



A.S.No.35 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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Reserved on : 04.06.2025

Pronounced on : 10.06.2025

Coram::

**THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN**

Appeal Suit No.35 of 2022  
& C.M.P.No.1654 of 2022

1. B.Bhavani wife of Bhoopathi  
No.2/123, Pillaiyar Koil Street, Kannabiran,  
Kolathur, Chennai – 600 49.

2. M.Indirani wife of Manohar,  
No.2/3, Muthumariamman Koil Street,  
Kizmanambedhu Village, Chennai – 600 124.

... Appellants/Defendants 1 and 2

**/versus/**

Chokkammal (deceased) wife of M.Mani  
No.10, Raja Agraharam Street,  
Poonamallee, Chennai – 600 056.

1. M.Subramani Naicker,  
Wife of late Munuswamy Naicker,  
No.10, Raja Agraharam Street,  
Poonamallee, Chennai – 600 056.

... Respondents/Plaintiffs

2. The Sub Registrar,  
Poonamallee Sub Registrar Office,  
Chennai – 600 056.

... Respondent/3<sup>rd</sup> Defendant



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**Prayer:** Appeal Suit has been filed under Section 96 of Code of Civil Procedure, 1908, praying to set aside the judgment and decree dated 26.10.2021 passed in O.S.No.108 of 2017 on the file of 2<sup>nd</sup> Additional District and Sessions Judge, Thiruvallur @ Poonamallee.

For Appellants : Mr.N.V.N.Margandeyan

For Respondents : No appearance – R1  
: Mr.R.Siddharth,  
Additional Government Pleader, for R2

### **J U D G M E N T**

The Appeal Suit is filed by the defendants against the judgment and decree passed in O.S.No.108/2017 on the file of II Additional District Judge, Poonamallee.

2. For sake of convenience, parties are referred as per their status and ranking mentioned in the original suit.

Mrs.Chokkammal, the first plaintiff had filed the suit against her nieces Mrs.B.Bhavani and M.Indirani to declare the sale deed executed by her on 04.01.2017 and registered as Document No:12/2017 at SRO, Poonamallee in



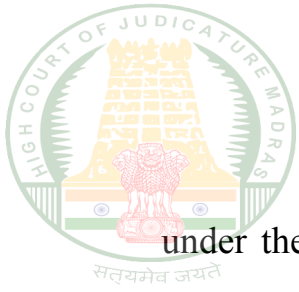
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favour of the defendants as null and void; not binding on her and to be cancelled

for obtaining by misrepresentation, fraud and coercion. Consequentially, to grant permanent injunction against the defendants from alienating the property. Pending suit, Mrs.Chokkammal died issueless. Her husband Subramani Naicker was brought on record as second plaintiff.

3. The suit was filed on the premise that property measuring 1280 sq.ft at Poonamallee village in S.No.115/44 was sold by its owner, Sivabooshanam to M.Rangaswami and his brother Mani in the year 1982. Later, they both partitioned the property *vide* document No:662/1994, dated 14/07/1994. “A” Schedule property measuring 666 sq.ft was allotted to Rangaswami and “B” Schedule property measuring 620 sq.ft allotted to the plaintiff Mrs.Chokkammal W/o.Mani, with right of access through ‘A’ schedule property.

4. Mrs.Chokkammal put up construction on the land allotted to her and enjoying it absolutely paying necessary tax and revenue charges. While so, when she fell sick, the defendants who are her sister’s daughters with intention to misappropriate the property, took Mrs.Chokkammal to her sister’s house and



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under the guise of arranging to get her old age pension, obtained a sale deed in their favour by fraud and misrepresentation. No consideration was paid to Mrs.Chokkammal towards the sale price. Hence, the sale deed obtained by fraud and misrepresentation it is null and void. During the period of registering the sale deed, there was demonetisation of Rs.2000/-, Rs.1000/- and Rs.500/. There was strict restrictions on handling high demonetisation currencies. Therefore, it was impossible to pay in cash a sum of Rs.19,22,000/- towards sale consideration as shown in the impugned sale deed. Since no consideration received by Chokkammal, the sale deed is sham and nominal document. Hence, suit to declare the said sale deed dated 04.01.2017 as null and void and for permanent injunction restraining from interfering the peaceful possession.

5. The defendants in the written statement denied all the plaint averments. According to them, the consideration for the property was paid in piecemeal. The first defendant along with her mother sold a property owned by them in Kolatur Village, Thiruporur and used the proceeds and personal savings to pay the sale consideration for purchase of the property. With an intention to extract money, the plaintiff gave false complaint to the police against the



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defendant. The sale deed was executed by Chokkammal with full knowledge and consent, after receiving full consideration. Her husband accompanied her to the Sub-Registrar Office, for registering the document. Therefore, the suit for declaration is not maintainable.

