further, the very contention of the defendants that only family properties alone were the subject matter of the partition deed is more probable. If these properties under Ex.A2 and Ex.A3 were also treated as joint family properties, the plaintiff would not have accepted the very allotment of few properties. However, for the first time before filing the suit, he pleaded as if he came to know about the same only in the year 2003. It is highly improbable.

19. Further to show what was the income generated from the property allotted under Ex.A1 and it was sufficient to purchase the property, absolutely there is no evidence available on record. But Ex.B1, Will dated 17.01.1949 shows that the first defendant got the properties through the said Will, by which he earned income. When the head of the family i.e., the father of the first defendant is able to show that he had sufficient income from other properties, it is on the plaintiff to show that only from the joint family properties, his father had purchased other properties in his name.



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20. The evidence of P.W.1 clearly indicates that after the partition under Ex.A1, the plaintiff was residing separately along with his mother. Prior to that according to him, he was not maintaining cordial relationship with his father 1st defendant. The plaintiff was in the stage of understanding the nature of things around him as he was a major at the time of execution of the partition deed. He ought have known about the properties owned by his father. However, he had not raised any dispute, till 2004. In such view of the matter, in the absence of any evidence to show that Item Nos.2 and 3 were purchased out of the joint family properties, since the first defendant produced some documents to show that certain properties have been bequeathed to him in the year 1949, this Court is unable to countenance the contention of the plaintiff to hold that in Item Nos.2 and 3, purchased only out of the joint family income.

21. As far as item No.4 is concerned, the plaintiff is certainly not entitled to any share as it not a family property. As far as Item No.5 is concerned, it is the contention of the first defendant that he had purchased the property out of his own self income and admittedly separate properties also allotted to them. This Court is of the view that the plaintiff is not entitled to a share in that property.



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22. As far as Item Nos.6 and 7 is concerned, the same had been allotted to the brother of the plaintiff one Chandra Sekaran in the partition deed dated 12.01.1952. It is an admitted fact that Chandra Sekaran died issueless in the year 1987. The only Clause 1 legal heir, mother also died on 14.07.1989. Therefore, share of Chandrasekaran devolved on his mother at the time of his death. Therefore, mother become entitled to the property allotted to predeceased son Chandrasekaran. The plaintiff pleaded in his pleadings that after the death of her brother in the year 1987, he demanded partition with his father in the year 1989, which is within the two years of the death of his brother. However, the same was refused by the father. Only on the basis of the above, the trial Court has non-suited the plaintiff in respect of the shares in the brother's property.

23. It is relevant to note that admittedly, the father of the plaintiff was managing the property and merely he was enjoying the property and mutation also stood in his name, adverse possession cannot be inferred after the death of Chandrasekaran. Plaintiff's mother was very much alive at the time of death of her son. It is admitted by the parties that mother died only on 14.07.1989. Therefore, as far as Chandrasekaran's share is concerned, as a I class legal heir, the mother is entitled to the entire properties allotted to Chandrasekaran. On her death, the



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plaintiff as well as the defendants 1 to 3 are legally entitled to the shares.

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24. The evidence of the plaintiff also indicates that the father was also in exclusive possession of the said property and also mutated the records in his name. His evidence itself clearly indicates that the plaintiff is not in cordial terms with his father and they are at loggerheads for several decades. Further, merely on the basis of the mutation, ouster and adverse possession cannot be inferred. Though there may be some misunderstanding between the father and son i.e., plaintiff and the first defendant, unless the plea of adverse possession is proved with convincing evidence, mere possession of the property by the father, being the eldest in the family, will not convert the possession adverse to the interest of other co-owners. Such view of the matter, the trial Court rejecting the partition in respect of item Nos.6, 7 and 8, which was originally allotted to Chandrasekaran is set aside. Accordingly, the plaintiff is entitled to 1/4th share in the said items, which was the subject matter of the shares allotted to Chandrasekaran.

25. In the result, this Appeal suit is **partly allowed**. The suit is decreed for 1/4 share in a portion of the first item of suit property, namely in T.S.No.748 in Ward No.18, Tallakulam Perumal Koil Street, Madurai and 1/4 share in Item Nos.



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6, 7 and 8 of the suit property. With regard to the other properties, the findings of the trial Court is hereby confirmed. No costs. Consequently, connected miscellaneous petition is closed.

