



CS.No.802 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.09.2023

PRONOUNCED ON :09.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CS.No.802 of 2014

R.Goutham Chand

...Plaintiff

.....Vs.....

1. Mrs. Amrave Bai (deceased)
2. R.Mahendra kumar
3. R.Ravindra kumar
4. R.Shantilal
5. R.Kishore kumar
6. Mrs.V.Shantha bai
7. Mrs.Manjushree,

...Defendants

Prayer:- This Civil Suit has been filed, under Order VII Rule 1 of CPC, for the reliefs as stated therein.

For Plaintiff : Mr. K.A. Ashok

For Defendants : Mr.R.Thiagarajan for D4

: No Appearance for D2, D3, D5 and D6



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JUDGMENT

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This Civil Suit has been filed, seeking a judgement and decree, for the following reliefs:-

- (a) For direction of partition and division of the suit Schedule mentioned property by metes and bounds, into four equal shares, and allot one such share to the plaintiff herein, and hand over possession of the same to the plaintiff;
- (b) For declaration that the settlement deed dated 10.10.2014 registered as Doc. No. 2482 of 2014 on the file of the SRO T. Nagar purported to have been executed by the 1st defendant in favour of the 4th defendant is illegal, invalid, void and not binding on the plaintiff;
- (c) For a permanent injunction restraining the defendants, their heirs, legal representatives and all others from anyway alienating or encumbering the suit property more fully described in the suit schedule hereunder, in any manner,
- d) Costs of the suit.



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2.The case of the Plaintiff, as set out, in the plaint is as follows:-

i) The plaintiff states the first defendant is his mother, and the second, third, fourth and fifth defendants are his brothers. The sixth and seventh defendants are his sisters. His father Mr. Rishab Chand, purchased the entire house, ground and premises bearing No.196 (New No.26). North Usman Road, T.Nagar, Chennai-17 measuring a site area of about 5900 Sq.ft. and consisting of a two storied (ie. Ground Floor and 1st Floor), building standing thereon, which property is more fully and particularly described in the Schedule hereunder, in the name of his wife namely the first defendant herein by way of deed of sale dated 13.9.1972, registered as Doc.No.5077 of 1972. In fact, even it is clearly mentioned in the sale deed dated 13.9.1972 that the sum of Rs.35,000/- was paid by the said G.Rashab Chand to the vendor before the Sub-Registrar at the time of registration. Further, it is also mentioned in the said sale deed that another sum of Rs.40,000/- is to be paid on or before 1.3.1973 with interest, and the said sums were duly paid and discharged by the plaintiff's father, ie.G.Rishab Chand.



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(ii) The plaintiff further states that his mother/the first defendant had all along been always a house wife with no independent source of income. In fact she does not even know to read and write in English or even in Hindi and is uneducated. The schedule mentioned property was purchased by the said Rishab Chand (plaintiff's father) in the name of the first defendant/his wife, for the benefit of the family. The plaintiff's father, got both his daughters namely the 6th and 7 defendants suitably married and gave enough Jewels and funds at the time of marriage and the said 6th and 7th defendants had no share or rights in the said suit property.

(iii) The plaintiff further states that in 1979, the defendants 2 and 3 claimed shares in the suit property at that time the plaintiff, the 4th and 5th defendants were minors. Hence there was a family settlement between the plaintiff's father and all his sons in the presence of the family elders and well wishers, whereby it was agreed at the insistence of the 2nd and 3rd defendants that they shall take away their respective shares in money. The 2nd and 3rd defendants were at that time paid Rs. 1,15,000/- each at that time towards their share in full and final settlement and the said 2 and 3rd defendants accordingly released their rights, Interest and claims in the



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property as per letter dated 16.7.1979, witnessed by G. Mohanlal (own brother of Late.G.Rishab Chand) and other elders of the family. Hence 2nd and 3rd defendants also do not have any rights, interest or claim over the suit schedule mentioned property.

(iv)The plaintiff further states that even though the 2nd 3rd, 6th and 7th defendants do not have any right, interest or claim over the suit schedule mentioned property. they have been made parties to this suit to avoid any technical objections from them so that the decree may be binding on them also.

