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AS No. 501 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-09-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

AS No. 501 of 2011 and

CMP No.11708 of 2017

Ramadasee

... Appellant

Vs.

1. Seshammal (died)

2. Malarkodi

3. Kumaraguru

4. Gunavathy

6. Gnanamani

6. Mahalakshmi

7. Vijayakumari

... Respondents

(R1 died, sole appellant and R2 to R7, who were already on record, are recorded as LRs of the deceased R1, vide order dated 17.02.2025 made in A.S.No.501 of 2011)



PRAYER: Appeal suit filed under Section 96 of the Code of Civil Procedure against the judgment and decree of the learned Principal District Judge, Puducherry dated 28.07.2011 made in O.S.No.47 of 2007.

For Appellant : Mr.S.Sudarshan
for Mr.R.Subramanian

For Respondents : R1- died
Ms.R.Meenal for R2 to R7

JUDGMENT

The unsuccessful plaintiff in a suit for partition is the appellant herein.

2. The appellant filed a suit in O.S.No.47 of 2007 on the file of the Principal District Judge, Puducherry seeking 1/7th share in the suit properties. The said suit was dismissed by the Trial Court. Hence, the appellant/plaintiff has come by way of this appeal.

3. According to the appellant/ plaintiff, Item Nos.1, 2 and 3 in the suit properties were purchased by the plaintiff's father, namely Gnanasegarane alias Kanagaraji in the name of plaintiff's mother Seshammal/first defendant. The



defendants 2 to 7 are the siblings of the plaintiff. Suit Item No.4 of the properties was released in favour of the plaintiff's father, Gnanasegrane @ Kanagaraji by his siblings through a registered release deed dated 28.04.1980. Therefore, according to the appellant/ plaintiff, the suit properties were self acquired properties of the plaintiff's father and after his death, the plaintiff is entitled to 1/7th share in all the items of the suit properties. Hence, he laid the suit for partition.

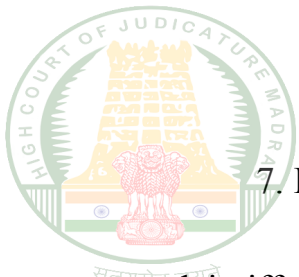
4. The mother of the appellant/ plaintiff, namely the first defendant filed a written statement and resisted the suit on the ground that the Item Nos.1 to 3 of the suit properties were her separate properties. According to her, the properties were purchased out of her Sridhana and the amounts paid by her father and not out of the contribution made by her husband, namely, the father of the plaintiff.



5. As far as the item No.4 of the suit properties is concerned, the first defendant admitted that the said property was released in favour of the plaintiff's father by his siblings and therefore, the plaintiff as well as the defendants were entitled to 1/8th share each in the said item.

6. The Trial Court, based on the above pleadings, framed the following issues.

1. Whether the suit properties are the self acquired properties of late Gnanasegarane @ Kanagaraji?
2. Whether the items 1 to 3 of schedule of properties are the absolute properties of first defendant?
3. Whether the item No4 of schedule of properties is joint family property?
4. Whether the plaintiff is entitled to 1/7th share in the suit properties?
5. Whether the plaintiff is entitled to future mesne profits? At what rate?
6. Whether the court fee paid is correct?
7. To what relief?



7. Based on the pleadings, the parties went to the trial. On the side of the plaintiff, the plaintiff was examined as PW1 and 12 documents were marked as Ex.A1 to Ex.A12. On the side of the defendants, the first defendant was examined as DW1.

8. On appreciation of evidence available on record, the Trial Court came to the conclusion that the Item Nos.1 to 3 of the suit properties were self acquired properties of the first defendant and dismissed the suit in respect of those items. As far as the item No.4 is concerned, the Trial Court granted decree for 1/8th share in favour of the plaintiff. Aggrieved by the dismissal of the suit in respect of item Nos.1 to 3, the plaintiff has preferred this appeal.

9. The learned counsel for the appellant vehemently contended that the first defendant did not have any independent source of income of her own. The properties were purchased out of the contribution made by her husband, namely, Gnanasegarane @ Kanagaraji. The learned counsel for the appellant by relying upon Ex.A7, submits that the recitals in the said document would conclusively



prove that the plaintiff's father had sold the property to discharge the loan amount incurred by him to purchase the properties in the name of first defendant. Learned counsel further submits that the Trial Court, without taking into consideration the recitals in Ex.A7, erroneously came to the conclusion that the Item Nos.1 to 3 of the suit properties were the self acquired properties of Seshammal/first defendant.

10. Per contra, learned counsel appearing for the respondents 2 to 7 would submit that the recitals in Ex.A8, Ex.A9 and Ex.A10 would conclusively prove that the sale consideration for purchase of the property moved from the first defendant. The learned counsel, by taking this court to the recitals found in E.A10 would submit that the sale consideration for purchase of the property covered under Ex.A10 was set off towards the liabilities of the vendor as against the purchaser/first defendant. The learned counsel further submits that the registered sale deeds stand in the name of the first defendant and hence, the Trial Court was justified in coming to the conclusion that the properties were purchased by her.



11. Heard the rival submissions of the learned counsel appearing for the appellant/plaintiff and the respondents/defendants 2 to 7. The copies of the exhibits and the evidence of PW1 and DW1 were produced by the respective counsel and the same were perused.

