



C.S.No.47 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.11.2025

CORAM:

THE HON'BLE Mr.JUSTICE **P.DHANABAL**

C.S.No.47 of 2022

1. V.Bharathi
2. V.Sridharan
3. V.Nalini

... Plaintiffs

Vs.

V.Rajini Sujatha

... Defendant

Prayer:

The Civil Suit filed under Order VII Rule (1) of Civil Procedure Code r/w Order IV Rule 1 of O.S.Rules for (a) Declaration declaring that the (i) Settlement Deed dated 25.09.2017 registered as Document No.1098 of 2017 in the office of the Sub Registrar, Joint I, Chennai Central and (ii) Settlement Deed dated 24.12.2020 registered as Document No.962 of 2020 in the Office of the Sub Registrar, Joint I, Chennai Central executed by Late V.Pramila in favour of the defendant are void and unenforceable in law and not binding on the plaintiffs; (b) Partition and separate possession of one fourth (1/4th) share to each plaintiff to the plaint schedule properties by passing a preliminary decree; (c) Permanent injunction restraining the defendant or her agent or her henchmen or anybody claiming under her, from interfering with the peaceful possession and enjoyment of the plaint schedule properties



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by the plaintiffs; (d) Permanent injunction restraining the defendant or her agent or her henchmen or anybody claiming under her, from alienating the plaint schedule properties; (e) Awarding the costs of the suit and (f) Such further orders.

For Plaintiffs : Mr.S.Patrick
For Defendant : Mr.Krishna Ravindran

J U D G M E N T

This Civil Suit has been filed by the plaintiffs for the reliefs of Declaration, declaring that the (i) Settlement Deed dated 25.09.2017 registered as Document No.1098 of 2017 in the office of the Sub Registrar, Joint I, Chennai Central and (ii) Settlement Deed dated 24.12.2020 registered as Document No.962 of 2020 in the Office of the Sub Registrar, Joint I, Chennai Central executed by Late V.Pramila in favour of the defendant are void and unenforceable in law and not binding on the plaintiffs; (b) Partition and separate possession of one fourth (1/4th) share to each plaintiff to the plaint schedule properties by passing a preliminary decree; (c) Permanent injunction restraining the defendant or her agent or her henchmen or anybody claiming under her, from interfering with the peaceful possession and enjoyment of the plaint schedule properties by the plaintiffs; (d) Permanent injunction restraining the defendant or her agent or her henchmen or anybody claiming under her, from alienating the plaint schedule properties.



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2. The brief averments of the plaint are as follows:-

(a) The plaintiffs and the defendant are the children of Late.Venugopalan and Late V.Pramila. The plaint schedule property is a residential flat bearing Flat No.G-4, super built up area of 422 Sq.feet in the ground floor and a room of super built up area of 100 sq.feet in Terrace with Car Parking shed of 400 sq.ft., in the ground floor of Apartment, namely 'Kamala Arcade', Ganapathy Colony, Gopalapuram, Chennai together with proportionate undivided share of land of 286 Sq.ft., out of 50% in one ground 2394 sq.feet in Plot No.10, R.S.No.102/8, Mylapore Village, Triplicane Taluk. The said property originally belonged to Kamalabhai Ammal through registered sale deed dated 15.02.1947. The said Kamalabhai Ammal executed a settlement deed dated 09.03.1972 in favour of Pramila for her life time without the power of alienation and thereafter, absolutely in favour of her male and female children in equal shares, in respect of the large extent of schedule property of one ground 2392 sq.ft.

(b) The plaintiffs and the defendant are the children born to the said Pramila and they are each entitled to 1/4th share of the property. The mother of the plaintiffs, namely, Pramila wanted to develop the said land and therefore, an agreement of development came to be entered into on 04.08.1995 with one M/s Aparna Constructions for putting up



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constructions consisting of nine residential flats in the said plot. The plaintiffs and the defendant have agreed to allot four flats bearing Nos.F-1, F-2, F-3, F-4 in the first floor to the Developer as its share, in consideration of the construction to be put up by the Developer and also agreed to convey proportionate undivided share of land of 50% out of one ground 2392 sq.ft., to the Developer and they retained remaining five residential flats bearing Nos.G-1, G-2, G-3, G-4, M-1 and a room in the terrace of super built up area of 100 sq.feet together with remaining 50% undivided share of land.