6. The trial Court, after considering the pleadings, framed the following issues:-

*1. Whether the Plaintiff is entitled to the relief of declaration to declare the Sale Deed dated 04.01.2017 executed by the Plaintiff in favour of the Defendants 1 and 2 is null and void and not binding upon the 1<sup>st</sup> Plaintiff as it is only a sham and nominal document and the same is to be cancelled as obtained by misrepresentation, fraud, coercion, cheating and deceit?*

*2. Whether the Plaintiff is entitled for the Permanent Injunction against the the Defendant 1 and 2 as prayed for?*

*3. To what other reliefs?*



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7. The plaintiff Mrs.Chokkammal, her husband and 3 others graced the witness box on behalf of the Plaintiff. After cross examination, Mrs.Chokkammal died. Seven documents were marked as Ex.A-1 to Ex.A-7. On behalf of the defendants, the second defendant, Indirani and one Solomon was examined. Three documents were marked as Ex.B-1 to Ex.B-3.

8. On considering the evidence and pleadings, the Court below held that the defendants had not proved the payment of sale consideration. The Court below doubted the plea of the defendants' on the ground that during demonetisation period, there were restrictions for use of high-denomination currencies. Since the defendants had failed to prove the payment of sale consideration and the sale was by consent, the suit was allowed, declaring the sale transaction as void.

**Point for consideration:-**

***Whether the trial Court erred in declaring the duly registered sale deed Ex.A-3 dated 04/01/2017 executed by Mrs.Chokkammal (first plaintiff) in favour of Bhavani and Indirani (defendants)?***



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9. Ex.A-1 is the partition deed between Rangaswami and

Mrs.Chokkammal in respect of suit property, under which the 'B' schedule property is allotted to Mrs.Chokkammal. The said 'B' schedule property is sold by Chokkammal to Bhavani and Indirani under Ex.A-2 on 04.01.2017. About five months after the registration, the defendants issued legal notice Ex.A-4 dated 17.05.2017 alleging that, after executing sale deed Ex.A-3, Chokkammal on receipt of entire sale consideration, at the instigation of third parties she is forcing them to give back the property and threatening to give false complaint to police. To this notice, the plaintiffs through her lawyer had given a detailed reply Ex.A-5 denying execution of the sale deed with knowledge and consent. Passing of consideration also strongly denied.

10. Prior to the exchange notices, Mani the husband of the first plaintiff who was brought on record as the second plaintiff had given a police complaint Ex.A-7 against the defendants on 03/05/2017, which has probable prompted the defendants to cause the notice Ex.A-4. On behalf of the defendants Ex.B-3, a copy of the sale deed dated 10.07.2013 is relied to show their financial source for paying the sale consideration mentioned in Ex.A-3.



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**11.** The Learned Counsel for the appellants mainly harp on the Ex.B.3 and the oral evidence of second defendant Indirani (DW-1). However, the testimony of D.W-1 does not substantiate with documentary evidence to prove she and her sister had enough source to pay Rs.19,22,000/- for the suit property. The sale consideration shown in Ex.B-3 sale deed is only Rs.1,69,000/-. The first defendant Bhavani and one Kanniammal W/o.Subramani are the vendors. This sale transaction was on 10/07/2013, whereas the sale transaction which is subject matter of Ex.A-3 and challenged is on 08/07/2017 for a consideration of Rs.19,22,000/-. Generally, a duly registered document mentioning the passing of consideration in the recital is presumed to be genuine and true. Whereas in this case, the vendor who was not keeping good health had come to Court and deposed that the defendants who are her sister's daughters had taken her to the Registrar Office by misrepresentation and got the sale deed executed by deceit. She deposed that she did not receive any money from the defendants as sale consideration.



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**12.** The defendants not able to produce evidence for payment of the sale consideration either on the date of registration or prior to that date. The doubt about payment gains significance due to the restriction prevailing for withdrawing money and demonetisation of higher denomination currency. In addition, the defendants are not able to produce any tangible evidence to show they had source of income and paid the consideration in part in course of period.

**13.** Though there is no evidence to prove Mrs.Chokkammal was not keeping good health and she was taken by the defendant and was coerced to execute the sale deed. However, for a valid transfer of property, it should be backed by consideration paid or promised to be paid. In this case, the vendor says consideration not paid. The buyer contends that it was paid in instalments on various previous occasion. The party who asserts the existence of a fact is burdened with the onus to prove the fact asserted.



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**14.** Neither the testimony of DW-1 and the testimony of DW-2 nor Ex.B.3 provides evidence for payment of consideration. In such circumstances, the trial Court has rightly allowed the suit declaring the sale deed Ex.A-3 is null and void, for want of valid consent by the vendor and for lack of proof regarding payment of consideration.

**15.** As a result, the Appeal Suit No.35 of 2022 stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

10.06.2025

Index :Yes/No.  
Internet :Yes/No.  
Speaking order/Non Speaking order  
bsm

To:-

1. The Additional District and Sessions Judge, Thiruvallur @ Poonamallee.
2. The Sub Registrar, Poonamallee Sub Registrar Office, Chennai – 600 056.
3. The Section Officer, V.R.Section, High Court, Madras.



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**Dr.G.JAYACHANDRAN,J.**

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Pre-delivery judgment made in  
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