(v)The plaintiff further states that his father the said G.Rishab Chand died intestate on 23.01.1990 leaving behind his wife/the 1st defendant herein, his sons, the plaintiff and the 2 to 4th defendants and his daughters the 6th and 7th defendants herein. Further, the plaintiff, 1st defendant, 4th defendant and 5th defendant have become jointly entitled to the suit schedule mentioned property originally purchased by the plaintiff's father G.Rishab Chand in the name of his wife/the 1 defendant herein. The plaintiff is in possession and occupation of two shops in the ground floor



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and one residential portion in the first floor. The 5th defendant is in possession and occupation of one shop in the ground floor. In one other shop the plaintiff and the 5th defendant are carrying on partnership business. The rest of the building is in possession and enjoyment of the 1st and 4th defendants herein. Thus, the plaintiff, the defendants 1, 4 and 5 have been in joint enjoyment and possession of the suit schedule mentioned property, each having 1/4th undivided share therein. Hence, the plaintiff is having 1/4th undivided share in the suit schedule mentioned property. Though this plaintiff has another house in joint name with his wife in T. Nagar (purchased by the plaintiff and his wife from their own individual funds) but he had been predominantly residing in the suit schedule mentioned property till date wherein his mother had also been residing in the same suit property. This plaintiff as well as the 4th and 5th defendant had also been looking after their mother/the 1st defendant herein.

vi) The plaintiff further states that in April 2014, the 4th defendant Shantilal, shifted from the suit property and took another flat and started residing at another flat at No.10, Raghaviah Road, I Floor, Mahalakshmi Villa, T. Nagar, Chennai-17. Initially, the 1st defendant used to sometimes



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visit him for few weeks. But in July 2014, when she went to visit him for a few days, the 4th defendant brainwashed her and mislead her and coerced her to stay there and from then on she is residing there and never returned to the suit property. Slowly the 4th defendant and his family started misleading and influencing her and brain-washed her mind and she started turning against the plaintiff and the 5th defendant who are the other co-owners of the suit property. The plaintiff further states that most shockingly in August 2014, several brokers and builders started visiting the suit property and informed that the 1st and 4th defendants are trying to alienate the suit property. When the plaintiff asked the 1st and 4th defendants about the same, they were very indifferent and gave evasive answers. The plaintiff got suspicious and on verification from the Sub-Registrar office, the plaintiff was shocked to understand that a settlement deed dated 10.10.2014 registered as document No.2482 of 2014 on the file of the SRO T. Nagar, was executed in favour of the 4th defendant by his mother before the said SRO T.Nagar.

vii)The plaintiff further states that the said settlement deed dated 10.10.2014 is an invalid and illegal document, void abinitio and not



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binding on the plaintiff since the 1st defendant is not the absolute owner of the suit property. This plaintiff has 1/4 undivided share therein. The 1 defendant does not at all know to read and write in English while the said settlement deed has been typed and prepared in English. Further, it has been falsely and wrongly mentioned in the said settlement deed that only the 4th defendant is looking after and residing with the 1st defendant, which is evidently false because only in April 2014, the 4th defendant shifted to his new flat and only thereafter the 1st defendant started residing there with him. Even in the said alleged settlement deed dated 10.10.2014, it is clearly mentioned that the mother namely the 1st defendant had the fond hope that the plaintiff and other children should enjoy and possess the suit property after her life time and so she had executed an earlier will (copy not available with the plaintiff). This clearly shows that her actual intention and desire was that the plaintiff should also jointly own and possess the suit property, but the said alleged settlement deed dated 10.10.2014 typed in English purports to convey the entire suit property to the 4th defendant, which is totally against the rights and claims of this plaintiff and the desires and intentions of the 1st defendant and the said deed is invalid and void abinitio. Therefore it is very clearly evident that



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the 4th defendant has misled, misrepresented, brainwashed, coerced and influenced the 1st defendant in executing the said settlement deed and thereby fraudulently obtained the said settlement deed. Hence the plaintiff is entitled to a decree for declaration that the said settlement deed dated 10.10.2014 registered as document No.2482 of 2014 on the file of the SRO T. Nagar, is an invalid, illegal and void and not binding on this plaintiff. Therefore, it is absolutely necessary to pass a Judgement and decree for partition and possession of the plaintiffs 1/4 share in the Schedule mentioned property and other orders as prayed for.

3.In the written statement filed by the 1st Defendant, it is averred as follows:-

i) At the outset, the suit as filed by the plaintiff as against the defendants is nothing, but sheer abuse of process of court and process of law and the same is liable to be rejected and dismissed with exemplary costs of this defendant. Further, the plaintiff has given a false and incorrect information in para 4 of the plaint, as if, he is residing in a portion of the suit property, whereas the plaintiff is residing at New No.27, Old No.14/3, 1 Floor, Dhandapani Street, T. Nagar, Chennai - 600 017. Initially, she



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along with her husband moved to the suit schedule property as tenants under one N.Shantha Bai. Since the landlady was looking out for a good purchaser to sell the suit property, the 1st defendant came forward to purchase the suit property and accordingly, she had purchased the suit property under a Sale Deed dated 13.09.1972 and registered as Document No.5072 of 1972, in the office of the Sub-Registrar, T.Nagar, Chennai, from N.Shantha Bai. The sale consideration was paid by her from and out of her own funds including the sale of her Sridhana and personal effects. Ever since the date of purchase, the 1st defendant had been in continuous possession, occupation and enjoyment of the entire suit property in her own rights. In fact, the suit property includes four shops, abetting the main road and her house is on the rear side of the building. Out of the four shop, she had let out three shops to third parties and the one shop is being used by her grandson Ajith for his business purpose. The 1st Defendant had been collecting the rents and maintaining the suit property ever since the date of purchase till she settled the suit property 4th defendant herein.