(c) After completion of the construction of flats, the said Pramila, plaintiffs and the defendant took possession of the flats and as agreed, the said Pramila, plaintiffs and the defendant jointly executed sale deeds on 04.09.1997 and 09.12.1998 in favour of the nominees of the Developer in respect of the proportionate undivided share of land totalling upto 50% of UDS of land in Plot No.10 for the Flat Nos.F-1, F-2, F-3 and F-4. While so, life interest holder, mother of the plaintiffs and defendant viz., V.Pramila, had executed a release deed on 29.08.2016 in favour of the plaintiffs and the defendant by relinquishing her right and interest in respect of flat nos. G-1, G-2, G-3, G-4, M-1 and room in the terrace together with proportionate 50% undivided share.



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(d) The plaintiffs and the defendant have jointly executed a settlement deed dated 29.08.2016 in favour of the said Pramila in respect of the plaint schedule properties and after the settlement deed, the said Pramila was in absolute possession and enjoyment of the properties. The documents executed by the said V.Pramila will be valid only till her life time and after her death, the properties have to be divided by the plaintiffs and defendant. The said Pramila died intestate on 25.05.2021 leaving behind the plaintiffs and the defendant as her legal heirs to succeed her estate. Therefore, the plaintiffs and the defendant are equally entitled to 1/4th share of the property. After the demise of said Pramila, the plaintiffs came to know about the settlement deeds dated 25.09.2017 and 24.12.2020 said to have been executed by the said Pramila in favour of the defendant.

(e) The said Pramila would not have executed the settlement deeds in favour of defendant out of her own free will and the said Pramila might have been misled by the defendant and her husband, Vijayakumar, as to the character of the documents. When the alleged settlement deeds came to be executed, the said Pramila was in a complete control of the defendant and she was quite aged and not able to comprehend about the content and nature of the document, viz., the settlement deeds. The defendant was in a fiduciary capacity in getting



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the documents executed in her favour and in both the documents, one of the attestor is none other than the husband of the defendant. Therefore, the defendant is bound to prove the validity of the settlement, in the absence of settlement deeds, the parties are entitled to 1/4th share in the suit property, therefore, filed the suit.

3. The brief averments of the Written Statement filed by the defendant are as follows:-

(a) The plaintiffs and the defendant are siblings and the dispute is over a small portion of the property absolutely owned by their late mother, which has been settled in favour of the defendant. It is true that the settlement deed was executed on 09.03.1972 by Kamalabhai Ammal and as per the settlement deed, life estate was given to the said Pramila. After the death of said Pramila, the children of Pramila are entitled to the property, however, the said Pramila, during her life time, had released the settled property and other properties by way of Release Deed dated 29.08.2016 in favour of her children, i.e., parties to the suit, viz., plaintiffs and defendant. Subsequent to the release deed, the plaintiffs and defendant out of their own volition had executed settlement deed dated 29.08.2016 in favour of the said Pramila with power of alienation in respect of the suit property, therefore, the mother of the plaintiffs, namely, Pramila was the absolute owner of the property



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and she had been exclusively in possession and enjoyment of the property.

(b) After the execution of the settlement deed by the plaintiffs and defendant, the plaintiffs cannot raise any question with respect of the alienation made by the said Pramila. The said Pramila choose to stay with the defendant and with love and affection, the said Pramila executed settlement deed dated 25.09.2017 settling the Flat G4 in favour of the defendant and had executed another settlement deed on 24.12.2020 settling 100 sq.ft., room of superstructure in the terrace along with car parking with shed having an area of 400 sq.ft., to the defendant with the absolute ownership rights with the power to alienate. Thereafter, the mother of the defendant died on 25.05.2021, due to Covid – 19 infection. The said settlement deeds dated 25.09.2017 and 24.12.2020 are valid instruments and cannot be declared as void merely because the plaintiffs sought for the reliefs.

(c) The schedule mentioned properties have been already settled by the plaintiffs and the defendant in favour of Late Pramila through settlement deed dated 29.08.2016 and now, they cannot claim any rights over the property and they are estopped from making any such claim. The plaintiffs are setting up a false case to dispossess the defendant



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from the suit schedule property and to blackmail and extract money from the defendant. The plaintiffs have already sold and encashed all their individual assets due to their lavish lifestyle and are now eyeing the properties belonging to the sole defendant. Therefore, the plaintiffs are not entitled to share of the properties and the suit is liable to be dismissed.

4. Based on the above said pleadings and after hearing both sides and after perusing the documents, this Court framed the following issues on 05.09.2022:-

(i) Whether the settlement deed executed by the mother in favour of the defendants dated 24.12.2020 and registered as Doc.No.962/2020 is a lawful document and binding on the plaintiffs?.

(ii) Whether the settlement deed has been executed in sound, physical and mental status of mind by the mother of the defendant?

(iii) Whether there are any circumstances surrounding the execution of the settlement deed for this Court to interfere with the same and to grant the relief of cancellation of the settlement deed.