A.S.(MD)No.180 of 2020:

26. The suit has been filed by the plaintiff, who is one of the brother of the defendants, for partition of 'A' 'B' and 'C' schedule of properties, permanent injunction and for declaration to declare that the plaintiff is entitled to manage the Trust.

27. The trial Court has dismissed the suit filed for partition on the ground that the Will and Gift Settlement Deed executed by the father of the parties have been proved. However, granted declaration in respect of 'D' schedule property in favour of the plaintiff. As against the decree in favour of the plaintiff in respect of 'D' schedule property, no appeal has been filed by the defendants. Whereas present appeal has been filed by the plaintiff challenging the dismissal of the suit in respect of 'A' 'B' and 'C' schedule of properties.



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28. For the sake of convenience, the parties are referred to herein, as per their own ranking before the Trial Court in O.S.No.11 of 2014.

29. Though the facts are connected with earlier Appeal suit in A.S.No. 190 of 2008, for disposal of the present suit, the brief facts are necessary, which are as follows:

(i) It is the case of the plaintiff that the grandfather of the plaintiff and the defendants viz., one Mothi Periya Karuppanan Ambalam was a Landlord and he owned large properties. On 12.11.1952, a registered partition was entered between the grandfather, father and paternal granduncles of the plaintiff. In the said partition, the plaintiff's father was allotted 'B' schedule properties. From out of the earnings from the above said property, the plaintiff's father purchased more property and treated the same joint family properties.

(ii) In the year 1967, the plaintiff's father had developed illegal relationship with other women and in order to save the property, the plaintiff's mother insisted the plaintiff's father to divide the properties. At that time, the plaintiff was a student and his mother was an illiterate. Therefore, a partition deed



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came to be executed on 12.11.1967, believing the representation of the petitioner's father.

(iii) Only in the month of January 2003, the plaintiff came to know that the plaintiff's father had suppressed certain properties allotted to him under the partition deed dated 12.11.1952 and purchased by him from out of the earning of the properties allotted to him. The plaintiff's brother one Chandrasekaran died as intestate on 16.09.1987 without any issues. Hence, the plaintiff is entitled to 1/4th share in the properties allotted to Chandrasekaran. The plaintiff has already filed a suit for partition in O.S.No.477 of 2003 on the file Principal Sub Court, Madurai (which was the subject matter of appeal in A.S.No.190 of 2008), in respect of the properties allotted to his father through the partition deed dated 12.11.1952 and the properties allotted to his brother Chandrasekaran in the deed dated 12.11.1967.

(iv) It is also the further contention of the plaintiff that some of the properties also came to his father by way of a Will dated 17.01.1949, executed by the son of the paternal aunt of the plaintiff's father in favour of his father. Therefore, after the death of the testator, the plaintiff's father was also become entitled to the property bequeathed under the said Will. Thereafter, a partition



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deed was also executed between the plaintiff's father and his brothers on 18.06.1970 in respect of the property bequeathed under the Will. The plaintiff's father also owned other property and patta also stands in his name which has been described as 'C' schedule property. As far as the 'D' schedule property is concerned, it is a Trust property and the Plaintiff is entitled to manage the trust once in twelve years. According to the plaintiff, his father expired on 02.11.2013. The defendants are enjoying 'A' 'B' and 'C' schedule of properties. Hence, the suit.

(v) In the reply statement, the plaintiff denied the execution of Will and the settlement deed executed by his father. Further, it is contended that his father was not in a sound disposing state of mind and he was not having mental faculties.

30. The 2nd defendant has filed a written statement, which was adopted by the first defendant. It is admitted that the suit 'A' schedule properties were allotted to the father of the plaintiff and defendants 2 and 3 viz., Mothi Ayyan Ambalam under a registered partition deed dated 12.11.1967, the suit 'B' schedule properties were allotted to Mothi Ayyan Ambalam under a registered partition deed dated 18.06.1970 and 'C' schedule properties admittedly, the patta of the same stand in the name of the father of the plaintiff and 'D' schedule property in which the father



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of the plaintiff was managing the Trustee at that time of the Trust deed dated 18.06.1970 and thus, all the properties became absolute properties of the father of the plaintiff and the defendants.