ii) The suit property was never considered as a joint family property and the various letters and correspondences addressed by her sons to the 1st



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Defendant would prove and establish that the suit property was always treated as her absolute property without any hindrance from any one much less the plaintiff herein. The suit property under her absolute possession, occupation and enjoyment. The plaintiff is out of possession and as such, he cannot maintain an action by invoking Section 37(2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. As a matter of fact, the 1st Defendant had initiated Rent control proceedings in R.C.O.P. NO. 796, 797 and 785 of 2014 before the XII Court of Small Causes, Chennai, for eviction of three tenants viz. K.Mangala, G.EknathBau and Mrs.T.Nachammal, as they have committed wilful default in payment rents, and the plaintiff is not in possession of any portion of the suit property.

(iii) The 1st Defendant submits that neither the plaintiff nor anyone else other than the 1st defendant and her third son R.Shantilal and his family members are in possession of the suit property. Taking into consideration that her third son R.Shantilal has been taking care of the 1st defendant both emotionally and financially ever since demise of her husband, the 1st Defendant thought it fit to execute a Will dated 21.07.2011



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and registered as Document No.32 of 2011 in the office of the Sub-Registrar, T. Nagar, Chennai-600 017, in a sound state of mind bequeathing the suit property in favour of her third son R.Shantilal, However, subsequently, in order to prevent any litigation between sons of the 1st Defendant after her demise, she thought it fit to accelerate the succession of the property and accordingly, on her instructions, a Settlement Deed dated 10.10.2014 was executed and registered as Document No.2482 of 2014 in the office of Sub-Registrar, T.Nagar, Chennai, by the 1st defendant in favour of her third son R.Shantilal and he was put in possession of the suit property ever since the date of settlement.

(iv)The 1st Defendant submits that after the settlement of the suit property, the Settlee, viz., R.Shantilal had effected mutation of records in his name and the property tax, water and sewerage tax and electricity connection have been transferred in his name and he has been in possession, occupation and enjoyment of the property in his own rights and discharging the statutory dues payable in respect of the suit property in his name.



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(v) The 1st Defendant submits that plaintiff is not in possession of any portion of the suit property, be it, the house portions or shop portions. After the settlement deed, the suit property is in the possession and enjoyment of the 4th defendant and his family along with whom, the 1st defendant has been residing. In fact, the plaintiff along with the 5th defendant had interfered with the possession of the property and trespassed into a portion of the suit property which was let out to the tenants, which necessitated the 1st defendant to prefer a complaint to the police authorities as against the plaintiff and the 5th defendant. The plaintiff without any semblance of any right in the suit property, which she had validly settled in favour of the 4th defendant, has been interfering with their possession and litigating over the suit schedule property, which has caused untold hardship and irreparable loss to the 1st defendant and the 4th defendant. The suit property was the absolute property of the 1st Defendant and under Section 14 of the Hindu Succession Act, the property possessed by a female Hindu shall be held by her as her own absolute property. The 1st defendant's right and enjoyment of the property or subsequently settling the same in favour of her third son, cannot be challenged by any one much less the plaintiff and as such, the present suit



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for partition and separate possession and declaration are misconceived and the plaintiff is not entitled to seek for reliefs as against the true and lawful owner of the property and the order or status-quo granted by this Hon'ble Court is acting prejudicial to the interest of the 4th defendant, who is entitled to own, possess and enjoy the still property. The present suit as laid by the plaintiff is vexatious, frivolous and the same is unsustainable and untenable in law. Hence, the suit is liable to be dismissed.

4.In the written statement filed by the 5th Defendant, it is averred as follows:-

i) This defendant is also having 1/4th undivided share in the suit property. This defendant it entitled to his 1/4th share and his 1/4th share should also be allotted to him by metes and bounds and this defendant is prepared and ready to pay the court fee for the same. Most of the averments and allegations made by the plaintiff in the plaint filed in the above suit, except for the following averments and claims and this defendant submits the following correct facts as given hereunder.



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ii).This defendant states that the suit property was not purchased by this Defendant's father from and out of his self acquired funds. The suit property is not the self acquired property of this defendants mother. It is a HUF property of which this defendants father and his sons including this defendants were the coparceners. Originally this defendant's father and his brother were a bigger HUF along with their respective sons, and this defendants father was the kartha of the same. The family business of the said HUF was the hereditary pawn broking and finance business, which they inherited from their father. The said HUF got divided and this defendants father took away his share and formed a smaller HUF consisting of himself and his sons including this defendant. Then said smaller HUF was also carrying on the said family business of pawn broking and finance business. All the members of the HUF were actively taking part in the said business from their childhood.