(iv) If the settlement deed holds, then what is the relief that can be granted to the plaintiffs.



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(v) If the settlement deed is canceled, then what is the ratio of entitlement of the plaintiffs and defendant to the suit property?

(vi) To what other reliefs?

5. In order to prove the case of the plaintiffs, P.W.1 was examined and Exhibits, P.1 to P.9 were marked. On the side of the defendant, D.W.1 was examined and marked Exhibit D.1.

6. The learned counsel appearing for the plaintiffs would submit as follows:-

(i) Originally the suit property and other properties belonged to one Kamalabhai Ammal by way of a sale deed dated 15.02.1947. The said Kamalabhai Ammal executed a settlement deed dated 09.03.1972 in favour of the mother of the plaintiffs and defendant, namely, V.Pramila for her life time interest and thereafter, the children of Pramila are entitled to the properties. Thereafter, in order to develop the properties, they entered into development agreement with one M/s Aparna Constructions on 04.08.1995 and put up construction of nine residential flats and 50% of undivided share of land. The four flats, bearing Nos.F-1, F-2, F-3 and F-4 in the 1st floor were allotted to the builder and five residential flats bearing G-1, G-2, G-3, G-4 and M1 and a room in the terrace of super built up area of 100 sq.ft., together with remaining 50% undivided land was allotted to the said Pramila, and her children.



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(ii) After construction of the flats, the plaintiffs and the defendant along with their mother Pramila had taken possession. Thereafter, the plaintiffs and their mother, Pramila jointly executed sale deeds in favour of the Developer and their nominees in the year 1997-1998. Thereafter, the said Pramila had executed a release deed in favour of her children, namely, the plaintiffs and defendant through a release deed dated 29.08.2016 by relinquishing her right of life estate in the property settled to her including the suit properties. Thereafter, the plaintiffs and the defendant had jointly executed a settlement deed in favour of the said Pramila on 29.08.2016 in respect of the suit property, thereby the said Pramila was in absolute possession and enjoyment of the properties.

(iii) The document executed by Pramila will be valid only till her life time and after her death, the devolution amongst the parties to the suit is to take place only based on the original settlement deed dated 09.03.1972. The said Pramila died intestate leaving behind the plaintiffs and the defendant to succeed her estate. However, the plaintiffs obtained settlement deeds dated 25.09.2017 and 24.12.2020 in respect of the suit properties under fiduciary capacity, therefore, those settlement deeds are not valid under law and those settlement deeds have be declared as null and void, therefore, the plaintiffs each are



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entitled to 1/4th share and the defendant is entitled to 1/4th share of the suit properties. The plaintiffs' evidence clearly establishes that the suit property belongs to Kamalabhai Ammal and she settled the property in favour of Pramila and the said Pramila died intestate leaving behind the plaintiffs and defendant and each are entitled to 1/4th it share. Therefore, the suit has to be decreed.

7. The learned counsel appearing for the defendant would contend as follows:-

(i) Originally, the suit property belong to Kamalabhai Ammal and the said Kamalabhai Ammal purchased the property on 15.02.1947 and the said Kamalabhai Ammal settled the property in favour of the mother of the defendant and plaintiffs, namely, V.Pramila through settlement dated dated 09.03.1972. In the said settlement deed life estate was given to Pramila and after her death, the children of Pramila are entitled to enjoy the properties. Thereafter, the said Pramila relinquished her life interest and executed release deed in favour of the plaintiffs and defendant through release deed dated 29.08.2016 and prior to that, with the help of a developer, a construction was made in the property and some portions were allotted to the developer and some portions were allotted to the plaintiffs and defendant.



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(ii) The 1st plaintiff sold her properties to the third parties. The said Pramila had released her life interest deed in favour of the plaintiffs and defendant through release deed dated 29.08.2016 and after executing the said release deed to the plaintiffs and defendant, the children of Pramila, viz., plaintiffs and defendant had executed settlement deed in favour of Pramila through settlement dated 29.08.2016 transferring Flat No.G-4, super built up area of 422 Sq.feet in the ground floor and a room of super built up area of 100 sq.feet in Terrace with Car Parking shed of 400 sq.ft., in the ground floor of Apartment, namely 'Kamala Arcade', Ganapathy Colony, Gopalapuram, Chennai together with proportionate undivided share of land of 286 Sq.ft., out of 50% in one ground 2394 sq.feet in Plot No.10, R.S.No.102/8, Mylapore Village, Triplicane Taluk and the defendant is in possession and enjoyment of the property.