31. It is further stated in the written statement that during the life time of his father, the plaintiff had personal enmity and also hatred towards his father and hence, he filed a suit in O.S.No.477 of 2003 on the file of the Principal Sub Court, Madurai, for partition of his self acquired properties and the same was dismissed on 30.11.2007. The plaintiff was always acted against his father during his life time and the 2nd defendant alone looked after him and also took care of his health. Having consideration of the care and attention, the father of the plaintiff has executed a registered Will dated 02.03.2007 in favour of the 2nd defendant, out of his own volition and bequeathed all the plaint schedule properties. Thus, on the demise of this father, the 2nd defendant become the absolute owner of the property and he was in possession and enjoyment of the same.

32. In the additional written statement, it was also contended by the 2nd defendant that the plaintiff was not in joint possession. Besides his father has also executed a Settlement Deed dated 14.12.2012, in respect of some of the properties in favour of the 2nd defendant. Therefore, the plaintiff is not entitled to any claim.



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33. Based on the above pleadings, the trial Court has framed the following issues:

- 1. Whether the plaintiff is entitled 1/3rd share in 'A', 'B' and 'C' schedule properties?*
- 2. Whether the plaintiff is entitled to manage the trust namely Mothi Periyakaruppan Ambalam Trust?*
- 3. Whether the plaintiff is entitled to the preliminary decree for partition of 1/3rd share as prayed for?*
- 4. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?*
- 5. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?*
- 6. Whether the Court fee paid is correct?*
- 7. To what other relief and cost the plaintiff is entitled to?*

34. The trial Court has also framed the following additional issues:

“8. Whether the Gift Settlement Deed dated 14.12.2012 is true and valid?

9. Whether the Will dated 02.03.2007 is true and valid?”

35. Before the trial Court, on the side of the plaintiff, three witnesses were examined as P.W.1 to P.W.3 and 15 documents were marked as Ex.A1 to A15. On



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the side of the defendants, three witnesses were examined as D.W.1 to D.W.3 and 15 documents were marked as Ex.B1 to Ex.B15.

36. On the basis of the above pleadings, the trial Court has dismissed the suit by upholding the Will Ex.B2, dated 02.03.2007 and Ex.B3-settlement deed dated 14.12.2012, executed by the father of the plaintiff.

37. Though on the side of the plaintiff, three witnesses were examined, on a perusal of the records of the trial Court, particularly, notes paper, it appears that after the defendants' side evidence was closed, the plaintiff has filed an application seeking permission to adduce evidence in the form of rebuttal and for examining additional evidence. An application was filed in I.A.No.87 of 2017 in I.A.No.729 of 2016. The trial Court has allowed that application and permitted the plaintiff to examine D.W.3 in the form of rebuttal evidence. After allowing the said application, D.W.3 has filed the proof affidavit. In the meanwhile, the order allowing rebuttal evidence was challenged in C.M.A.No.604 of 2017. The said CMA was allowed by this Court on 11.10.2017. Therefore, once the order allowing the further evidence is set aside, the evidence of D.W.3 cannot be looked into for any other purpose. Be that as it may. The trial Court has dismissed the suit upholding the Will and Gift Settlement deed.



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38. It is the contention of the learned counsel appearing for the plaintiff / appellant that since the question as to whether the properties are self acquisition or from the nucleus of the joint family properties was raised in other suit viz., A.S. (MD)No.190 of 2008, the crux of the issue in this matter is with regard to the validity of the Will and Gift settlement Deed. According to him, under 1952 partition deed, 'B' schedule of the properties have been allotted to the father of the plaintiff and out of the earning from the said property, the plaintiff's father purchased more properties. The same clearly indicates that those properties have been purchased out of the nucleus from the joint family property allotted to the plaintiff's father in the year 1952.

39. Though it is the contention of the plaintiff / appellant that those properties were purchased out of separate income from the properties bequeathed to the plaintiff's father in the year 1949, it is a joint Will executed in favour of the plaintiff's father and his brothers. Therefore, in the absence of any evidence to show the nature of the income to those properties, it has to be presumed that 'B' schedule of the property has also been purchased out of the nucleus of the joint family property. As far as the 'C' schedule property is concerned, it is the contention of the learned counsel appearing for the plaintiff / appellant that



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admittedly, the properties were acquired by the plaintiff's father and patta also stands in his name. That apart, the properties allotted to one of the plaintiff's brother one Chandrasekaran is also enjoyed by the plaintiff's father. The said Chandrasekaran died as a bachelor on 16.09.1987.