(iii)This defendant further states that accordingly it is only from the funds of the said HUF, this defendant's father had purchased the suit property in the name of the 1st defendant. The 6th and 7th defendants were never members of the said HUF and were got married by this defendants



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father by spending huge amounts and given Jewelleries and gifts. In fact this defendants other brothers namely the 2nd and 3rd defendants also separated from the said HUF by taking away their share in writing and executed release letters in 1979 in the presence of relative and other family members. Accordingly the said smaller HUF of Rishab Chand continued with only himself and his remaining three sons namely the plaintiff, the 4th defendant, this 5th defendant along with the 1st defendant. Accordingly after the death of his father, the suit Property being the HUF property is belonging to this 5th defendant, the plaintiff, the 1st defendant and the 4th defendant, with each having 1/4th undivided share. The defendant further states that he is in occupation of two shops in the ground floor of the suit property wherein this defendant is carrying on business till date. The plaintiff is now trying to collude with the 4th defendant and hence it is necessary to transpose this defendant as a plaintiff in the above suit for partition. This defendant again states that he has got 1/4th share in the suit property and hence in the event of partition, the suit property has to be divided into four equal parts and this defendants 1/4th share in the suit property should be allotted to this defendant. This defendant therefore prays that this Hon'ble court may be pleased to pass suitable orders.



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5. On the pleadings of the parties, the following issues were framed:-

(1) Whether the plaintiff is entitled for partition and separate possession of suit schedule property and is entitled to 1/4th share of the same?

2. Whether the settlement deed dated 10.10.2014, registered as Document No. 2482/2014, in the office of SRO T. Nagar, executed by 1st defendant in favour of 4th defendant is illegal, invalid and non-est in the eyes of law, and consequently not binding on the plaintiff?

3. In absence of a declaratory relief with regard to title of the property, whether the plaintiff is entitled to maintain the present suit?

4. In the absence of the plaintiff being in possession of the suit schedule property, whether court fee paid by the plaintiff is correct and sufficient?

6. On the side of the Plaintiffs, Ex.P1 to Ex.P7 were marked and PW.1 was examined. On the side of the Defendants, Ex.D1 to Ex.D61 were marked and DW.1 was examined.

7. Heard both sides and perused the materials available on records.



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Issue Nos.1,2 3, and 4.

8.The learned counsel for the plaintiff would submit that the suit property was purchased by the plaintiff's father ie. G.Rishab Chand, in the name of his wife/1st respondent herein. It is clearly endorsed by the Sub-Registrar that a sum of Rs.35,000/- was paid by the said G.Rishab Chand to the Vendor at the time of registration. Further, it is also mentioned therein that another sum of Rs.40,000/- is to be paid on or before 01.03.1973 with interest. The said amount was duly paid and discharged by father of the plaintiff.

9.It has been further submitted by the learned counsel for the plaintiff that the 1st defendant who is the mother of the plaintiff, had all along been always a house wife and no independent source of income. In fact, she does not even know to read and write in English or even in Hindi and did not complete even schooling. The suit property was purchased by father of the plaintiff in the name his wife ie.1st defendant herein for the benefit of the family from the source of income received out of joint family business in the year 1972. Hence, the suit schedule property is Joint Family property.

10. The learned counsel for the plaintiff would further submit that



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the 2nd and 3rd defendants have released their rights, interest, claim in the suit property as per letter dated 16.07.1979, witnessed by G.Mohanlal, who is the brother of G.Rishabchand, and other family members, by receiving a sum of Rs.1,15,000/- each. Hence, they do not have any right over the suit schedule property. Further, the plaintiff's father got both his daughters ie, 6th and 7th defendants who are the sisters of the plaintiff, married giving enough Jewels and funds at the time of their marriage. Hence, they never had or claimed any share in the suit schedule property.

11.It has been further submitted by the learned counsel for the plaintiff that the father of the plaintiff died intestate on 23.01.1990. since the defendants 2nd, 3rd, 6th and 7th have already taken away their share, they had never claimed any share in the suit schedule property. Therefore, the plaintiff, the defendants 1, 4th and 5th have become jointly entitled to the suit schedule property as the suit property was purchased by the plaintiff's father G.Rishab Chand for the benefit of the Joint Family.

