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A.S.(MD).No. 20 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 08.02.2024

Judgment Delivered on : 08 .04.2024

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

A.S.(MD).No. 20 of 2011

and

CMP.No. 1 of 2014

1. Mohammed Hanifa
2. Aaiysa Kani

...Appellants

Versus

1.Saliya Kani
2.Basheer-ul-Haq
3.Mohammed Maideen
4.Ashma Begaum
5.Bodisamy
6.Valliammal
7.The Branch Manager
Tamil Nadu Mercantile Bank Ltd.,
Iyyalur Village, Vedaunthur Taluk
Dindigul District.
8.Abdul Haq (Died)
Mohammed Abdul Kahder (Died)
[Memo dated 04.12.2023 presented before



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the Court-is recorded, to the effect that in respect of R6, no notice is necessary and in respect of R8, there is no necessity to take steps to implead his LR's on record, vide Court order dated 04.12.2023 made in AS(MD) No. 20 of 2011].

9.Saya Sultan Beevi

...Respondents

Prayer: Appeal Suit is filed under Section 96 and Order XLI Rule 1 of the Code of Civil Procedure, against the Judgment and Decree dated 08.11.2010 made in O.S.No. 284 of 2004 on the file of the Fast Track Court, Additional District Judge, Dindigul.

For Appellants : Mr.A.R. Sethupathy

For Respondent-1 : Mr.S.Anand Chandrasekar
For Sarvabhauman Associates

For Respondent-5 Mr.R.R.Kannan

JUDGMENT

This Appeal Suit is filed as against the judgment and decree dated 08.11.2010 made in O.S.No.284 of 2004 on the file of the Fast Track Court, Additional District Judge, Dindigul, wherein, the first



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respondent/plaintiff has filed the suit for the relief of partition and separate possession and the same was decreed in favour of the first respondent/plaintiff. Aggrieved by the judgment and decree dated 08.11.2010, the 1 and 2 defendants had preferred the present First Appeal.

2. Brief facts of the Complaint are as follows:-

(a) The complaint A to D suit schedule properties originally belonged to one Kulam Hussain Ravuthar. After his demise, his sons, namely, Shake Mohammed Ravuthar, Mohammed Ibrahim Ravuthar and Naina Mohammed Ravuthar, have enjoyed the properties jointly and thereafter, they partitioned the properties on 25.07.1906. In respect of the share of the Mohamed Ibrahim Ravuthar, after his demise, the property of the Mohamed Ibrahim Ravuthar devolved upon his sons, namely, Mohammed Bagalool Ravuthar and Kulam Hussain Ravuthar who enjoyed the properties. The said Mohammed Bagaloor Ravuthar died intestate, leaving

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behind his sons, namely, Naina Mohammed Ravuthar and Mohammd Yahub and thereafter, they have partitioned the properties on 31.07.1984.

(b) The "B" suit schedule property was allotted by way of partition to S.Mohammed Yahub and he was enjoying the property, and he made fixed deposits in the 8th defendant's Bank by nominating the 7th defendant as Nominee. The said deposits were made through the income derived from "B" suit schedule properties. On 16.11.1998, Mohammed Yahub died, and her wife Mymoon Beevi pre-deceased him on 20.01.1996 without any legal heirs. After the demise of Mohammed Yahub, his sisters, namely, Salima Beevi and Zainab Kani have acquired his properties. The said Salima Beevi died on 05.10.1999, leaving behind her husband viz., Abdul Razak and three children, namely, the defendants 3 to 5, who succeeded her Estate. The husband of Salima Beevi i.e., Abdul Razak also died on 12.11.2003. Another sister of Yahub viz., Zainab Kani died intestate on 21.07.2003 leaving behind her husband viz., the first



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defendant and her children, namely, the 2nd defendant and the plaintiff.

(c) Therefore, the plaintiff and the defendants 1 to 5 are the legal heirs of the S.M.Yahub. The plaintiff is entitled to 15/96 shares over the "A, B, and C" suit schedule properties. In the "D" suit schedule properties, the plaintiff is entitled to 3/96 share and the 1st defendant is entitled to 10/96 share in "A, B, and C" suit schedule properties. In the "D" suit schedule properties, the first defendant is entitled to 2/96 share and the 2nd defendant is entitled to 15/96 share in "AB&C" suit schedule properties. In the "D" suit schedule properties, the 2nd defendant is entitled to 3/96 share. The defendants 3 to 5 are entitled to 45/96 share in "A, B and C" suit schedule properties and in "D" suit schedule properties, he is entitled to 8/96 share and the defendants 9 & 10 are entitled to 16/96 in "A, B and D" suit schedule properties.