40. Further, it is the contention of the learned counsel appearing for the plaintiff / appellant that as far as the Will dated 02.03.2007 is concerned, that do not contain any survey number. The fact remains that after execution of the Will, a Settlement deed dated 14.12.2012 was also executed in respect of some of the properties bequeathed under the Will. Therefore, it is his contention that when the testator has transferred the properties covered under the Will in subsequent document, his intention to revoke the Will could be easily inferred. Therefore, the Will was automatically revoked by the subsequent disposition made under Ex.B3- Gift Settlement Deed. Though the Gift Settlement Deed has not been established by examining any of the attesting witnesses, the fact remains that the transfer of the property of the settler, after the Will, it can be very well inferred that the testator has in fact intended to revoke the former Will.



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41. Therefore, his contention that the Will also cannot be given effect. The Will, according to him, has been attested in one day and registered after 10 days. This also one of the suspicious circumstances about Ex.B2, Will dated 02.03.2007. A Gift Settlement Deed was also executed on 14.12.2012, in respect of the major portion of the property covered under the Will. Therefore, it is the submission of the learned counsel appearing for the plaintiff / appellant that the Will has been automatically revoked and cannot be given any effect. The witness D.W.2 and D.W.3, who also happened to be attesting witness in the Gift Settlement Deed, have not spoken about the Settlement Deed. Despite the fact that the execution and attestation of the settlement deed has not been established, the trial Court has believed the Settlement Deed, which is contrary to the settled position of law. Hence, submitted that the plaintiff being the son certainly entitled to share in the property left by his father.

42. Whereas, the learned Senior Counsel appearing for the defendants / respondents would submit that the plaintiff had all along shown hatred against his father. In fact, he has filed a previous suit, wherein he has made a serious allegation against his father that he was leading an immoral life. In fact the father of plaintiff was examined in previous suit. He has also deposed against his son.



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The evidence of former suit clearly shows that plaintiff not at all residing with his father and only the second defendant was taking care of his father till his death. In fact, in the earlier suit, he has challenged the very partition deed dated 12.11.1967, after a period of 36 years on the ground that it was only a partial partition. Whereas, P.W.1, in his cross examination has categorically admitted that he and all his brothers were allotted to 12 acres each in the partition of the year 1967. Further, in a previous case, he has challenged the partition on the ground that it was a result of undue influence, which has not been established.

43. Whereas, in the present suit, the plaintiff has never whispered anything about partial partition as well as the undue influence etc. The very conduct of the plaintiff clearly indicates that he is not in cordial terms with his father from the beginning. Therefore, execution of the Will to the other son, who is taking care of him, is natural. The Will has been proved by the evidences of D.W.2 and D.W.3, who are the attesting witnesses and one of the attesting witnesses are also very close to the plaintiff and defendants, no motive whatsoever established against him for giving evidence as to the execution as well as the attestation of the documents. Hence, submitted that Will has been clearly established on record. Admittedly all the properties viz., schedule 'A' 'B' and 'C' are the self acquired



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properties of the plaintiff's father, Further, it his contention that mere execution of settlement deed in respect of some of the properties by the plaintiff's father later, the Will will not be revoked automatically, unless it is established that there was an intention on the part of the testator to revoke the Will. Merely because of the subsequent document, the Will can not be revoked. In fact, the Will would be revived and can be given effect. Admittedly, in this case, settlement deed has not been established by examining the attesting witnesses. Such being a position, the Will would be automatically revived and it would be taken effect, once it is proved in the manner known to law. Therefore, the trial Court has rightly dismissed the suit. Hence, prays for dismissal of this appeal.

44. In the light of the above submissions, now the points arise for consideration in this Appeal Suit are as follows:

1. Whether the gift settlement deed dated 14.12.2012 executed in respect of the properties covered under the Will would automatically revoke the Will?
2. Whether the said revocation can be inferred merely on the basis of subsequent document?



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3. Whether the Will dated 02.03.2007 is valid and true and suffered from any suspicious circumstances?

4. Whether the suit properties are available for partition as prayed by the plaintiff?

5. To what other relief, the plaintiff is entitled to?

Point Nos:1 and 2

45. From the facts narrated above, it is not in dispute that originally the father of the parties were allotted to certain properties in the year 1952. It is the contention of the plaintiff that ever since from the date of such allotment, the properties were treated as joint family property. Thereafter, other properties were also purchased in the year 1954. It is relevant to note that with regard to the specific issue as to whether the property is ancestral properties or self acquisition made by the father, a separate suit has been filed, which is the subject matter of A.S.No.190 of 2008.

