



CMA.No.401 of 2025

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

**DATED : 03.04.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**CMA.No.401 of 2025  
and CMP.No.3012 of 2025**

1.S.Thiyagarajan  
2.S.Kannadasan

... Appellants

Vs.

1.M.Geetha  
2.Minor M.Vignesh  
3.P.M.Sudarsan  
4.S.Muralikrishnan  
5.A.Anusuya  
6.A.Sathya  
7.A.Ganesan  
8.Gabriel Associates rep by  
its Partner S.Muthukumar,  
S/o.Swaminathan.  
Plot No.83, hariharan Castle,  
Vishalakshi Street,  
Samm Andham Nagar,  
Kundrathur, Chennai – 600 069.  
9.Gabriel Associates rep by  
its partner S.Stanley Raajan,  
S/o.Sydney Gabriel, 4, Surendra Nagar,  
1<sup>st</sup> Cross, 2<sup>nd</sup> Street, Adambakkam, Chennai – 600 088.

10.The Sub Registrar,  
Neelangarai, Sub Registrar Office,  
Neelangarai, Chennai.

1/10



CMA.No.401 of 2025

11. The District Collector,  
Collectorate, Chengalpattu, Kanchipuram District.  
(Respondents 3 to 11 given up endorsement is recorded and vide  
Court order dated 17.02.2025 made in CMA.No.401 of 2025 and  
CMP.No.3012 of 2025)

... Respondents

Civil Miscellaneous Appeal filed under Section 104 R/W Order XLIII Rule 1(r) of CPC, praying to set aside the order granting ad-interim injunction dated 23.11.2022 made in I.A.No.4 of 2021 in O.S.No.511 of 2021, on the file of the Principal District and Sessions Judge, Chengalpattu.

For Appellants : Mr.M.Ganesan

For Respondents : Mr.N.Murugesan  
for R1 and R2  
R3 to R11 given up\

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

The appeal has been filed challenging the order passed by the trial Court granting temporary injunction in favour of the respondents 1 and 2/plaintiffs restraining the appellants/defendants 6 and 7 and defendants 1 to 5 who are arrayed as Respondents 3 to 7 herein from alienating the subject matter of the suit property pending suit.



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2. The respondents 1 and 2 filed a suit for partition seeking partition of their 1/6<sup>th</sup> share in the suit property and for injunction restraining the defendants 1 to 7 from alienating the subject matter of the suit property. According to the respondents 1 and 2/plaintiffs, they are the wife and minor son of the deceased Muthukrishnan who is the son of the first defendant in the suit. The defendants 2, 6 and 7 are other sons of first defendant. The defendants 3 to 5 are legal representatives of another deceased son of first defendant. It was claimed by the respondents 1 and 2/plaintiffs that the suit properties were joint family properties and they have got 1/6<sup>th</sup> share in the suit property along with defendants 1 to 7. It was also stated by the plaintiffs that the suit property was purchased by the wife of first defendant namely Vijaya Lakshmi under a registered sale deeds dated 25.11.1987 and 13.01.1993. It was also stated that said Vijaya Lakshmi was an absolute owner and was in possessions of the suit properties. It was also stated that the first plaintiff got married to Muthukrishnan, son of the first defendant on 18.11.2004 and he passed away on 29.12.2016. It was also stated that the suit properties were enjoyed as joint family properties by the plaintiff along with defendants 1 to 7 and without the knowledge of the plaintiffs, above said Vijaya Lakshmi executed a registered settlement deed dated 19.01.2018



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settling item 2 of the schedule mentioned property in favour of defendants 6 and 7. The defendants 6 and 7 on the strength of the settlement deed, executed a registered general power deed dated 19.01.2018 in favour of defendants 8 and 9 regarding item 2 of the schedule mentioned property. After acquiring knowledge about the execution of invalid settlement deed and the General Power of Attorney deed referred above, the plaintiffs have filed the present suit seeking partition of 1/6<sup>th</sup> share.

3. Pending the suit an interlocutory application was filed by the respondents 1 and 2/plaintiffs seeking temporary injunction restraining the defendants including the appellants from interfering with the peaceful possession of the plaintiffs till the disposal of the suit. The plaintiffs also prayed for injunction against alienation.

4. The said application was contested by the defendants 1 to 7 including the appellants on the ground that the suit properties were separate properties of Vijaya Lakshmi and hence she was entitled to execute settlement deed in favour of the appellants/defendants 6 and 7. It was also pleaded that the first plaintiff quarrelled with her husband Muthukrishnan



and left the matrimonial home in the year 2011 and thereafter she never visited her husband and her mother-in-law at any point of time. It was also pleaded that as the owners of the item 2 of the property, the appellants are entitled to deal with the same.

