



A.S.No.294 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 29.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

A.S.No.294 of 2022 & CMP.No.10981 of 2022

1. V.Venugopal
2. V.Alamelu

... Appellants

Versus

1. C.Rajeshwari
2. V.Swathi [Major],
3. V.Sowmika [Major]

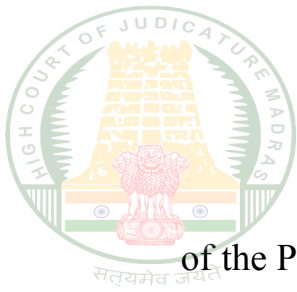
Respondents 1 to 3 are represented by
their power of Attorney Agent P.Chennaraj
residing at No.2/23, Vidyalaya Road,
Salem – 636 007.

[R2 & R3 declared as major and their mother R1
Rajeshwari discharged from the guardianship
vide Court Order dated 25.04.2025 made in
CMP.Nos.10354, 10358 & 10359 of 2025 in
A.S.No.294 of 2022 by NSKJ]

4. G.Venkatesan

... Respondents

PRAYER : Appeal Suit filed under section 96 of Code of Civil Procedure read with Order 41 and 41A of CPC to call for the lower Court records, set aside the decree and judgment dated 26.11.2019 made in O.S.No.143 of 2013 on the file



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of the Principal District Judge, Salem and dismissed the suit with costs.

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For Appellants : Mr.C.Prabhakaran
for Mr.M.Sivakumar

For respondents : Mr.V.Raghavachari, Senior Counsel
for Mrs.V.Srimathi – R1 to R3

R4 – No appearance

JUDGMENT

Challenge has been made to the decree and judgment of the trial Court granting preliminary decree and permanent injunction in favour of the plaintiffs, in the present appeal.

2. The parties are arrayed as per their own ranking before the trial Court.

3. The first plaintiff is the wife of the first defendant and the second and third plaintiffs are the daughters of the the first plaintiff and the first defendant. The second and third defendants are parents of the first defendant. The marriage between the first plaintiff and the first defendant solemnized on 16.09.1996 at Salem. After marriage, the first plaintiff and the first defendant took



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employment at Kuwait. Out of their joint earnings, the first item of the property has been purchased in the name of the first defendant on 04.06.2003 and the second item on 18.11.2004. According to the first plaintiff, the purchase was made out of the earnings of the first plaintiff and the first defendant. In view of the relationship between the parties, the sale deed was registered in the name of the first defendant. Later in the year 2007, the first plaintiff and the first defendant shifted to Qatar. At the instance of the first defendant, the first plaintiff applied loan to purchase the third item of the property. The second and third defendants, who are parents of the first defendant, insisted that the third item of the property should be purchased in the name of the first defendant. Though entire sale consideration has been emanated from the first plaintiff, the sale deed has been registered in the name of the first defendant. Thereafter, matrimonial dispute arose between the parties and the first defendant started behaving violently. However, the first plaintiff, taking into consideration of the welfare of the children, was of fond hope that the first defendant would mend his ways, but the ill-advice of the parents and in laws prevailed upon the first defendant. Thereafter, the first defendant has executed two settlement deeds in respect of half share in item Nos.1 and 2 on 31.08.2012 in favour of plaintiffs 2



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and 3. Ever since the date of settlement, the first plaintiff was collecting rents from the tenants. Now the first plaintiff came to know that the defendants are creating documents. The settlement deeds executed in favour of the first plaintiff are irrevocable. Hence, the suit.

4. Whereas, it is the stand of the first defendant in his written statement that the first plaintiff has not made any contribution to purchase the properties in Item Nos.1, 2 and 3. According to first defendant, entire sale consideration has been borne by him for the purchase of the properties. The first defendant has also purchased three more properties in the name of the first plaintiff out of his own income in the year 2009 and two house plots in the year 2010. The power agent, Chinraj, who is the father of the first plaintiff, has misused the power given in his favour by the first defendant. According to him, the first plaintiff has never spent money for purchase of the property and she used to send money to her parents. According to him, he never executed the settlement deeds out of his free will and he was kidnapped by the first plaintiff's father and brother with rowdy elements and was confined unlawfully and the settlement deeds have been obtained. Thereafter, he has cancelled the settlement deeds on 05.09.2012,



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within 5 days of the alleged execution. Hence, the alleged execution is disputed.

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5. Based on the above pleadings, the following issues have been framed by the trial Court :

1. Whether the suit filed without next friend to the minor 2nd and third plaintiffs is valid?

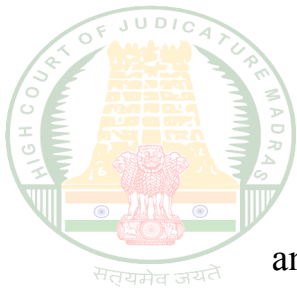
2. Whether the two settlement deeds dated 31.08.2012 executed by the first defendant in favour of the plaintiffs is true and valid?