(d) The E&F Item of the suit schedule properties were purchased by S.Mohammed Yahub, by way of sale deed dated 02.06.1989. After his



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demise, the legal heirs of his sisters, viz., Salima Beevi and Zainab Kani enjoyed the properties. Thereafter, the defendants 1 & 2 and the plaintiff have been in possession and enjoyment of the properties. Therefore, in Item "E and F" suit schedule properties, the plaintiff is entitled to 15/96 share. The mother of Zainab Kani purchased the property, through sale deed dated 25.05.1960.

Therefore, the plaintiff is entitled to 7/3 share and the defendants 1 and 2 are entitled to 1/3 share over the properties. The said Zainab Kani has executed the settlement deed in favour of the 2nd defendant and the same is not valid according to law. Therefore, the plaintiff is entitled to 15/96 share in "A, B, D, E and F" items and also entitled to 1/6th share in "C" Item and also entitled to 1/3rd share in "G-" item of the schedule properties.

In the Fixed Deposits, the plaintiff is entitled to share and the 7th defendant is the only nominee and she has no right over the said Fixed



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Deposits. The 6th defendant is the lessee in respect of the subject properties.

(e) The said "D" schedule property belonged to one Kulam Hussain Ravuthar. After his demise, his three sons partitioned the properties through partition deed dated 25.07.1906. The "F" schedule property was enjoyed as common property.

On 26.09.1935, the Naina Mohammed Ravuthar and his sons, namely, Mohammed Kasim and Mohammed Hussain have relinquished their right. Therefore, the aforesaid properties were enjoyed by Mohammed Bagalool Ravuthar and Kulam Hussain Ravuthar. After their demise, the same was enjoyed by the defendants 9 and 10. The defendants 9 and 10 shared the income of the said properties to the defendants 1 to 5 and the plaintiff. The plaintiff demanded partition from the defendants 1 to 5, but they refused to settle the disputes amicably. Therefore, the plaintiff issued notice dated 17.04.2004, but no reply was sent by the



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defendants. The defendants 9 & 10 have alienated the properties in "D" schedule Items and the same are not binding on the plaintiff. Therefore, the plaintiff has filed the suit for partition.

3. The gist of written statement of 1st defendant is as follows:-

(a) The suit is false and frivolous, and it is not maintainable and the same is liable to be dismissed. The averments made in Paragraph Nos. 4 to 8 of the plaint all are false.

(b) The suit properties originally belonged to Kulam Hussain Ravuthar. After his demise, his sons, namely, Shake Mohammed Ravuthar, Mohammed Ibrahim Ravuthar and Naina Mohammed Ravuthar partitioned their properties in the year 1906. Thereafter, in the year 1984, they entered into partition deed and "B" schedule properties were allotted to one S.M. Yahub, who died in the year 1998 and his wife Mymoon Beevi



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predeceased him. After his demise, his sisters, viz., Salima Beevi and Zainab Kani are entitled to right over the properties. After their demise, the respective children are enjoying Survey No. 938 in "A" schedule property.

(c) Yahub Ravuthar sold the property in 8 acre 14 cents out of 1 acre 46 cents and the remaining properties belong to defendants 2 to 5, 9 and 10 and they are also in possession and enjoyment of the properties. In the aforesaid Survey No.938, Zainab Kani is only entitled to 83-1/2 cents. Survey No. 930 was sold during the life time of Mohammed Yahub.

(d) In Survey No.951, the Yahub and 9th defendant are having 1/2 share and the said property was also sold during the life time of Yahub. In S.F.No. 460, Yahub is entitled to 1/2 share and 9th defendant is entitled to 1/2 share. After the demise of Yahub, Salima Beevi and Zainab Kani each are entitled to 1/4 share over the property.



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(e) In "B" schedule properties, S.F.No.460, 569/2B, Yahub is having 1/4 share and the defendant is having 1/4 share. Survey Nos.515, 567/C, and 567/A were sold during the life time of Yahub. "B" schedule properties were leased to the 6th defendant during the life time of Zainab Kani for 30 years.

(f) The second defendant borrowed loan amount of Rs.2,45,000/- towards medical expenses of Zainab Kani and still he is paying interest for that loan. During the life time of Zainab Kani, she gifted the properties of A and B schedule to his daughter, viz., 2nd defendant through oral "Gift Deed".