(iii) Thereafter, the said Pramila executed settlement deeds in favour of the defendant on 25.09.2017 and 24.12.2020 in respect of the suit properties, therefore, after the execution of the said settlement deeds, the defendant has been in possession and enjoyment of the properties. Once the property has been settled by the plaintiffs in favour of their mother, the plaintiffs have no any right over the properties. In



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order to prove the case of the defendant, she was examined as D.W.1 and marked Ex.D.1.

(iv) D.W.1 has categorically deposed about the defendant's case and the execution of settlement deeds have been admitted and the only contention of the plaintiffs is that the deceased-mother might not have been executed and due to her old age, without knowledge of the recitals, she might have executed, but there is no evidence adduced by the plaintiffs to prove their contention, therefore, the suit is liable to be dismissed.

8. This Court, heard the learned counsel on both sides and perused the entire documents placed on record.

9. At the time of framing of issues on 05.09.2022, this Court omitted to mention about the settlement deed dated 25.09.2017 in Document No.1098 of 2017, **therefore, for better appreciation and effective disposal of the suit, the Issues have been re-casted as follows:-**

(i) Whether the settlement deeds executed by the mother in favour of the defendant dated 25.09.2017 registered as Document No.1098/2017 and Settlement deed dated 24.12.2020 and registered as Document No.962/2020 are the lawful documents and binding on the plaintiffs?

(ii) Whether the settlement deeds had been executed in a



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sound, physical and mental status of mind by the mother of the defendant?

(iii) Whether the plaintiffs are entitled to partition of 1/4th share over the suit properties?

(iv) Whether the plaintiffs are entitled for declaration in respect of the settlement deeds dated 25.09.2017 and 24.12.2020 as null and void?

(v) Whether the plaintiffs are entitled to relief of permanent injunction restraining the defendant from interfering with the plaintiffs' peaceful possession and enjoyment of the suit properties?

(vi) Whether the plaintiffs are entitled to permanent injunction restraining the defendant from alienating the plaint schedule properties?

(vii) To what other reliefs the parties are entitled to?

Though the issues were re-casted today at the stage of Judgment, already issues were framed based on the pleadings and parties are aware about the issues and adduced evidences, today no any additional issues framed beyond the pleadings. Therefore, the available evidences and records are sufficient to decide the case, hence additional evidence is not required and this Court is inclined to pass Judgment with the available evidences.

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10. Answers to Re-casted Issue Nos.(i), (ii) and (iv): *Whether the settlement deeds executed by the mother in favour of the defendant dated 25.09.2017 registered as Document No.1098/2017 and Settlement deed dated 24.12.2020 and registered as Document No.962/2020 are the lawful documents and binding on the plaintiffs? (ii) Whether the settlement deeds had been executed in a sound, physical and mental status of mind by the mother of the defendant? and (iv) Whether the plaintiffs are entitled for declaration in respect of the settlement deeds dated 25.09.2017 and 24.12.2020 as null and void?*

(i) In this case, there is no dispute that the property originally belonged to one Kamalabhai Ammal through sale deed dated 15.02.1947 and the said Kamalabai Ammal executed a settlement deed in favour of one V.Pramila, who is the mother of the plaintiffs and defendant through settlement deed dated 09.03.1972. As per the settlement deed, only life interest was given to the said Pramila, without the power of alienation. Thereafter, the said Pramila, plaintiffs and the defendant have entered into construction agreement with one M/s Aparna Constructions and they constructed nine residential flats and four residential flats in first floor along with undivided share 50% of land was allotted to the builder, M/s Aparna Constructions and remaining



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50% of undivided share of land and the residential flats in ground floor G1, G2, G3, G4, M1 and a room in the terrace was retained by the parties to the suit and their mother.

(ii) In the meantime, the said Pramila, during her lifetime, executed a release deed by realising her life interest right to the plaintiffs and defendant through a Release deed dated 29.09.2016 and thereafter, the plaintiffs and the defendant once again executed a settlement deed in favour of their mother, namely, Pramila, through settlement deed dated 29.08.2016 in respect of the suit properties, the above facts have not been disputed by the parties.

(iii) According to the plaintiffs, the deceased Pramila was under the care and custody of the defendant and thereby she obtained settlement deed in her favour and the same came to knowledge after the demise of their mother, through Encumbrance Deed dated 03.09.2021. Therefore, now the plaintiffs have filed the suit to declare that the settlement deeds as null and void and the plaintiffs are entitled for partition and grant of injunction not to disturb the plaintiffs possession in the suit the property and also not to create encumbrance by the defendant.

(iv) In order to prove the case of the plaintiffs, the 1st plaintiff was examined as P.W.1 and marked Exhibits Ex.P.1 to P.9



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✂Ex.P.1 is the Certified copy of the Settlement Deed bearing No.2137 / 1972 dated 14.11.1972.