3. Whether the Cancellation Deed dated 05.09.2012 executed by the first defendant is valid and binding upon the plaintiffs?

4. Whether the suit properties are absolute properties of the first defendant?

5. Whether the claim of the first plaintiff is hit by Binami Prohibition Act?

6. Whether the sale deed executed by the first defendant in favour of the second and third defendants dated 06.09.2012 is true



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and valid?

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7. Whether the plaintiffs are in joint possession of the suit properties as Court Fee paid therein is correct?

8. Whether the plaintiffs are entitled for partition as prayed for?

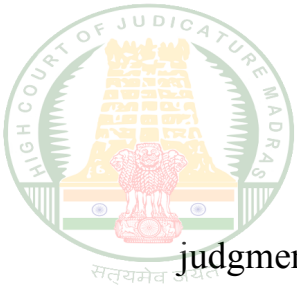
9. For what reliefs, the plaintiffs are entitled to?

Additional Issue :

Whether the plaintiffs are entitled for permanent injunction against the defendants?

6. On the side of the plaintiffs, the first plaintiff was examined as P.W.1, Ex.A.1 to Ex.A.6 have been marked. On the side of the defendants, the first defendant was examined as D.W.1 and Ex.B.1 to Ex.B.26 have been marked.

7. The trial Court, considering the entire evidence, both oral and documentary, granted preliminary decree in favour of the plaintiffs for division of the suit properties into two equal shares and allot one such share to the plaintiffs and for permanent injunction. Challenging the said decree and



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judgment, the present appeal has been filed by the unsuccessful first and second defendants.

8. During the pendency of the appeal, the second and third plaintiffs are declared as major. The first plaintiff has been discharged from the guardianship.

9. It is the main contention of the learned counsel appearing for the appellants before this Court that the Principal District Judge ought not have tried the suit, since it is a family issue. Further, there is no evidence to show that the first respondent had contributed any amount for the purchase of the properties. Further, the settlement deed has been obtained by threat and coercion. The trial Court had not appreciated the evidence in this regard. The trial Court has not even considered the evidence adduced by the first defendant. Ex.B.8 and Ex.B.10 clinchingly prove that the first defendant was wrongfully confined on the date of the alleged execution of the settlement deeds. This aspect has not been considered by the trial Court. It is his further contention that the alleged contribution made by the first respondent for the purchase of the properties has not been established. Ex.A.6 is of the year 2010. Whereas, the properties have



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been purchased in the year 2009 and 2010. Therefore, it cannot be presumed that the contribution had been made by the first respondent. As far as the execution of the settlement deeds dated 31.08.2012 Ex.A.1 and Ex.A.2 are concerned, it is the specific case of the first appellant that he was kept in confinement for more than 10 days. In this regard, on the same day, the father of the first defendant has given a complaint Ex.B.10 and Ex.B.11 CSR and the statement. Therefore, when a document has been obtained by coercion and undue influence, the same is not valid in the eye of law. This aspect has not been considered by the trial Court. The complaint given in this regard also vouches the above fact. Further, the first appellant had cancelled the settlement deeds immediately on 05.09.2012. The first respondent has not sought for any declaration to declare cancellation is not valid. Without declaration, the settlement is not valid in the eye of law. Therefore, it is his contention that the trial court has not appreciated entire evidence and simply decreed the suit. In support of his contentions, he relied on the following judgments :

R.Kandasamy [Since dead] and others Vs.

T.R.K.Saraswathy and another and ABT Limited Vs.

T.R.K.Saraswathy and others reported in 2024 SCC



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OnLine SC 3377

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10. Whereas, the learned counsel appearing for the respondents 1 to 3 would contend that the evidence adduced on both sides clearly establish the fact that both the first respondent and the first appellant were employed in foreign countries and earning decent salary and contributions have been made by both of them to purchase the properties. These aspects have been considered by the trial Court. The settlement deeds have been executed by the husband voluntarily since the settlement is in favour of the wife and his children. The police complaints have been emanated from the second defendant without any substance, which has been take advantage as if the transactions are vitiated. The alleged threat and coercion has not been proved in the manner known to law. The evidence of D.W.1 cannot be countenanced for any reasons. The contradictory stand taken by the defendant one before the police and in written statement and in the evidence clearly show that the alleged threat and coercion are make believe story. Therefore, would submit that the trial Court has rightly appreciated the evidence. Further, it is his contention that any person who alleges any document is a result of threat and coercion, the same ought to have