12. Based on the pleadings and the submission of the learned counsel appearing on either side, the following points are arising for consideration in this first appeal.

1. Whether the Item Nos.1, 2 and 3 of the suit properties are self acquired properties of the first defendant?

2. Whether the appeal filed by the plaintiff is deserved to be allowed?

13. It is the specific case of the appellant/plaintiff that the first respondent/ first defendant had no independent source of income and the properties were purchased only by her husband Gnanasegarane @ Kanagaraji by utilising his own funds. In respect of the said plea raised by the appellant, the learned counsel for the plaintiff relied upon the Ex.A3 and Ex.A4 letters



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written by the vendor (Devarasu) of the first defendant under Ex.A9. A perusal of the same would establish that the father of the appellant/plaintiff had paid a sum of Rs.200/- and Rs.90/- respectively as hand loans to the said Devarasu. However, as per Ex.A9, registered sale deed executed by Devarasu in favour of the first defendant under Ex.A9, a total sale consideration said to have been paid by the first defendant was Rs.3,500/-. The amount of Rs.200/- and Rs.90/- mentioned in Ex.A3 and Ex.A4, even assuming to be true, would be hardly not sufficient to meet the total consideration mentioned in Ex.A9. Therefore, Ex.A3 and Ex.A4 are not useful to come to the conclusion that the sale consideration of Rs.3,500/- paid by Seshammal/first defendant under Ex.A9 was moved from her husband.

14. The learned counsel for the appellant by taking this court to the recitals found in Ex.A7, submits that the property covered under Ex.A7 was sold by his father Gnanasegarane @ Kanagaraji just to discharge the loan incurred by him to purchase the properties in the name of the first defendant under Ex.A10, dated 09.08.1976. However, a perusal of Ex.A10 would indicate



that the total sale consideration for the property covered under Ex.A10 was

Rs.4,000/-. The split up details of the sale consideration mentioned in Ex.A10

runs as follows.

a) Rs.1,400/- was adjusted towards the bond executed by the vendor in favour of the purchaser, Seshammal/first defendant.

b) Rs.1,000/-, was adjusted, as the purchaser Seshammal agreed to discharge the mortgage debt incurred by the vendor.

c) Rs.1,600/- was adjusted towards the amount received by the vendor from the purchaser, even prior to the date of execution of sale deed.

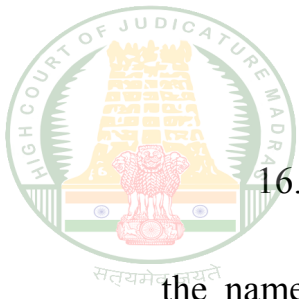
From the above, it is clear that on the date of execution of Ex.A10, no amount was paid by the first defendant in favour of the vendor under the document.

Two transactions, namely (a) and (c) were relating to the past transactions between the vendor and the purchaser under the document. The transaction mentioned in (b) is a promise given by the purchaser to discharge the mortgage debt incurred by the vendor. In such circumstances, the recitals mentioned in



Ex.A7 may not be useful to come to the conclusion that the sale consideration for purchase of the properties covered under Ex.A10 was moved from the first defendant's husband namely Gnanasegarane @ Kanagaraji.

15. A perusal of Ex.A8, Ex.A9 and Ex.A10 would establish that the first defendant paid a sum of Rs.2,000/- to the vendor under Ex.A8 and purchased the Item No.1 of the suit properties. Likewise, she paid a sum of Rs.2,500/- to the vendor under Ex.A9 and purchased Item No.2 of the suit properties. Further, the sale consideration of Rs.4,000/- for the properties covered under Ex.A10 was paid as mentioned above and item No.3 was purchased in the name of the first defendant. Therefore, as per the recitals in Ex.A8, Ex.A9 and Ex.A10, the sale consideration for purchase of the properties was moved from the first defendant and not from her husband. Whenever properties are purchased in the name of the female member of the Hindu family, the presumption is the property is her separate property. In this regard, reference may be had to *Nagayasami Naidu and others Vs. Kochadai Naidu and others reported in AIR 1969 Mad. 329.*



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16. It is also settled law, whenever property was purchased by husband in the name of his wife, there is a presumption that it was purchased for her benefit, unless the contrary is proved. In the case on hand, there is nothing to suggest that the properties were not purchased for the benefit of the first defendant. Therefore, this court is unable to accept the plea raised by the appellant that the Item Nos.1 to 3 of the suit properties were purchased out of the funds of the appellant/plaintiff's father in the name of the first defendant and hence, it shall be treated as his property. The point No.1 is answered accordingly against the appellant/plaintiff.

17. In view of the conclusion reached by this court as above, Point No.2 is answered against the appellant and the appeal is deserved to be dismissed.

18. Accordingly, the first appeal is dismissed, confirming the judgment and decree passed by the Trial Court. Connected miscellaneous petition is closed. No costs.

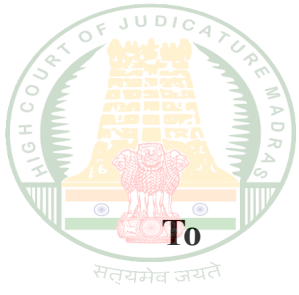
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The Principal District Judge,
Puducherry.



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S.SOUNTHAR, J.

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