



A.S.No.511 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 26.02.2025

CORAM

**THE HON'BLE MR.JUSTICE N.SATHISH KUMAR**

**A.S.No.511 of 2024**

**and**

**C.M.P.No.24435 of 2024**

Ayyavu

... Appellant/12<sup>th</sup> Defendant

-VS-

1. Sumathi

... Respondent/Plaintiff

Mr.Ramalingam (Died)

... 1<sup>st</sup> Defendant

2. Dhanalakshmi

3. Chandrasekar

4. Chinnaiyan

5. Dharbasayanan

6. Sathiya

7. Minor Vignesh

8. Rajakumari

9. Saravanan

10.Tamilarasi

11.Mohankumar

12.Lakshmi Sri

... Respondents/Defendants

**Prayer:** Appeal Suit is filed under Section 96 of CPC r/w Order XLI Rule 1 & 2 of CPC to set aside the judgment and decree dated 25.08.2023 made in O.S.No.1 of 2020 (vide CNR No.TNVPOC0000012020) on the file of 1<sup>st</sup> Additional District Judge, Tindivanam, Villupuram District and to dismiss the original suit.



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|                         |                       |
|-------------------------|-----------------------|
| For Appellant           | : Mr.V.Manohar        |
| For R1 to 3, 5, 6 to 10 | : Mr.G.RM.Palaniappan |
| For R4                  | : Refused             |
| For R11                 | : Left                |
| For R12                 | : No Appearance       |

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

Challenging the decree and judgment of the Trial Court, setting aside the entire sale deeds, including Ex.A6 as null and void, the purchaser has come before this Court. The appellant was 12<sup>th</sup> defendant in the suit.

2. The suit has been filed by the plaintiff, claiming 1/7<sup>th</sup> share. According to the plaintiff, the property was originally allotted to one Manjini Gounder and he died intestate 90 years ago. After his death, his wife Amirtham Ammal, 1<sup>st</sup> defendant and one deceased Rasu Gounder and another deceased Elumalai Gounder enjoyed the property jointly. Among the 1<sup>st</sup> defendant and Rasu Gounder, there was an oral partition before 70 years and the suit properties were allotted to the 1<sup>st</sup> defendant.

3. Defendants 2, 6 to 8 and 13 filed a statement, wherein it was admitted that the 1<sup>st</sup> defendant was allotted properties orally. In the



statement filed by the 13<sup>th</sup> defendant, it was averred that there was a collusion between the plaintiff and the defendants 1 to 10 and that the property was not a joint property.

4. The Trial Court, on the basis of the aforesaid pleadings, framed the following issues:

- i) Whether the suit properties are joint family properties?
- ii) Whether the plaintiff is entitled for the relief of declaration to declare the settlement deed executed by the 1<sup>st</sup> defendant in favour of the 10<sup>th</sup> defendant dated 18.09.2012 as null and void?
- iii) Whether the plaintiff is entitled for the relief of declaration to declare the settlement deed executed by the 1<sup>st</sup> defendant in favour of Mr.Krishnan dated 18.09.2012 as null and void?
- iv) Whether the plaintiff is entitled for the relief of declaration to declare the settlement deed executed by the 1<sup>st</sup> defendant in favour of 4<sup>th</sup> and 12<sup>th</sup> defendants dated 18.09.2012 as null and void?
- v) Whether the plaintiff is entitled for the relief of declaration to declare the settlement deed executed by the 1<sup>st</sup> defendant in favour of 5<sup>th</sup> defendant dated 12.03.2015 as null and void?
- vi) Whether the sale agreement executed by 4<sup>th</sup> and 11<sup>th</sup> defendants in favour of 13<sup>th</sup> defendant dated 20.04.2018 is invalid and not binding the plaintiff?



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vii) Whether the sale agreement executed by 3<sup>rd</sup> and 5<sup>th</sup> defendants in favour of 12<sup>th</sup> defendant dated 04.10.2018 is invalid and not binding the plaintiff?

viii) Whether the settlement deed executed by the 9<sup>th</sup> defendant in favour of 10<sup>th</sup> defendant on 18.01.2019 is invalid and not binding the plaintiff?

ix) Whether the sale deed executed by the 10<sup>th</sup> defendant in favour of 13<sup>th</sup> defendant dated 06.02.2019 is invalid and not binding the plaintiff?

x) Whether the 13<sup>th</sup> defendant is a bonafide purchaser for value?

xi) Whether the plaintiff is entitled to the relief of preliminary decree of partition by allotting 1/7 share in the suit properties?

xii) Whether the plaintiff is entitled to the relief of permanent injunction against the defendants 3 to 5 and 7 to 13 in restraining them in not alienating the suit properties?

xiii) To what other relief does the plaintiff is entitled for?

5. The Trial Court, after considering the entire evidence, held that the properties are ancestral properties and while allotting 1/7 share to the plaintiff in the suit properties, set aside the subsequent documents executed among the defendants and one such document is Ex.A6, sale deed dated 04.10.2018, by which the appellant has purchased the undivided share.



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6. In the present appeal, a challenge has been made as against the grant of preliminary decree in favour of the plaintiff, by setting aside the various settlement deeds executed among the defendants.

7. The point for consideration in this appeal is as to whether the Trial Court is right in setting aside the entire sale deeds.

8. Heard the learned counsel for the appellant and the respondents 1 to 3, 5, 6 to 10 and perused the material documents available on record.

9. The parties have not disputed the relationship and the nature of properties. The only point raised in this case is whether the Trial Court is right in declaring the sale deed in Ex.A6 dated 04.10.2018 as null and void in its entirety. It is a well settled law that every co-owner has right to deal with the undivided share in the property in terms of Section 44 of the Transfer of Property Act, 1882. In such transfer, the transferee acquires such share of the vendor and he can also sue for partition. The only restriction is



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**N.SATHISH KUMAR,J.,**  
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that he cannot seek for joint possession and he will automatically step into the shoes of the vendor and seek for allotment of the same share, which has been purchased in the document. In such view of the matter, the decree and judgment of the Trial Court in setting aside the entire documents as null and void is hereby set aside. It is for the appellant to work out his share in the final decree proceedings.

10. With the above observations, this Appeal Suit is allowed in part. No costs. Consequently, connected Miscellaneous Petition is closed.

**26.02.2025**

Index: Yes / No  
Internet: Yes / No  
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**To:**

1. The 1<sup>st</sup> Additional District Judge,  
Tindivanam,  
Villupuram District.
2. The Section Officer,  
V.R.Section,  
High Court,  
Madras.

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