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✂Ex.P.2 is the Certified copy of the sale deed bearing No.24 of 1998 dated 12.12.1997.

✂Ex.P.3 is the Certified copy of the sale deed bearing No.25 of 1998 dated 12.12.1997.

✂Ex.P.4 is the Certified copy of the sale deed bearing no.909 of 1998 dated 29.12.1998

✂Ex.P.5 is the Certified copy of the release deed sale deed bearing no.1000/2016 dated 29.08.2016

✂Ex.P.6 is the Certified copy of the settlement deed bearing no.1001 of 2016 dated 29.08.2016

✂Ex.P.7 is the Certified copy of the settlement deed bearing no.1098/2017 dated 25.09.2017

✂Ex.P.8 is the Certified copy of the settlement deed bearing no.962/2020 dated 24.12.2020

✂Ex.P.9 is the Certified copy of the death certificate of Mrs.Pramila dated 10.06.2021.

(v) On the side of the defendant, D.W.1 was examined and Ex.D.1, Certified copy of the Settlement Deed No.2137 of 1972 dated 09.03.1972 was marked.

(vi) Though under the settlement deed dated 09.03.1972 only life interest was given to the mother of the plaintiffs and defendant, viz., Pramila, she during her life time, relinquished her right through release deed dated 29.08.2016 and the same was also accepted by the plaintiffs



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and defendant and the said release deed was also acted upon.

Thereafter, the plaintiffs and defendant have also settled the suit properties in favour of their mother, through settlement deed dated 29.08.2016. Once the parties admitted the release deed executed by their mother and thereafter, they executed settlement deed in favour of their mother, they cannot claim any right over properties of their mother. If the mother alienated the properties during her life time.

(vii) According to the plaintiffs, the defendant obtained settlement deeds in her favour on 25.09.2017 and 24.12.2020 and the said settlement deeds have been obtained in the fiduciary capacity. It is also admitted fact that the deceased mother of the plaintiffs and defendant was residing along with the defendant till her death, therefore, due to love and affection, it is quite nature to give the property through settlement deed, therefore, merely because the deceased was under the custody of the defendant, it cannot be termed as the deeds were obtained under fiduciary capacity. According to the defendant, due to love and affection, the property was settled in her favour. The plaintiffs also pleaded in the plaint that the said deeds might have been executed without knowing the types of deeds.

(viii) The 1st plaintiff, P.W.1 during her cross examination stated that till the year 2017 her mother was living in G1, Kamala Arcade,



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Ganapathy Colony, Gopalapuram and thereafter her sister, Rajini

Sujatha/ defendant, took their mother to her house and till the death of the mother, she was living with her last sister, the defendant herein. The plaintiffs filed the suit in respect of suit properties, Flat No.G-4, super built up area of 422 Sq.feet in the ground floor and a room of super built up area of 100 sq.feet in Terrace with Car Parking shed of 400 sq.ft., in the ground floor of Apartment, namely 'Kamala Arcade', Ganapathy Colony, Gopalapuram, Chennai together with proportionate undivided share of land of 286 Sq.ft., out of 50% in one ground 2394 sq.feet in Plot No.10, R.S.No.102/8, Mylapore Village, Triplicane Taluk.

(ix) It is the admitted fact that the entire property of G1, G2, G3, G4, M1 and the suit property were released by the mother Pramila in favour of the plaintiffs and defendant, but the suit is filed only in respect of the properties settled in favour of the defendant and the plaint is silent in respect of the remaining properties. The plaintiffs have not clarified as to why they filed the suit only for the properties settled in favour of the defendant.

(x) At this juncture, the learned counsel appearing for the defendant would submit that already the part of the properties were sold to the builder by Pramila, plaintiffs and the defendants. The properties allotted to the plaintiffs and the defendant through release deed are concerned the plaintiffs already sold the properties. But there are no



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records produced by the parties to that regard. Once the plaintiffs filed the suit for partition, they ought to have filed the suit for the entire properties of their family and there is no explanation as about the remaining properties. As per Ex.D1, copy of settlement deed, the life estate was given to the mother of the plaintiffs and defendant, as per Ex.P.1 and D.1, one Kamalabhai Ammal settled her property in favour of plaintiffs and defendant's mother namely, Pramila. As per Ex.P.2, copy of the sale deed reveal that the plaintiffs and defendant along with their mother, Pramila executed sale deed in favour of Hemath Sahani and Mrs. Ramni Sawhney in respect of one portion of the property covered under the settlement deed dated 09.03.1972. Similarly through Ex.P.3, the plaintiffs and defendant along with their mother sold some portion of the property covered under the settlement deed dated 09.03.1972 for the same parties, namely Hemath Sahani and Mrs. Ramni Sawhney.