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been challenged in the manner known to law. Further, no counter claim, whatsoever, has been raised seeking declaration that documents are null and void. The execution of the settlement deed has not been challenged on the ground of threat and coercion. The settlement deeds have been unilaterally cancelled, which is not valid in the eye of law. Hence, it is his contention that unilateral cancellation is void abinitio. As long as the settlement deed is not avoided in the manner known to law by filing a suit within a period of three years, the first defendant cannot resist the suit merely on frivolous defence. In support of his contentions, he relied on the following judgments :

Latif Estate Line India Ltd., rep. by its Managing Director Vs. Hadeeja Ammal and two others and Habib Abdul Latif and another Vs. Syeda Aamina Raheem and another reported in 2011 [2] CTC 1

B.K.Rangachari & Others Vs. L.V.Mohan reported in 2015 -2 – L.W.163

D.V.Loganathan Vs. The Sub Registrar, O/o. The Sub Registrar, Pallavaram, Chennai – 600 044 and another reported in [2014] 3 CTC 113



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11. In the light of the above submissions, now the points that arise for consideration are :

1. Whether the settlement deed dated 31.08.2012 is a result of threat and coercion?
2. Whether the first defendant was unlawfully confined as alleged by him?
3. Whether the unilateral cancellation of the settlement is valid in the eye of law?
4. Whether the properties have been purchased out of contribution made by the first plaintiff?

12. Points 1 to 4 :

The relationship between the parties are not in dispute. It is also not disputed by both sides that after the marriage, the first plaintiff and the first defendant were employed in Kuwait and also in Qatar and they were earning decent salary. Their relationship was also cordial till 2012. Thereafter, there



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arose matrimonial dispute between the first plaintiff and the first defendant.

Though the first plaintiff would contend that she has also contributed substantial amount for the purchase of the property in the name of the first defendant. In this regard she had relied upon Ex.A.6. Though Ex.A.6 is of the year 2010, the fact that the parties are earning decent salary had not been disputed. In this regard, when D.W.1 was confronted with Ex.A.6, particularly with regard to the transfer of money to his account in Qatar and he has not denied Ex.A.6 specifically. The very fact that the amount has been transferred from the first plaintiff's account at Qatar has not been disputed in his evidence. In fact, he has feigned ignorance. Be that as it may. Whether the first plaintiff has made contribution for the purchase of the property in the name of the first defendant is irrelevant to decide the issue. What has to be now seen is whether the settlement executed by the first defendant is a result of threat or coercion and he was in unlawful confinement.

13. It is not disputed that the settlement deeds dated 31.08.2012 Ex.A.1 and Ex.A.2 are registered documents on the file of Joint Registrar – I, Salem. It is the contention of the first defendant that he was wrongfully confined in his



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father-in-law's house for 10 days and his phone had been snatched. Thereafter, he was forcibly taken to the Sub Registrar Office and the documents have been obtained. It is relevant to note that if really, the first defendant was wrongfully confined for more than 10 days, normally, relatives or friends would atleast inform the same to police. But the same has not been done in this case. Whereas, for the first time, after the documents came to be registered, a complaint has been given by the second defendant to the police, which is also marked as Ex.B.10. The very allegation in the complaint given on 31.08.2012 makes it clear that there is dispute between the husband and wife. Main grievance of the complaint in Ex.B10 that the first plaintiff had not handed over the salary to her husband and that when the husband came to India, the wife had not allowed the second defendant to meet his son, therefore, requested the police to ensure safety of his son. The very crux of the allegations made in the complaint indicate that the main grievance of the second defendant appears to be not allowing him to meet his son. Thereafter, it appears that the first defendant had come to the police station and joined his father later.

14. It is relevant to note that in the statement given before the police by



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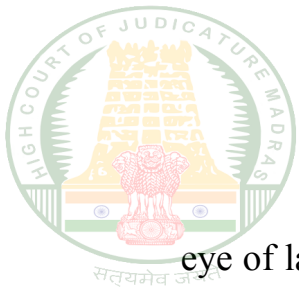
the first defendant, he had stated that he was kept in wrongful confinement for 10 days and the document has been obtained by coercion. It is also relevant to note that in the complaint given by the first defendant dated 31.08.2012 there is no allegation that he was kidnapped to various places, viz., Chennai or Salem in Innova car and he was food poisoned. Whereas, he had made a simple statement as he was kept in confinement. Whereas, he has introduced a new story in his 161 statement as if he was kidnapped in an Innova car and kept in an unauthorized place including Chennai and Salem. The alleged food poisoning is also spoken for the first time in his statement before police. If really, the first defendant was given poison or intoxicated by any drugs, he could not have gone to registration office. The documents have been registered before the registrar office while he was discharging his official duty. Nothing prevented the first defendant from informing the registrar about his non consent in executing the document. If a person was kept in confinement for 10 days and suddenly taken to the registrar office, the officials who are discharging their official duties would have noticed the behaviour of the parties, which has not been noticed any one. Further, the complaint has not been given immediately by the first defendant. Further Ex.A.1 and Ex.A.2, the settlement deeds have been cancelled



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on 05.09.2012. If really a person was unlawfully confined for several days, normal human conduct of the person would be to give a complaint immediately, which has not been done so. Whereas, the complaint was given by his father as referred above.