12.The learned counsel for the plaintiff would further submit that



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the plaintiff is in possession and occupation of two shops in the ground floor and one residential portion in the 1st floor. Further, the 5th defendant is in possession and occupation of one shop in the ground floor. In one other shop, the plaintiff and the 5th defendant are carrying on partnership business. The rest of the building was in possession and enjoyment of the 1st & 4th defendants. Thus, the plaintiff, the defendants 1, 4 and 5 have been in joint enjoyment and possession of the suit schedule property, each having 1/4th undivided share therein. In the meanwhile, after the 4th defendant has shifted from the suit schedule property to another flat ie, Mahalakshmi Villa, located at T.Nagar, he has brainwashed and influenced the 1st defendant/mother of the plaintiff to execute the Settlement Deed dated 10.10.2014 in his favour in an illegal manner. The said Settlement Deed is an invalid and illegal document and not binding on the plaintiff. Hence, the plaintiff seeks 1/4 equal shares by metes and bounds and other prayer as stated in the suit.

13. In support of his arguments, the learned counsel for the plaintiff



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has relied upon the following Judgments for considerations:

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- (i) In the case of “*Nand Kishore Mehra Vs. Sushila Mohra*” [(1995) AIR (Supreme Court) 2145=1995 (59) DLT 497 1996 (1) LW 107 = 1995 (4) SCC 572;
- (ii) “*Sri Arun Das vs. Aparna Das* ” [(2021) 1 TriLr 816],

14.The learned counsel for the 4th defendant would submit that initially, the 1st defendant along with her husband moved to the suit schedule property as tenants under one N.Shantha Bai. Since the landlady was looking out for a good purchaser to sell the suit property, the 1st defendant came forward to purchase the suit property and accordingly, she had purchased the suit property under a Sale Deed dated 13.09.1972 and registered as Document No.5072 of 1972, in the office of the Sub-Registrar, T.Nagar, Chennai, from N.Shantha Bai. The sale consideration was paid by her from and out of her own funds including the sale of her Sridhana and personal effects. Ever since the date of purchase, the 1st defendant had been in continuous possession, occupation and enjoyment of the entire suit property in her own rights. In fact, the suit property includes four shops, abetting the main road and her house is on the rear side of the



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building. Out of the four shop, she had let out three shops to third parties and the one shop is being used by her grandson Ajith for his business purpose. The 1st Defendant had been collecting the rents and maintaining the suit property eversince the date of purchase till she settled the suit property 4th defendant herein.

15. It has been further submitted by the learned counsel for the 4th defendant that the suit property was never considered as a joint family property and the various letters and correspondences addressed by her sons to the 1st Defendant would prove and establish that the suit property was always treated as her absolute property without any to hindrance from any one much less the plaintiff herein. The suit property under her absolute possession, occupation and enjoyment.

16.The learned counsel for the 4th defendant would further submit that the plaintiff is out of possession and as such, he cannot maintain an action by invoking Section 37(2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. As a matter of fact, the 1st Defendant had initiated Rent control proceedings in R.C.O.P. NO. 796, 797 and 785 of 2014



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before the XII Court of Small Causes, Chennai, for eviction of three tenants viz. K.Mangala, G.EknathBau and Mrs.T.Nachammal, as they have committed wilful default in payment rents, and the plaintiff is not in possession of any portion of the suit property.

17.The learned counsel for the 4th defendant would further submit that that neither the plaintiff nor anyone else other than the 1st defendant and her third son R.Shantilal/4th defendant herein and his family members are in possession of the suit property. Taking into consideration that her third son R.Shantilal has been taking care of the 1st defendant both emotionally and financially ever since demise of her husband, the 1st Defendant thought it fit to execute a Will dated 21.07.2011 and registered as Document No.32 of 2011 in the office of the Sub-Registrar, T. Nagar, Chennai-600 017, in a sound state of mind bequeathing the suit property in favour of her third son R.Shantilal, However, subsequently, in order to prevent any litigation between sons of the 1st Defendant after her demise, she thought it fit to accelerate the succession of the property and accordingly, on her instructions, a Settlement Deed dated 10.10.2014 was executed and registered as Document No.2482 of 2014 in the office of Sub-Registrar,



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T.Nagar, Chennai, by the 1st defendant in favour of her third son R.Shantilal and he was put in possession of the suit property ever since the date of settlement.

18.It has been further submitted by the learned counsel for the 4th defendant that after the settlement of the suit property, the Settlee, viz., R.Shantilal had effected mutation of records in his name and the property tax, water and sewerage tax and electricity connection have been transferred in his name and he has been in possession, occupation and enjoyment of the property in his own rights and discharging the statutory dues payable in respect of the suit property in his name.