(g) Therefore, the plaintiff is not entitled to any share over the properties through her mother. Further, the Zainab Kani executed a settlement deed in the year 2000 in favour of the 1st defendant in respect of the property situated in Ilangakurichi, Manapparai Taluk, Tirchi District.



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(h) The description of properties in the plaint are not correct.
Therefore, the suit is liable to be dismissed.

4. Brief averments of the written statement of 7th defendant are as follows:-

(i) The suit is false, frivolous and the same is liable to be dismissed.

(ii) The partition deeds, dated 25.07.1906 and 31.07.1984 are all admitted, but it is false to state that "C" schedule properties which are Fixed Deposits were made out of the income derived through "B" schedule properties.

(iii) It is true that Mohammed Yahub died on 16.11.1998 and his wife pre-deceased him on 20.01.1996, but it is not correct, thereafter his demise, his sisters namely, Salima Beevi and Zainab Kani enjoyed the properties. In fact, Mohammed Yahub died on 16.11.1998 only in the house of 7th defendant. The Tahsildar of Iyyalur Village, had given legal

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heirship certificate stating that the 7th defendant is the wife of Mohammed Yahub.

(iv) The said Mohamed Yahub resided along with 7th defendant and he deposited amounts of Rs.5,00,000/- on 16.04.1998 and Rs.4,00,000/- on 21.03.1998 in the 8th defendant's Bank and the 7th defendant was shown as nominee. In order to take those amounts, the plaintiff and the defendants 1 to 6 have colluded and filed the suit.

(v) The said deposits are under the custody of the 7th defendant. The Mohammed Yahub also handed over the deposit receipts of Tamil Nadu Mercantile Bank, Iyyalur Vadamadurai Central Co-Operative Bank and Survey No. 983/2C 164 ares in Iyyalur Village was and also given to the 7th defendant in the presence of Airvadi Ibrahim Ravuthar, Abdul Quddose and Perumal and handed over the deposit receipts and the aforesaid land.



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(vi) In the aforesaid land and deposit receipts either the plaintiff or the defendants 1 to 6 have got no right over the properties. Therefore, the suit is liable to be dismissed.

5. Based on the pleadings in the plaint and written statement filed by both parties, the Trial Court has framed the following issues:-

- (i) வழக்குரையில் கண்ட ஏ, பி, டீ மற்றும் எப் இனச்சொத்துக்களில் வாதிக்கு 15/96 பாகம் கிடைக்கத்தக்கதா?
- (ii) வழக்குரையில் சி அட்டவணைச் சொத்தில் 1/6 பங்கும், இ மற்றும் ஜி அட்டவணைச் சொத்துக்களில் 1/3 பாகம் கிடைக்கத்தக்கதா?
- (iii) 2ம் பிரதிவாதிக்கு வாதியின் தாயாரான ஜைனப் கனி ஏற்படுத்திக்கொடுத்துள்ள தான செட்டில்மென்ட் சட்டப்படி செல்லத்தக்கதா?
- (iv) வழக்குரைப்படி வாதிக்கு பரிகாரம் கிடைக்கத்தக்கதா?
- (v) வாதிக்கு வேறு என்ன பரிகாரம் கிடைக்கத்தக்கது?

6. Before the trial Court, on the side of the plaintiff, PW1 to PW3 were examined and Ex.A1 to Ex.A15 were marked. On the side of the defendants, DW1 to DW4 were examined and Ex.B1 to Ex.B19 were



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marked.

7. After considering the evidence adduced on both sides, the trial Court has decreed the suit and passed preliminary decree by the Judgment and Decree dated 08.11.2010. The present appeal had been preferred by the defendants 1 & 2 on the following grounds:-

The judgment and decree of the Lower Court are contrary to law, against the weight of evidence and opposed to the probabilities of the case. The Court below failed to appreciate the rival contentions of the parties and the issues emerging therefrom for determination from the correct perspective and this erroneous approach has vitiated the entire Judgment. The Lower Court erred in decreeing the suit for partition based on an untenable claim. The Lower Court failed to note that the entire properties belonged to Zainab Kani were given as Hiba to the 2nd defendant. The Lower Court failed to appreciate that the fact and evidence that the plaintiff has come with frivolous suit by claiming in-existing right in the sold