46. On a perusal of the evidence adduced, this Court has come to the conclusion that the acquisition made by the father in the year 1954 is self



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acquisition. At the relevant point of time he has also got the property by way of Will of the year 1949, executed by husband of the paternal aunt of the plaintiff's father. The plaintiff has pleaded in the earlier suit that there was a partial partition of the year 1967 and certain properties have not been included in those partition. This Court has held that the plea of partition partition has not been established. Further the plea that said partition of the year 1967 was a result of undue influence, fraud and coercion has also not been established. The evidence of P.W. 1, in the cross examination, clearly shows that the partition of the year 1967 is not a partial partition.

47. According to the plaintiff, the plaintiff and the other defendants were allotted 12 acres each at the relevant point of time. This aspect clearly shows that the plaintiff's contention cannot be true. Now the issue in this suit is with regard to the shares in the property of the plaintiff's father allotted in 1967 partition deed and also the properties came to the plaintiff's father under the Will 1949, similarly, the property allotted to one of the brother of the plaintiff viz., one Chandrasekaran, who died issueless in the year 1987.



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48. It is relevant to note that mere long possession of the properties, left by Chandrasekaran, by the plaintiff's father cannot be adverse to other co-owner. Merely because, the revenue records stand in the name of the plaintiff's father, the plea of adverse possession cannot be inferred. To prove the plea of adverse possession, essential ingredients of adverse possession that are *nec vi*, *nec clam*, *nec precario* have to be established. In law, generally, the possession of property by one co-owner is deemed to be in possession of other co-owner. Therefore, the plea of adverse possession set up in respect of the property allotted to one of the brothers of the plaintiff has to fail. Accordingly, any testament in respect of those property, except the share of the plaintiff's father, cannot be valid in the eye of law. Accordingly, these points are answered.

Point Nos.3 to 5:

49. As far as the Will is concerned, the Will has been marked as Ex.B2, dated 02.03.2007. The Will has been executed in favour of the second defendant, who is the youngest brother of the plaintiff, by the father of the plaintiff. The first defendant and other brothers have not disputed the Will. The Will is a registered one. Two of the attestators were also examined before the trial Court as D.W.2



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and D.W.3. On a perusal of the entire evidence, it is the unison voice of them that the testator was in sound state of mind, while executing the Will. The Will has been executed in their presence on 02.03.2007. Both the witnesses have clearly spoken about the signing of the testator and they have clearly spoken not only about execution but also an attestation.

50. It is also relevant to note that one of the attesting witnesses viz., D.W.3-Ilango is none other than the plaintiff's own uncle's son. The evidence of D.W.3 clearly indicates that there was no motive whatsoever for him to give false evidence and he was cordial with the plaintiff also. Similarly, D.W.2-one Siddique was also examined and in his evidence, he has stated that he was maintained cordial relationship with the second defendant. When there was no motive was established on the side of the plaintiff for giving false evidence by D.W.2 and D.W.3, the evidence of D.W.2 and D.W.3 cannot be disbelieved merely on the basis of the contention of the plaintiff that testator was not in sound state of mind.

51. In fact, plaintiff himself has admitted in his evidence that D.W.3 is his own uncle's son. D.W.2, also known to him and there was a cordial relationship with them. The very evidence of P.W.1, makes it clear that second defendant has



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not married and only the second defendant has spent marriage expenses of the first defendant's daughter and he sold certain properties allotted to him for the said marriage. P.W.1 had feign ignorance to all the facts. P.W.1 has also admitted that he has no cordial relationship with his son and he has denied the suggestion that only D.W.2 is helping his son.

52. Be that as it may. Except contending that the plaintiff's father was not in sound state of mind no other evidence whatsoever available on record to show that in fact the plaintiff's father was not in sound state of mind to take a rational decision. It is relevant to note that the plaintiff himself accused his father in filing a suit making allegation that he was leading an immoral life. The plaint of the said suit was marked as Ex.A8. Further, the evidence adduced by the plaintiff in this suit also clearly shows that he was not cordial relationship with his father and there was misunderstanding from the year 1967. Therefore, this Court is of the view that mere disinheritance of other sons particularly the plaintiff, it cannot be said it is one of the suspicious circumstances. The first defendant is also not disputed the Will. The evidence of P.W.1 clearly indicates that the second defendant was taking care of his others brother's son and daughter also. This fact was also not seriously disputed by the plaintiff. Second defendant was residing



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with his father till his life time. Therefore, the father executing the Will cannot be found fault with. P.W.2 one of the witnesses claiming to be the family members of the plaintiff and defendants was examined by the plaintiff to show that the testator was not in sound state of mind. In his evidence, he stated that the testator was not in sound state of mind from January 2007.