5. The Trial Court after enquiry granted an order of injunction restraining the defendants 1 to 7 including the appellants from alienating the suit properties pending disposal of the suit. Aggrieved by the same, the present appeal has been filed.

6. The learned counsel appearing for the appellant would submit that the respondents 1 and 2/plaintiffs in the pleading itself had admitted that the suit properties were separate properties of Vijaya Lakshmi and hence she was entitled to execute a settlement deed in favour of appellants and therefore, there was no *prima facie* case in favour of the plaintiffs to grant an order of injunction.

7. Though the learned counsel entered appearance for



respondents 1 and 2, there was no representation.

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8. A close scrutiny of the plaint filed by the respondents 1 and 2 would indicate admittedly the wife of the first defendant and the mother-in-law of the first appellant herein namely Vijaya Lakshmi purchased suit item 1 under sale deed dated 25.11.1987 and suit Item 2 under sale deed dated 13.01.1993. It was specifically pleaded in the plaint that Vijaya Lakshmi was absolute owner and in possession of the property. However, the plaintiffs also pleaded that they have been in joint possession of the property along with defendants 1 to 7.

9. It is seen from the pleadings Vijaya Lakshmi executed a registered settlement deed on 19.01.2018, settling second item of the suit schedule property in favour of the appellants by way of registered document. Though, the plaintiffs in their pleading claimed that the execution of the said documents by Vijaya Lakshmi will not affect the share of the plaintiffs over the suit properties, there was no specific plea on what ground they impugne the settlement deed. Having admitted the title of Vijaya Lakshmi unless the execution of the settlement deed is challenged, the plaintiffs are not entitled



to claim any right over the second item of suit property. There is no plea in the plaint disputing the execution of the settlement deed, though they claimed that it was *void ab initio* document.

10. In the light of the registered sale deeds in favour of Vijaya Lakshmi which were also produced as document Nos.1 and 2 along with the plaint, the *prima facie* title of Vijaya Lakshmi is proved.

11. The plaintiffs are none other than wife and minor son of deceased son of Vijaya Lakshmi. Therefore, in the absence of registered settlement deed executed by Vijaya Lakshmi, the plaintiffs are entitled to a share in the suit properties. The registered settlement deed executed by Vijaya Lakshmi covers only item 2 of the suit property. As far as the second item is concerned, even as per the pleadings of the plaintiff Vijaya Lakshmi executed a settlement deed on 19.01.2018 and the capacity of the Vijaya Lakshmi to execute the settlement deed was challenged on the ground that the property was enjoyed in common. However, execution of the document was not at all challenged. Insofar as item 2 of the suit property is concerned, in the light of the registered settlement deed executed



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by original owner Vijaya Lakshmi, this Court feels the respondents 1 and 2/plaintiffs have no prima facie case and hence the order passed by the trial Court in respect of the item 2 of the suit property, which was subject matter of settlement deed executed by original owner Vijaya Lakshmi in favour of appellants is liable to be vacated. Insofar as first item is concerned in the *prima facie* opinion of this Court, after death of Vijaya Lakshmi, plaintiffs are also entitled to a share as co-sharers. In these circumstances, I do not find anything to vacate the interim injunction insofar as first item of the suit property is concerned.

12. Even if, the interim order is vacated in respect of second item of the suit property, any alienation pending partition suit filed by the respondents 1 and 2 is subject to the doctrine of *lis pendens* recognized under Section 52 of Transfer of Property Act. Any alienation pending suit is subject to the result of the litigation and the same will not affect the rights of the respondents 1 and 2/plaintiffs.

13. In view of the discussions made earlier, the Civil



CMA.No.401 of 2025

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Miscellaneous Appeal is partly allowed, the impugned order passed by the Trial Court is set aside, insofar as item 2 of the plaint schedule property. As far as item 1 of the plaint schedule property is concerned, the interim order passed by the trial Court is affirmed. Since the suit is of the year 2021, the trial Court is directed to dispose of the same as expeditiously as possible. It is needless to say that trial Court shall dispose of the suit on its own merits, without being influenced by any observation made by this Court regarding *prima facie* case.

14. With these directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

03.04.2025

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

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To  
1. Principal District and Sessions Judge,  
Chengalpattu.

2. The Section Officer  
VR Section, High Court, Madras.

**S.SOUNTHAR, J.**



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CMA.No.401 of 2025

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**CMA.No.401 of 2025**

**03.04.2025**