19.It has been further submitted by the learned counsel for the 4th defendant that that plaintiff is not in possession of any portion of the suit property, be it, the house portions or shop portions. After the settlement deed, the suit property is in the possession and enjoyment of the 4th defendant and his family along with whom, the 1st defendant has been residing. In fact, the plaintiff along with the 5th defendant had interfered with the possession of the property and trespassed into a portion of the suit



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property which was let out to the tenants, which necessitated the 1st defendant to prefer a complaint to the police authorities as against the plaintiff and the 5th defendant. The plaintiff without any semblance of any right in the suit property, which she had validly settled in favour of the 4th defendant, has been interfering with their possession and litigating over the suit schedule property, which has caused untold hardship and irreparable loss to the 1st defendant and the 4th defendant.

20. It has been further submitted by the learned counsel for the 4th defendant that the suit property was the absolute property of the 1st Defendant and under Section 14 of the Hindu Succession Act, the property possessed by a female Hindu shall be held by her as her own absolute property. The 1st defendant's right and enjoyment of the property or subsequently settling the same in favour of her third son, cannot be challenged by any one much less the plaintiff and as such, the present suit for partition and separate possession and declaration are misconceived and the plaintiff is not entitled to seek for reliefs as against the true and lawful owner of the property and the order or status-quo granted by this Hon'ble Court is acting prejudicial to the interest of the 4th defendant, who is



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entitled to own, possess and enjoy the still property. The present suit as laid by the plaintiff is speculative, vexatious, frivolous and the same is unsustainable and untenable in law. Hence, the suit is liable to be dismissed.

21.It is admitted fact that the relationship between the parties is not disputed. It has been stated on the side of the plaintiff that the suit property has been purchased by the husband of the 1st defendant, ie. Rishab Chand relying upon the endorsement made in the Sale Deed dated 13.09.1972 registered as Document No.5077 of 1972 and the plaintiff and the defendants 1, 4 and 5 are in possession and enjoyment of the suit property. Further, it has been stated that the Settlement Deed dated 10.10.2014 registered as document No.2482 of 2014 on the file of the SRO, T.Nagar, was executed by influencing and misleading the 1st defendant/mother of the plaintiff in favour of 4th defendant herein, while the plaintiff and 5th defendant are entitled to 1/4th share in the suit property.

22. On a perusal of Ex.P1-Sale Deed dated 13.09.1972, even there



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is an endorsement for the payment of Rs.35,000/- made by G.Rishab Chand who is the father of the plaintiff, the 1st defendant has deposed that the sale consideration was paid by her from and out of her own funds including the sale of some of her Sridhana and personal effects. In addition to, it is averred by her in the cross examination that her money was with her husband and the same was paid by him to the vendor. Further, in so far the another sum of Rs.40,000/- is concerned, it is seen in the sale Deed that the said amount has been paid by the 1st defendant. Further, the plaintiff has not produced any oral or documentary evidence to prove that the suit schedule property was purchased by his father and he has not proved that he was in the joint possession of the suit property. In the absence of oral and documentary evidence, these cannot be considered in favour of the plaintiff. Further, the plaintiff has not proved that the settlement Deed dated 10.10.2014 has been executed by her mother in favour of the 4th defendant by forcing and influencing her by letting in oral and documentary evidence. It is bound duty of the plaintiff to prove his case.

23. In view of the aforesaid discussions and observations, this Court comes to the conclusion that the suit property has been purchased by



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the 1st defendant and she is the absolute owner of the suit property. Hence, under Section 14 of the Hindu Succession Act, the property possessed by a female Hindu shall be held by her as her own absolute property. In the right and enjoyment of the property, out of her love and affection, the 1st defendant has settled the same in favour of her third son ie.4th defendant herein. Since the suit property has been settled by way of registered settlement deed dated 10.10.2014 in favour of the 4th defendant by the 1st defendant, who is the mother of the plaintiff, the plaintiff cannot seek 1/4th share in the suit property and other relief over the suit schedule property. Accordingly, Issue No.1 is answered against the plaintiff. Under Section 14 of Hindu Succession Act, the 1st defendant who is the mother of the 4th defendant settled her property by way registered document No.2482 of 2014 in SRO, T.Nagar, it is valid . Accordingly, issue No.2 is answered against the plaintiff and in favour of the 4th defendant. As Issue Nos.1 and 2 are answered against the plaintiff and in favour of the 4th defendant, As the plaintiff has sought for declaratory prayer in the suit, Issue No.3 does not arise. Since the plaintiff was not in joint possession of the suit property, the Court fee paid by the plaintiff is not correct and sufficient. Accordingly, Issue No.4 is answered against the plaintiff.



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24. In the result, the suit is dismissed. No costs.