53. On a perusal of the cross examination of P.W.2, it is seen that he has been made to speak only on behalf of the plaintiff. If really, P.W.2 was very close to the family members of the plaintiff and defendants, he would have atleast known the three sons of Mothi Ayyan Ambalam and he has stated that the three sons of Mothi Ayyan Ambalam was alive on the date of his evidence i.e., on 09.03.2006, which is totally contrary to the fact. In fact one of the sons of Mothi Ayyan Ambalam died in the year 1987 and the same has been clearly established. Therefore, the evidence of P.W.2 that he is close to the family member is also highly doubtful. Further in the cross examination, he has stated that he has seen Mothi Ayyan Ambalam only for 4 or 5 years back, that itself shows that he would have seen only around 2011-12. Therefore his evidence that the testator was not well from 2007 is also highly improbable and it cannot be countenanced.



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54. Such view of the matter, as no suspicious circumstances brought on record, the evidences of D.W.2 and D.W.3 clearly proved not only the execution but also attestation as required under law. Further, considering the surrounding circumstances that the plaintiff always had shown hatredness with his father and he has also accused about his character, the plaintiff's father has executed the Will in favour of the second defendant. The contention of the learned counsel for the plaintiff / appellant that Will-Ex.B2 did not contain any survey number or description of the property and therefore, the same will not be given effect also has no merit.

55. It is relevant to note that Will is a legal declaration of intention of the testator with respect of his property, which he desires to be carried into effect after his death, as per definition of Section 2(h) of the Indian Succession Act, 1925. When the Will has clearly mentioned about his property and possession of the various properties, mere non description of the survey number is not a ground to reject the Will. Mere lack of description of the property, which the testator intends to bequeath, can be sufficiently identified from the description of it given in the Will and that itself sufficient to give effect to the Will. On perusal of the entire Will, this Court is of the view there is no patent ambiguity with regard to the



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property. Such view of the matter, the contention of the learned counsel for the plaintiff / appellant cannot be countenanced.

56. As far as the other contention of the learned counsel for the plaintiff / appellant that admittedly in this case, after execution of the Will in the year 2007, a Settlement Deed was also executed in respect of the major portions of the property bequeathed under the Will to the same person. Therefore, it is his contention that once the executor has executed the settlement deed, the Will has been automatically revoked and it will not revive. According to the learned counsel, Section 70 of the Indian Succession Act, 1925 deal with revocation of unprivileged Will or Codicil. According to him, when some other document was executed in respect of the same property, the intention of the testator to revoke the Will can be easily inferred from the conduct of the parties and the subsequent registered document. Therefore, it his contention that the Will Ex.B2 was automatically cancelled or otherwise revoked by subsequent settlement deed. No doubt some of the property, which was covered under the Will, was also the subject matter of the settlement deed Ex.B3 dated 14.12.2012. This is also a registered settlement deed.



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57. It is to be noted that the settlement deed was also executed in favour of the same legatee, the second defendant herein. It is pertinent to note that even taking a plea in the additional written statement, despite the fact that the two attesting witnesses were examined to prove the Will, who are also the attesting witnesses for the settlement deed, the attestation and execution of the document viz., Ex.B3 has not been proved by the defendants through the said witnesses. It is admitted fact that the attesting witnesses D.W.2 and D.W.3 are also attesting witnesses in the subsequent document. However, they have not spoken anything about the attestation or execution of Ex.B3. No attempt whatsoever has been made by the lower Court counsel in this regard for the reasons best known to them. Therefore, once the document Ex.B3 also denied in the additional written statement by the plaintiff, it is the duty of the second defendant to take steps to prove the document in the manner known to law by examining any of the attesting witnesses as contemplated under Section 68 of the Act, which has not been so. Therefore, in the absence of proof as required under the law, Ex.3 cannot be valid under law. In fact, the said document was also denied by the defendants in the additional pleadings by way of reply statement. Therefore, the judgment of the trial Court upholding Ex.B3 is not valid in the eye of law.