(xi) On a careful perusal of Ex.P.5, Release deed, clearly shows that the mother of the plaintiffs and defendant released her right of life interest over the property through settlement deed on 29.08.2016 in favour of the plaintiffs and the defendant. Thereafter, under Ex.P.6 the plaintiffs and the defendant jointly executed settlement deed in favour of their mother in respect of the suit properties. Thereafter, the mother of the plaintiffs and defendant executed settlement deeds dated



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25.09.2017 and 24.12.2020 in favour of the defendant. The plaintiffs also admitted the execution of said settlement deeds, but according to them the said deeds were obtained under the fiduciary capacity, therefore the mother of the plaintiffs have not executed the settlement deed voluntarily.

(xii) At this juncture, it is relevant to mention the admission made by the 1st plaintiff / P.W.1 during her cross examination: In Question No.14, stated that it is correct that her siblings and her mother were allotted Flat Nos. G-1, G-2, G-3, G-4, M-1 and the room in terrace and and car parking and she also have taken possession for the same through allotment letter dated 22.04.1996. Further, P.W.1 and her siblings along with her mother executed sale deeds to the nominees of the developers of the flats F1, F2, F3 and F4 and 50% of undivided share and also admitted that as per the release deed dated 29.08.2016 and their mother relinquished her right and also she gave each of them a flat and Flat no.M1 was allotted to the 1st plaintiff /P.W.1 and she also admitted that she sold that M-1 flat in the year 2018 or 2019 before Covid. During the life time of her mother, the 1st defendant sold the property allotted to her, in Flat No.M.1, by admitting the execution of release deed in her favour by her mother.



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(xiii) Further, P.W.1 also admitted that they have given G-4 flat, a room in the terrace and car parking to her mother through settlement deed on 29.08.2016 and also admitted that as per the settlement deed, her mother was given full power in respect of Flat G-4, a room in the terrace and a car parking. Further, the plaintiffs admitted the execution of settlement deed in favour of her mother in respect of the suit property and thereafter, their mother was with the defendant and thereby she executed the settlement deeds and the plaintiffs have not specifically denied the execution of settlement deeds and only on assumption stated that might have been executed with knowing the type of document obtained since she was under fiduciary capacity. Normally, a mother, who is under the custody of the children want to settle the property in their favour, since the other children have not taken care of mother, she executed settlement deed in favour of the defendant.

(xiv) The settlement deeds are of the year 2017 and 2020 respectively, but the plaintiffs have not immediately filed the suit and they only filed the suit in the year 2022 after death of their mother and both the settlement deeds are registered documents. The plaintiffs also failed to prove that their mother was not in a sound physical and mental state by examining any witness or producing documents. Per contra, the deed is a registered deed and there is a presumption under Section



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60 of Registration Act. The defendant had categorically deposed about the execution of settlement deeds, though the defendant failed to examine the attesting witness of the settlement deed, when there is no specific denial by the plaintiffs in respect of the execution of the settlement deeds and they have taken a plea that the documents might have been examined without knowing the nature of document and of fiduciary capacity, examination of attesting witness will not arise.

(xv) The term Fiduciary capacity means, involving trust, especially in situation when a person controls money or properties belongs to others, where one person is entrusted to act on behalf of another with a high degree of trust and confidence, legally bound to act with good faith and loyalty. This includes duty to act primarily for other's benefit and to handle assets prudently.

(xvi) Normally mother and son relationship does not come under fiduciary capacity and the same is high pedestal and it is bonded with love and affection. Normally settlement deeds are being executed by the parties due to love and affection and something done by the settlee to the settlor. Therefore, the plaintiffs after accepting the release deed executed by their mother and constructed the building and also sold the properties to third parties in the year 1997 and 1998 itself. Thereafter



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the plaintiffs and the defendant have taken their share and thereafter, the plaintiffs and defendant executed settlement deed in favour of Pramila, viz., their mother in respect of the suit properties and in turn, the said Pramila executed settlement deeds in favour of the defendant.