09.02.2024

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

Lbm

1. List of Exhibits marked on the side of the Plaintiff:-

1. Ex.P1 is the Certified copy of the sale deed of Santha Bai in favour of 1st defendant dated 13.09.1972.
2. Ex.P2 is the xerox copy of the Driving License of plaintiff dated 12.09.2005.
3. Ex.P3 is the Original IT refund order of SBI to plaintiff dated 18.11.2011 and 06.06.2013.
4. Ex.P4 is Original letter of Religare to plaintiff dated 02.09.2014.
5. Ex.P5 is the Original Bank statement for September, 2014 for BOI to plaintiff dated 01.10.2014.
6. Ex.P6 is the Original bank statement for April, 2007 for BOI to plaintiff dated 02.05.2007.
7. Ex.P7 is the Original EC (2nos) of SRO to plaintiff dated 22.04.2014.

2. List of Exhibits marked on the side of the defendants:-



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1.Ex.D1 is the Original letter dated 16.07.1979 from 2nd defendant.

2.Ex.D2 is the Original letter dated 16.07.1979 from 3rd defendant.

3.Ex.D3 is the Original rental agreement dated 24.09.1979.

4.Ex.D4 is Original legal notice dated 18.10.1993 issued on behalf of 3rd defendant.

5.Ex.D5 is the Office copy of reply notice dated 28.10.1993.

6.Ex.D6 is the Original re-joinder dated 01.12.1993.

7.Ex.D7 is the subsequent to execution of settlement deed.

8. Ex.D8 is the certified copy of the Petition in RCOP No. 796 of 2014 dated 21.04.2014.

9. Ex.D9 is the certified copy of the petition in RCOP No.797 of 2014 dated 21.04.2014.

10.Ex.D10 is the certified copy of the RCOP. 785 of 2014 before the Hon'ble XII small causes court dated 21.04.2014.

11.Ex.D11 is the printout of the Chennai Metropolitan Water tax bill bearing No.0911308113000 with 65B certificate dated 09.10.2014.

12.Ex.D12 is the original certificate of encumbrance on property bearing No.5816/2014 dated 30.10.2014.

13.Ex.D13 is the original property tax name transfer certificate notice: 9/14- 15/16311 dated 08.11.2014.



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14.Ex.D14 is the original TANGEDCO name transfer certificate 87/2014-2915 dated 25.11.2014.

15.Ex.D15 is the copy of the police complaint with CSR dated 07.12.2014.

16.Ex.D16 is certified copy of the affidavit and petition in M.P.No.634 of 2014 in RCOP No.796 of 2014 dated 11.12.2014.

17.Ex.D17 is the certified copy of the affidavit and petition in M.P.No.635 of 2014 in RCOP No.797 of 2014 dated 11.12.2014.

18.Ex.D18 is the photocopy of the police complaint with CSR dated 04.01.2015.

19.Ex.D19 is the certified copy of the affidavit and petition in M.P.No.247 of 2016 in R.C.O.P.No.796 of 2014 dated 08.01.2015.

20.Ex.D20 is the certified copy of the affidavit and petition in [M.P.No.](#) 73 of 2015 in [R.C.O.P.No.](#) 796 of 2014 dated 20.02.2015.

21.Ex.D21 is the certified copy of the affidavit and petition in [M.P.No.](#) 74 of 2015 in [R.C.O.P.No.](#) 797 of 2014 dated 20.02.2015.

22.Ex.D22 is the certified copy of the counter in M.P.No.17 of 2016 in M.P.No.484 of 2016 in [R.C.O.P.No.](#) 796 of 2014 dated 26.02.2015.

23. Ex.D23 is the certified copy of the counter in [M.P.No.](#) 19 of 2016 in M.P.No.485 of 2015 in [R.C.O.P.No.](#) 797 of 2014 dated 26.02.2015.

24. Ex.D24 is the certified copy of the order and decretal order



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in [M.P.No.](#) 17 of 2016 in [M.P.No.](#) 484 of 2015 in [R.C.O.P.No.](#) 796 of 2014 dated 17.04.2017.

- 25.Ex.D25 is the certified copy of the affidavit and petition in M.P. No.484 of 2015 in [R.C.O.P.No.](#) 796 of 2014 dated 17.06.2015.
- 26.Ex.D26 is the certified copy of the affidavit and petition in M.P.No.485 of 2015 in [R.C.O.P.No.](#) 797 of 2014 dated 17.06.2015.
- 27.Ex.D27 is certified copy of the counter in M.P.No.484 of 2015 in [R.C.O.P.No.](#) 796 of 2014 dated 10.09.2015.
- 28.Ex.D28 is certified copy of the counter in M.P.No.485 of 2015 in [R.C.O.P.No.](#) 797 of 2014 dated 10.09.2015.
- 29.Ex.D29 is the certified copy of the order and decretal order in [M.P.No.](#) 70 of 2015 in RCOP 785 of 2014 dated 07.12.2015.
- 30.Ex.D30 is the certified copy of the order and decretal order in [M.P.No.](#) 74 of 2015 in [R.C.O.P.No.](#) 797 of 2014 dated 07.12.2015.
- 31.Ex.D31 is the certified copy of the order and decretal order in M.P.73 of 2015 in [R.C.O.P.No.](#) 796 of 2014 dated 07.12.2015.
- 32.Ex.D32 is the certified copy of the order and decretal order in M.P.484 of 2015 in [R.C.O.P.No.](#) 796 of 2014 dated 07.12.2015.
- 33.Ex.D33 is order and decretal order in M.P.485 of 2015 in [R.C.O.P.No.](#) 797 of 2014 on January, 2016.