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58. Now the important question raised by the learned counsel for the plaintiff / appellant counsel is that once the testator has executed Ex.B3, transferring the properties contained in the Will, then the Will has automatically revoked. It is relevant to note that no unprivileged Will or codicil, nor any part thereof, shall be revoked otherwise than by marriage or by another Will or codicil, or by some writing declaring an intention to revoke the same and executed in the manner in which an unprivileged Will is required to be executed or by the burning, tearing or otherwise destroying the same by the testator or by some person in his presence and by his direction with the intention of revoking the same. This is the mode of revocation of the unprivileged Will as contemplated under Section 70 of the Indian Succession Act, 1925.

59. On a perusal of Ex.B3, it is seen that there is no whisper whatsoever with regard to the revoking of the former Will. The subsequent document itself clearly indicates that the attestator had no intention whatsoever to revoke the former Will. If the intention to revoke the former Will was very much on the mind of the testator, the same should have been reflected in the subsequent deed of settlement. However, in the subsequent settlement the intention to revoke the former Will has not been found. Therefore, the contention of the learned counsel



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that mere execution of the settlement deed, the Will automatically goes, also cannot be countenanced for the simple reason of Doctrine of dependant relative revocation. The revocation of the Will may be relative to another disposition which has already been made or is intended to be made and is so dependant on it that revocation is not intended unless that other disposition takes effect. When the subsequent disposition in the form of settlement has failed to take effect, the Will remains operative as it was before the revocation. It is also relevant to note that subsequent disposition by way of settlement depend upon the validity of the document in law. When the very subsequent document has not been established as per law before the Court of law, such document will not take effect in respect of the transfer made by the said deed. Such being the position, the former Will executed and proved in the manner known to law will revive.

60. In this regard, it is also useful to refer the judgment of the Division Bench of this Court in *Appeal No.231 of 1977, dated 24.03.1980 [Salem Town Bazaar Street, Kannika Parameswari Devasthanam, represented by Trustee Vs. T.K.Sadasivam Chettiar]*, wherein it is held as follows:

“14. The question that now requires to be considered is whether there is automatic revival of the will by reason of the settlement having become ineffective, it having been found to be void. In the settlement



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deed Exhibit B-4 dated 30th October, 1968, it is stated that the property was acquired under a conveyance by Subramaniam and that it belonged to the settlor as a self-acquired and as an absolute property. We have already seen that this claim has absolutely no scope for acceptance and therefore, we have to proceed on the basis that the property belonged to the joint family consisting of the plaintiff and his father, the settlor. In the settlement, it is stated that there was no connection between the father and son. This is contrary to the tenor of the correspondence exhibited. There is absolutely no evidence also to show that there was any kind of partition between Nandagopal and his son, and in fact both parties proceeded on the basis that there was no partition between Nandagopal and his son Sadasivam, the plaintiff. There is a further observation in the settlement to the effect-

“இப்போதே அடியில் கண்ட சொத்தின் பாத்யதையை மேற்படி தேவஸ்தானத்திற்கு டிரான்ஸ்பர் செய்ய எண்ணி இன்று இந்த தர்ம செட்டில்மண்டு டிரஸ்டு பத்திரத்தை எழுதி வைத்திருக்கிறேன். இந்த பத்திரத்தின் மூலியம் மேற்படி 21.08.1966 தேதியில் என்னால் எழுதி வைக்கப்பட்டதும் சேலம் ரிஜிஸ்தர் ஆபிஸில் 34, 51, 27, 11, 14 பக்கம் 1996ம் வருடம் 81ம் நெம்பராக ரிஜிஸ்தர் செய்து வைத்திருக்கும் உயில் சாசனத்தை ரத்து செய்து விட்டேன்”

15. The above passage from the settlement deed would show that the will was cancelled only because he wanted to accelerate the interest of the temple and that too even during, his lifetime. The will would have to come into effect only after the lifetime of Nandagopal. He wanted to convey the interest in praesenti with reference to that property and that was why this settlement came to be executed. The passage thus clearly goes to show that the cancellation of the will was not an absolute one.



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In this context the principle, of "dependent relative revocation" invoked by Mr. M. Srinivasan would require consideration. This principle is set out in para-graph 1368 of Halsburys Laws of England, Third Edition, Vol. 39 at page 899, as follows:

“In particular, revocation may be relative to another disposition which has already been made or is intended to be made, and so dependent thereon that revocation is not intended unless that other disposition takes effect. Such a revocation is known as; dependent relative revocation, and, if from any cause the other disposition fails to take effect, the will remains operative as it was before the revocation.”