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properties especially in the “A,B,D,E,F&G” Schedule properties to the suit. In fact, the plaintiff has categorical admitted in the cross examination that she had know the facts that the said properties were sold to the third parties. The Lower Court failed to see that the Plaintiff has approximately mentioned the schedule properties in the suit. The Lower Court erroneously rejected the Hiba given to the 2nd defendant is not true and had erroneously concluded that the Hiba was not proved by the 2nd defendant without appreciating the Ex.B11 & Ex.B14. The Lower Court has misconstrued the Mohammedan law by stating that 1/3rd property can be given as Hiba. The Lower Court failed to the cause of the suit has been not properly mentioned in the suit and the lower Court ought to have dismissed the suit on that ground itself. The Lower Court has erroneously came to a conclusion that the burden of proof lies on the defendant. The Lower Court erroneously decreed the suit for partition without ascertaining any title deeds by way of documentary evidence. The Lower Court failed to see that the suit was bad for non-joinder necessary parties. The Lower Court should have seen that on fact, in law and in equity, the



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claim of the Plaintiff is unsustainable. The Lower Court grievously erred in decreeing the suit as prayed for. In any view of the matter the decree of the Trial Court cannot be sustained.

8. During the pendency of the appeal, the parties have entered into compromise in respect of "A to F" schedule properties and the said compromise has also been recorded by this Court by order dated 08.09.2015 in M.P.No. 1 of 2015 and as per the said compromise, the appellants have given up the claim of gift orally made by the mother in respect of the properties covered in "A to F" suit schedule properties. Agreed by that compromise, they have approached the 7th respondent/Bank and to withdraw the amounts jointly and divided the same as per the preliminary decree passed by the Trial Court. The second appellant is claiming the properties of "G" schedule and the same were handed over by way of settlement deed executed in favour of 2nd



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defendant by her mother. It is left over to decide by this Court on merits according to law. Therefore, now, the appeal is only in respect of the "G" schedule suit property.

9. During the pendency of the present appeal, the appellants have filed an application to receive the documents as additional evidence in CMP.No. 1 of 2014. The petitioner in the said petition stated that the mother of the 2nd petitioner executed the settlement deed dated 13.06.2000 in her favour in respect of the "G" suit schedule property and she was in possession and enjoyment of the properties and she is the absolute owner of the properties and the settlement deed was acted upon and she has also made mutation in the Revenue Records and she has also obtained electricity connection and also mortgaged the properties to the third party. Therefore, those documents are essential to prove the case. At the time of Trial, those documents were misplaced, and now only the



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documents had been traced out by her. Therefore, the documents are to be received as additional evidence. The respondents have objected to receive the documents on the ground that the said documents were available with the petitioner at the time of examination of witnesses before the Trial Court itself and now, without any valid reasons, they have filed the said documents and the reasons stated by the petitioner are not acceptable one. Therefore, the petition will not come within the purview of Order 41 Rule 21 CPC. Therefore, CMP No. 1 of 2014 is liable to be dismissed.

10. The learned counsel appearing for the appellants/defendants 1 and 2 contended that the appellants have filed a petition to receive the documents as additional evidence. Those documents are essential to prove the case of the appellants and thereby, those documents have to be marked as defendants' side documents. He further contended that during the pendency of the present First Appeal, the parties have settled the disputes

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between them in respect of "A to F" suit schedule properties. Now, the dispute is only with regard to "G" suit schedule properties which belonged to Zainab Kani who executed the settlement deed in favour of 2nd appellant/2nd defendant and she obtained the property through settlement deed, dated 13.06.2000 and from the date of settlement deed, Zainab Kani, is in separate possession and enjoyment of the property. The said document has been marked as Ex.B11. The second defendant was examined as DW1 who has also categorically deposed that the settlement deed was executed by Zainab Kani in favour of the 2nd appellant/2nd defendant. Therefore, "G" schedule property was settled in favour of the second respondent herein and thereby, the plaintiff is not entitled to share over the same. The trial Court held that the plaintiff is entitled to 1/3rd share over the properties. Therefore, the judgment and decree passed by the trial court is liable to be set aside.



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11. The learned counsel appearing for the First Respondent/Plaintiff contended that "G" suit schedule property originally belonged to Mohammed Yahub and his wife predeceased him. After his demise, his sisters were enjoying the properties. The First Respondent/Plaintiff is also having 1/3rd share over "G" schedule property, as she is one of the daughter of Zainab Kani, who is one of the daughter of Mohammed Yahub. The second defendant/second appellant, failed to prove the aforesaid settlement deed in accordance with law and though the second defendant was examined as an witness to prove the settlement deed the possession has also not been given through the settlement deed. Further, the 2nd defendant has not filed any documents to prove the settlement deed and thereby the trial Court has correctly decreed the suit. Therefore, the present appeal is liable to be dismissed.