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34.Ex.D34 is the certified copy of the counter statement in [R.C.O.P.No.](#) 796 of 2014 dated 07.01.2016.

35.Ex.D35 is the certified copy of the affidavit and petition in M.P.No.17 of 2016 in [M.P.No.](#) 484 of 2015 in [R.C.O.P.No.](#) 796 of 2014 dated 08.01.2016.

36. Ex.D36 is the certified copy of the [R.C.A.No.](#) 622 of 2016 against [M.P.No.](#) 70 of 2015 in [R.C.O.P.No.](#) 785 of 2014 dated 27.04.2016.

37. Ex.D37 is the certified copy of the [R.C.A.No.](#) 624 of 2016 against [M.P.No.](#) 485 of 2015 in [R.C.O.P.No.](#) 797 of 2014 dated 01.06.2016.

38.Ex.D38 is the certified copy of the order and decretal order in M.P.19 of 2016 in M.P.No.485 of 2015 [R.C.O.P.No.](#) 797 of 2014 dated 20.04.2017.

39.Ex.D39 is the certified copy of the amended petition in RCOP No.797 of 2014 before the Hon'ble XII Hon'ble small cause court dated 27.06.2017.

40.Ex.D40 is the certified copy of the order and decretal order in M.P. No.203 of 2017 in RCOP No.797 of 2014 ated 19.06.2017.

41.Ex.D41 is certified copy of the affidavit and petition in M.P. No. 70 of 2018 in RCOOP No.797 of 2014 dated 05.02.2018.

42.Ex.D42 is certified copy of the counter in M.P. No.70 of 2018 in RCOP No.797 of 2014 dated 07.04.2018.

43.Ex.D43 is the certified copy of the order and decree in M.P. No.70 of 2018 in RCOP No.797 of 2014.



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44.Ex.D44 is the certified copy of the order and decree in RCOP No.796 of 2014 dated 12.12.2019.

45.Ex.D45 is the certified copy of the E.P No.267 of 2020 in RCOP No.796 of 2014 dated 14.02.2020.

46.Ex.D46 is the certified copy of the order and decree in E.P.No.267 of 2020 in RCOP No.796 of 2014 dated 22.02.2021.

47.Ex.D47 is the certified copy of the order in A.No.6171 of 2018 in C.S. No.802 of 2014 dated 10.09.2020.

48.Ex.D48 is the downloaded copy of the ledger for service No.309 with 65 B certificate -reports are internal documents.

49.Ex.D49 is the downloaded copy of the ledger for service No.311 with 65 B certificate -reports are internal documents.

50.Ex.D50 is the downloaded copy of the ledger for service No.312 with 65 B certificate-reports are internal documents.

51.Ex.D51 is the downloaded copy of the ledger for service No.313 with 65 B certificate -reports are internal documents.

52.Ex.D52 is the original No commodity family card, No.02/N/0005378.

53.Ex.D53 is the original property tax demands of Tet Anesthe for the year from 1992 to 1005.

54.Ex.D54 is the original property tax demand card in favour of Tmt. Amrave Bai, for the year from 1992 to 2001.

55.Ex.D55 is the original property tax demand card and in favour



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of Tmt. Amrave Bai, for the year from 2002 to 2016

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56.Ex.D56 is the original property tax demand card in favour of Tmt. Amrave Bai, bearing No.1225928

57.Ex.D57 is the original water and sewerage tax card in favour of Tmt. Amrave Bai, bearing serial No.466232.

58.Ex.D58 is the original water and sewerage tax card in favour of Tmt. Amrave Bai, bearing serial No.000367.

59.Ex.D59 is the original water and sewerage tax card in favour of Tmt. Amrave Bai, bearing serial No..15117.

60.Ex.D60 is original water and sewerage tax card in favour of R.Shantilal bearing serial No.211.

61.Ex.D61 is the photocopy of the family card

3. List of Witnesses examined on the side of the Plaintiff and Defendants:-
PW.1 – R. Goutham Chand

4.List of Witnesses examined on the side of the Defendants:-
D.W.1 – Mrs. Amrave Bai
D.W.2- Mr. R. Shantilal

09.02.2024



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A.A.NAKKIRAN, J.

lbm

Pre-Delivery Judgement in
CS.No.802 of 2014

09.02.2024