(xvii) Once the plaintiffs admitted the execution of settlement deeds and taken a plea that might have been executed without knowing the nature of documents, they have to prove the same. Normally if the execution of document of settlement is denied, then, who rely the settlement deed has to prove the said execution of settlement deed. In this case, it is not the case of the plaintiffs that the said settlement deed was not executed by the settlor to settlee, but the settlor might not have the knowledge of the nature of document. While so, the execution is admitted and whether the deed was executed without knowing the nature of document has to be proved by the plaintiff, but they failed to prove the same. The settlement deeds are dated 25.09.2017 and 24.12.2020, but till the life time of settlor, the plaintiffs have not questioned the said deeds and after demise of settlor, after a long time, filed this suit. Merely because the mother of the defendant was residing with the defendant, the same itself cannot be termed as Fiduciary Capacity. The plaintiffs have to prove the control over the properties by the defendant, and prove that the settlement deeds were executed under



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fiduciary capacity. If the fiduciary capacity is proved, then the burden of proof lies on the defendant. But the plaintiffs failed to discharge their initial burden of proof for the fiduciary capacity.

(xviii) The learned counsel appearing for the plaintiffs would submit that the defendant has not examined the attesting witness of the settlement deeds to prove the execution of settlement. Therefore, the settlement has not been proved and relied on the following judgments:

- 1.Judgment of the Hon'ble Supreme Court reported in 1970 (3) Supreme Court Cases 159 [Lakshmi Amma and Another Vs. Talengalanarayana Bhatta and Another]
- 2.Judgment of this Court in Vittal Vs. Nallammal and others in S.A.No.1103 of 2013 dated 27.02.2024.
- 3.Judgment of this Court in S.Rathnam Naidu and Another Vs. Kanni Ammal and Others reported in 85 Law Weekly 372. [S.A.No.1562 of 1965]
- 4.Judgment of this Court reported in 2015 SCC Online Mad 9789 [Tamil Kodi Vs. N.Kalaimani and another]

On a careful perusal of the above judgments, it is clear that if the plaintiffs denied the execution of settlement deeds during the course of oral evidence, it is sufficient and without examining any one of the attesting witnesses, the settlement deed cannot be established. Further, if settlement deed was attacked as borne on undue influences, then, the warranty and nature has to be proved by the settlee. The burden lies on the recipient to show that the donor has independent advice or adopted

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the transaction after the influence was removed or some equivalent circumstances.

(xix) In the case on hand, the plaintiffs have not taken any plea in respect of undue influence and their contention is deed might have been executed by their mother without knowing the nature of deed under fiduciary capacity, that alone is not sufficient to attack the genuinity of the settlement deeds when the plaintiffs filed the suit for declaration of settlement deed as null and void and the sole burden lies on them to establish the grounds raised in the plaint for seeking such relieves.

(xx) At this juncture, the learned counsel appearing for the defendant relied on the following judgments:-

1. Judgment of the Hon'ble Supreme Court in Rosammal Issetheenammal Fernandez (Dead) by Lrs and Others Vs. Joosa Mariyan Fernandez and Others reported in (2000) 7 SCC 189
2. Judgment of the Hon'ble Supreme Court in Govindbhai Chhotabhai Patel and Others Vs. Patel Ramanbhai Mathurbhai reported in (2020) 16 SCC 255
3. Judgment of the Hon'ble Supreme Court in Rattan Singh and Others Vs. Nirmal Gill and Others reported in (2021) 15 Supreme Court Cases 300



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On a careful perusal of the above Judgments it is clear that the execution of document specifically denied any strong terms, then, the settlee has to examine witnesses, namely, attesting witnesses and also clear that if the documents registered in accordance with the Registration Act, when the defendants not specifically denied the execution of gift deed in terms of Proviso II, as per requirements of Section 68 of Evidence Act, the examination of one of the attesting witness to prove the gift deed is not mandatory.

(xxi) In the case on hand also, the settlement deeds were executed and registered and after a long period, the plaintiffs filed the suit and there are no pleadings in the plaint with regard to any fraud or undue influence and they have only stated in the plaint that the settlor might have settled the property without knowing the nature of documents and also under fiduciary capacity, the defendant obtained the deeds. Therefore, the said averments alone are not sufficient and there should be some fundamental pleadings and evidence to prove the alleged fiduciary capacity and the fraud, therefore, without any pleadings and evidence, it is not appropriate to grant any reliefs to the plaintiffs in respect of the declaration of the settlement deeds.

(xxii) In view of the same, the deceased Pramila had power to



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execute the settlement deeds in favour of the defendant and since the mother of the plaintiffs and defendant executed the settlement deeds dated 25.09.2017 and 24.12.2020 in favour of the defendant in respect of the suit properties, the said deeds are binding on the plaintiffs and they are not entitled to the relief of declaration in respect of settlement deeds dated 25.09.2017 and 24.12.2020 as null and void.