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12. This Court heard and perused the records. Upon hearing both sides, the points for determination in the Appeal Suit (First Appeal) are as follows:-

- (1) Whether the CMP.No.1 of 2014 is liable to be allowed or not?
- (2) Whether "G" suit schedule property was settled by Mohammed Kani in favour of Zainab Kani through settlement deed dated 13.06.2000?
- (3) Whether the first plaintiff is entitled to any share over the Item "G" schedule property?
- (4) Whether the judgment and decree passed by the trial Court in respect of "G" suit schedule property is sustainable either in law or on facts?
- (5) Whether the Appeal Suit has to be allowed or not?
- (6) To what other reliefs, the parties are entitled?

13. Point No.1:- Whether C.M.P.No. 1 of 2014 is liable to be allowed or not?

During the pendency of the appeal, the appellants have filed this petition to receive the additional documents stating that the mother of the



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second appellant has settled the property in her favour through settlement deed dated 13.06.2000 in respect of "G" suit schedule property and she is in possession and enjoyment of the property. Thereafter, the second defendant made necessary mutations in the Revenue Records and she has also mortgaged the property to the third party. The said document has been misplaced while renovating the house of the second defendant. After due diligence, she searched the old documents and found out the same. Therefore, they are unable to produce those documents before the Trial Court. Now the said documents have to be received as additional evidence. Other side have objected to receive the documents on the ground that the documents were already under the custody of the petitioners, but they have not filed the said documents, the reason stated by the petitioner also not within the purview of Order 41 Rule 21 CPC.



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14. In this case, the petitioners have filed this petition to receive the documents and the same are mutations of the Revenue Records, the electricity bills and other Tax Receipts in the name of the 2nd appellant/2nd defendant and the 2nd appellant/2nd defendant has also mortgaged the property in the year 2004, but the original settlement deed had not been produced before the Trial Court. The reason stated in the affidavit for non-production of the said documents is that they misplaced the document while renovating the house of the 2nd defendant, which is not acceptable one. Further, already both side had adduced evidences and marked documents.

15. The specific case of the 2nd appellant/2nd defendant is that "G" suit schedule property belongs to her through settlement deed dated 13.06.2000. While that being so, she ought to have filed all the relevant documents before the Trial Court itself but she has not filed any



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documents. Already, documents were filed before the trial Court, and the copy of the settlement deed was also produced and the reasons stated by the petitioners are not within the purview of Order 41 Rule 27 CPC, Therefore, mere non-filing of the said documents before the trial Court cannot be the reason to allow CMP.No.1 of 2014 and the available documents are sufficient to decide the claim made in the suit effectively. Therefore, C.M.P.No. 1 of 2014 is dismissed.

16. Point No. 2:-

In this case, the 1st respondent/plaintiff has filed the suit for the relief of partition in respect of 'A to G" items of the properties and the trial Court has decreed the suit and as against the decree, the present First Appeal has been preferred by the defendants 1 and 2. During the pendency of the appeal, the parties had entered into compromise in respect of "A to F" suit schedule properties. Since the second appellant/2nd defendant claimed "G" suit schedule property through settlement deed, the said



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property has not been settled amicably between the parties. Therefore, now this Court has to decide only the "G" suit schedule property. According to the plaintiff, "A to D" suit schedule properties belonged to one Kulam Hussain Ravuthar and thereafter, his three sons entered into partition on 25.07.1906. The said Mohammed Ibrahim Ravuthar enjoyed his share separately and after his demise, his sons viz., Shake Mohammed Ravuthar and Mohammed Ibrahim Ravuthar were enjoyed the properties and his sons, namely Mohammed Bagalool Ravuthar and Naina Mohammed Ravuthar and Mohamed Yahub entered into partition in respect of the properties on 31.07.1984. In the said partition, the "B" suit schedule properties were allotted to S.Mohammed Yahub. Thereafter, the said S.Mohammed Yahub purchased some properties and he died on 16.11.1988. His wife Mymoon Beevi pre-deceased him on 21.01.1986. The said S.M.Yahub had no issues and thereby, the properties were enjoyed by her sisters, namely, Salima Beevi and Zainab Kani. The said



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Salima Beevi died intestate and her husband Abdul Razak and the defendants 3 to 5 her children to succeed her Estate. The said Abdul Razak died on 12.11.2003. Another daughter of Mohammed Yahub i.e., Zainab Kani died intestate on 21.07.2003 leaving behind her husband, the first defendant and the daughters viz., the 2nd defendant and the plaintiff, as her legal heirs. The plaintiff and the defendants are in joint possession of the properties. The plaintiff nowhere stated about the particulars of "G" suit schedule property and there are no sufficient pleadings in respect of "G" suit schedule property.