It has been pointed out in the foot note, to the above passage as under:

“In such a case the animus revacandi has only a conditional existence; the condition being the validity of the disposition intended' to be substituted.”

(See Powell v. Powell (1866) L.R.I.P. and D. 209 212.)

16. In the same volume of Halsbury's Laws of England, at page 900, there is the following passage:

“In all these and other cases however, the question is whether the disposition revoked is intended not to operate whatever happens or is only to be destroyed if the provisions of the substituted instrument operate in its stead. The Court must be satisfied that the testator did not intend to revoke the original will except conditionally, in so far as the other disposition could be sent up.”



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At page 888 in paragraph 1353, there is another passage which also deals with this doctrine in relation to the revocation of a will, and which is as follows:

“To effect a revocation there must be an intention to revoke and a will is not revoked by any presumption of intention based on an alteration of circumstances. If anything is done by the testator or by his direction which, if there was an intention to revoke, would amount to a revocation, the presumption of law from that act is in favour of the existence of the animus revocandi, but this presumption may be rebutted by evidence showing that the animus revocandi did not exist. An act done without that intention is wholly ineffectual, even if the act results in the destruction of the will. Thus, no revocation results where a testator destroys the will through inadvertence, or under the belief that it is useless or invalid or has already been revoked, or where he is drunk at the time of an alleged revocation or where he is insane at the time even though he may afterwards recover.”

In Re-Wells' Trusts, Handisty v. Wells (1889) 42 Ch.D. 646, to which reference has been made in the footnote to the above passage as follows, there was first a disposal of a fund under a will and then, as here, by a deed. The disposition under the deed was void to the extent of one fifth. It was held that to this extent, the bequest under the will was effective. Thus, there is scope for a revival of the will in case the intention of the testator was not to cancel the will unconditionally. This doctrine has been applied by a Full Bench of the Trivancore-Cochin High Court in Thresia v. Lonan Mathew A.I.R. 1956 T.C. 186(F.B.), and re-affirmed in Antony v. Mathew A.I.R. 1962 Ker. 48. The latter case is merely an offshoot of the former one.”



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61. Considering the above dictum and also considering the facts of the case, this Court is of the view that even in the subsequent settlement, there was no intention to cancel the previous bequeath and the subsequent document has also been executed in favour of the same legatee in respect of the same property. Once the subsequent deed is found to be invalid under law and did not take effect, the Will executed previously remains operative and become effective on its proof as required under law. Admittedly, in this case, will has been proved in the manner required under law by examining the attesting witnesses. Further, no other suspicious circumstances whatsoever brought on record. Since no suspicious circumstances was brought on record, the question of dispelling the same by the propounder does not arise at all.

62. Such view of the matter, the Will is valid in all other aspects, except 1/4th share in the property allotted to Chandra Sekaran, who is one of the deceased son of the testator in the partition deed 1967. Admittedly, after the death of Chandrasekaran in the year 1987, his mother was alive as Class I legal heir she become entitled the property of his son Chandrasekaran. The mother of the plaintiff died in the year 1989. On her death, plaintiff and defendants each entitled to 1/4th share in the property. Father of the plaintiff entitled 1/4th share in the



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property allotted to his son. Therefore, Will in respect of Chandrasekaran will be valid only in respect of 1/4th share alone, remaining 3/4th share will go to plaintiff and his brothers equally.

63. Since the issue, with regard to the shares of the plaintiff in his brother's property, is dealt with in other suit viz., A.S.(MD)No.190 of 2008, and preliminary decree is granted holding that the plaintiff is entitled to 1/4th share in the property allotted to Chandra Sekaran in the partition deed 1967, no separate decree is required in this suit.

64. Accordingly, A.S.(MD)No.180 of 2020 is dismissed holding that the plaintiff is at the most entitled to 1/4th shares in the property allotted to his brother Chandrasekan in respect of which already decree is granted in another suit viz., A.S.(MD)No.190 of 2008. Such view of the matter, no further decree is required in this suit. No costs.

20.06.2023

NCC : Yes/NO
Index : Yes/No
Internet : Yes/No
ta/vsm



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To
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- 1.The First Additional District Court, Madurai.
- 2.The Fifth Additional District Court, Madurai.
- 3.Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

ta/vsm

Judgment made in

A.S.(MD)Nos.190 of 2008 and 180 of 2020

20.06.2023