11. Answers for re-casted Issue No.(iii) *'Whether the plaintiffs are entitled to partition of 1/4th share over the suit properties?*

The plaintiffs have filed this suit for relief of declaration in respect of the settlement deeds and also for partition. According to the plaintiffs, their mother died intestate and the legal heirs of their mother are equally entitled to share over the suit properties. This Court in the previous issue after elaborate discussion, decided that the settlement deeds have been duly executed by the mother of the plaintiffs and defendant in favour of the defendant and the plaintiffs are not entitled to declaration in respect of the settlement deeds. Since the properties were already settled in favour of the defendant and not available for partition the plaintiffs are not entitled to partition over the suit properties. The plaintiffs and the defendant had executed settlement deed in favour of their mother in the year 2016 and she inturn executed settlement deeds in favour of the defendant. On the date of death, the mother of the



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plaintiffs and defendant had no any properties in her name and the suit properties were settled to the defendant during the life time of their mother. Hence the plaintiffs are not entitled for partition, as prayed in the plaint. Thus the issue is answered.

12. Answers for re-casted issue No.(v) *'Whether the plaintiffs are entitled to relief of permanent injunction restraining the defendant from interfering with the plaintiffs' peaceful possession and enjoyment of the suit properties?'*

The plaintiffs sought for relief of permanent injunction restraining the defendant from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property. As far as permanent injunction is concerned, the plaintiffs ought to have proved their exclusive possession and enjoyment of the property, but the plaintiffs have not filed any documents to prove their exclusive possession, per contra, the defendant has proved that she is entitled to the property through settlement deeds dated 25.09.2017 and 24.12.2020 and she is in possession, therefore, without any documents, to prove the exclusive possession of the properties, the plaintiffs are not entitled to the relief of permanent injunction. Thus the issue is answered

13. Answers for Re-casted Issue No.vi *'Whether the plaintiffs are*



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entitled to permanent injunction restraining the defendant from alienating the plaintiff schedule properties?

As far as the relief of permanent injunction from alienation of properties are concerned, this Court in the previous issue already decided that the plaintiffs are not entitled to the relief in respect of settlement deeds and the said properties were already settled in favour of the defendant vide settlement deeds dated 25.09.2017 and 24.12.2020 and the defendant is the absolute owner of the properties through settlement deeds. Therefore the plaintiffs are not entitled to relief in respect of permanent injunction restraining the defendant from alienating the suit properties. Thus the issue is answered.

14. Answers for Re-casted Issue No.vii 'To what other reliefs the parties are entitled to?

This Court in the previous issues after elaborate discussion decided that the settlement deeds had been executed by the mother of the defendant and the plaintiffs in favour of the defendant, the plaintiffs are not entitled to declaration in respect of settlement deeds dated 25.09.2017 and 24.12.2020 and the plaintiffs are not entitled for partition, permanent injunction from restraining the defendant from interfering possession and enjoyment of the property and also the plaintiffs are not entitled for permanent injunction from alienating the suit



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properties, therefore, the plaintiffs are not entitled to any reliefs through this suit.

In the result, the present Suit is dismissed. Considering the relationship between the parties and the nature of suit, there shall be no order as to costs.

14.11.2025

Index:Yes/No;
Internet:Yes/No
Speaking / Nonspeaking order

ssd

1) List of Witnesses Examined on the side of the Plaintiffs:-

1. 1. P.W.1 – Mrs.V.Barathi

2) List of Exhibits Marked on the side of the Plaintiffs:-

<i>Exhibits</i>	<i>Date</i>	<i>Description</i>
Ex.P.1	14.11.1972	Certified copy of the Settlement Deed bearing No.2137 / 1972
Ex.P.2	12.12.1997	Certified copy of the sale deed bearing No.24



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		of 1998 dated
Ex.P.3	12.12.1997	Certified copy of the sale deed bearing No.25 of 1998
Ex.P.4	29.12.1998	Certified copy of the sale deed bearing no.909 of 1998
Ex.P.5	29.08.2016	Certified copy of the release deed sale deed bearing no.1000/2016
Ex.P.6	29.08.2016	Certified copy of the settlement deed bearing no.1001 of 2016
Ex.P.7	25.09.2017	Certified copy of the settlement deed bearing no.1098/2017
Ex.P.8	24.12.2020	Certified copy of the settlement deed bearing no.962/2020
Ex.P.9	10.06.2021	Certified copy of the death certificate of Mrs.Pramila

3)List of Witnesses Examined on the side of the defendant:-

D.W.1 - Mrs.V.Rajini Sujatha

4)List of Exhibits Marked on the side of the defendants:-

<i>Exhibit</i>	<i>Date</i>	<i>Description</i>
Ex.D.1	09.03.1972	Certified copy of the Settlement Deed No.2137 of 1972

14.11.2025

To

The Sub Assistant Registrar,
O.S.Section,
High Court, Madras



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P.DHANABAL, J.

ssd



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