17. Per contra, the defendants 1 and 2 have pleaded in the written statement that the property situated in Ilangakurichi at Manapparai Taluk was settled in favour of the 2nd defendant. The said settlement deed has been denied by the plaintiffs. The 2nd defendant was examined as DW1 and she has also deposed about the execution of settlement deed in



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her favour by her mother through settlement deed dated 13.06.2000. The copy of the settlement deed has been marked as Ex.B11. The appellants/defendants 1 and 2 categorically pleaded in the written statement and also deposed about the settlement deed executed in favour of the 2nd defendant. The plaintiff has pleaded in the plaint that she settled the settlement deed was forged one. While so, it is the duty of the plaintiff to prove that the settlement deed was obtained by fraud, but, there is no evidence to prove the alleged fraud. On the other hand, the defendants have produced the copy of settlement deed as Ex.B11 but not examined the attesting witnesses. Once the plaintiff admitted the settlement deed and taken plea that it was obtained by fraud, then the defendants need not prove the execution of settlement deed and the onus shifted to the plaintiff to prove that the settlement deed was obtained by fraud. But the plaintiff has failed to prove the alleged fraud. However, the parties are Muslims and the three essential conditions for the Gift are (i) declaration of the Gift



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by donor, (ii) acceptance of the Gift by donee and (iii) delivery of possession. The DW1 in her evidence categorically deposed about the Gift Deed executed by her mother and she also accepted and now in possession of the property. The defendants in their evidence deposed that the possession was given through the settlement. Therefore, the 2nd defendant proved the settlement deed executed by Zainab Kani in favour of 2nd defendant, in respect of suit "G" schedule property. Thus, the point is answered.

18. Point No. 3:-

This Court has already decided in the previous Points about the settlement deed dated 13.06.2000 and the property of "G" item was settled to the 2nd defendant, therefore, the suit "G" schedule property is not available for the partition and thereby, the plaintiff is not entitled to the relief of partition over said "G" suit schedule property. The point is



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answered accordingly.

19. Point Nos.4 and 5:

Before the Trial Court, the plaintiff has filed the suit in respect of "A to G" schedule properties and on the side of the plaintiff, as PW1 to PW3 were examined and Ex.A1 to Ex.A15 were marked. On the side of the defendants, DW1 to DW4 were examined and Ex.B1 to Ex.B19 were marked.

20. The trial Court, after considering the evidence of both sides, the suit decreed in respect of all the items of the properties, and the trial Court has failed to consider that the plaintiff has not filed any document in respect of "G" schedule property and the defendants have produced the settlement deed in favour of the 2nd defendant, but the trial Court has failed to consider that the respondent/plaintiff admitted the settlement deed



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but stated that by playing fraud it was obtained and the same has to be proved by the plaintiff, moreover, the Trial Court has not discussed about the "G" schedule property and the settlement deed dated 13.06.2000. Therefore, the judgment and decree of the trial Court, are not sustainable and the same are liable to be set aside in respect of "G" schedule suit property.

21. In view of the above discussion, this Court is of the opinion that the appeal is to be allowed only in respect of "G" suit schedule property. Thus, the points are answered.

22. Point No.6:-

This Court has already decided in the previous Points that the appellants are not entitled to "G" suit schedule property. Accordingly, the judgment and decree of the trial Court in respect of "G" suit schedule



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property are set aside and the appeal is to be allowed in part. Apart from that, the appellants are not entitled to any other relief. Thus, the point is answered.

23. In the result, this First Appeal is partly allowed. The Judgment and Decree dated 08.11.2010 passed in O.S.No. 284 of 2004 by the Fast Track Court, Additional District Judge, Dindigul, are modified and the suit is dismissed in respect of "G" suit schedule property alone. No costs.

08.04.2024

Index:Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

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2. The Section Officer, High Court, Madras.



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P. DHANABAL, J

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Pre-Delivery Judgment in

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Delivered on
28.04.2024