15. The main grievance of the father appears to be that he and his wife were not allowed to meet his son. Therefore, alleged threat pleaded by the first defendant is highly artificial and the same has not been substantiated through plausible evidence. The very evidence with regard to the alleged kidnap to several places have been introduced stage by stage. Therefore, this Court is unable to countenance the alleged kidnap and threat. Further the very conduct of cancelling the document after 5 days is also against normal human conduct. Merely because, the first defendant has unilaterally cancelled the documents, he cannot contend that the title reverted back to him arbitrarily. Once a gift has been validly executed, title passes immediately. There is no provision in law to revoke the gift except revocation is specifically reserved in the gift deed itself. The gift can be revoked only on the grounds as contemplated in Section 126 of Transfer of Property Act. Therefore, the unilateral cancellation is not valid in the



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eye of law. It is apt to point out the judgment of a full bench of this Court in the case of *Latif Estate Line India Ltd vs. Hadeeja Ammal and others* reported in 2011 (2) CTC 1 has held as follows:-

“ 58. It can also not be overlooked or ignored that a unilateral cancellation of a sale deed by registered instrument at the instance of the vendor only encourages fraud and is against public policy. But there are circumstances where a deed of cancellation presented by both the vendor and the purchaser for registration has to be accepted by the Registrar if other mandatory requirements are complied with. Hence, the vendor by the unilateral execution of the cancellation deed cannot annul a registered document duly executed by him as such an act of the vendor is opposed to public policy.

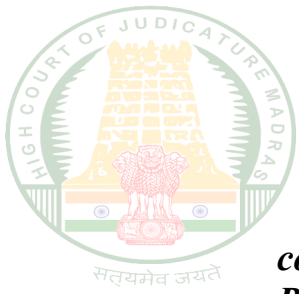
...

(i) A deed of cancellation of a sale unilaterally executed by the transferor does not create, assign, limit or extinguish any right, title or interest in the property and is of no effect. Such a document does not create any encumbrance in the property already transferred. Hence such a deed of cancellation cannot be accepted for registration.”

Emphasis supplied

16. Similarly, a full bench of this Court in the case of *Sasikala vs. Revenue Divisional Officer cum Sub Collector and another* made in W.P.(MD).Nos.6889 of 2020 etc., batch cases dated 02.09.2022 has held as follows:

“ 41.Regarding gift or settlement: With regard to unilateral cancellation of gift deed, which is not revocable and does not



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come under the purview of Section 126 of the Transfer of Property Act, the Registrar has no power to accept the deed of cancellation to nullify the registered settlement deed.

...

42. Section 126 of the Transfer of Property Act recognizes the power of revocation where the donor reserves a right to suspend or revoke the gift on happening of any specified event. However, the illustrations clarify that the revocation should be with the assent of the donee and it shall not be at the will of donor as a gift revocable at the mere Will of the donor is void. The Sub-registrar cannot decide whether there was consent for revocation outside the document. If the donor by himself reserves a right to revoke the gift at his Will without the assent by donee, the gift itself is void. Since we are dealing with unilateral cancellation, the power of registration of cancellation or revocation of gift deed cannot be left to the discretion or wisdom of registering authority on facts which are not available or discernible from the deed of gift. When the power of revocation is reserved under the document, it is permissible to the registering officer to accept the document revoking the gift for registration only in cases where the following conditions are satisfied;

(a) There must be an agreement between the donor and donee that on the happening of a specified event which does not depend on the Will of the donor the gift shall be suspended or revoked by the donor.

(b) Such agreement shall be mutual and expressive and seen from the document of gift.

(c) Cases which do not fall under Section 126 of Transfer of Property Act, unless the cancellation of Gift or Settlement is mutual, the registering authority shall not rely upon the self serving statements or recitals in the cancellation deed. For example questioning whether the gift deed was accepted or acted upon cannot be decided by the registering authority for the purpose of cancelling the registration of gift or settlement deed.

43. The donor must specifically reserves such right to



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suspend or revoke the gift deed with the consent of donee to attract Section 126 of the Transfer of Property Act. Unless the agreement is mutual, expressed in the recitals, the Registering Authority cannot accept the document for registration. However, the factual allegations with regard to the acceptance of gift or the issue where the gift was acted upon or not do not come under the purview of the Registering Officer. Hence, the Registering Officer is not excepted to accept the document unilaterally cancelling the gift deed, merely on the basis of the statement of the donor or the recitals in the document for cancellation.

44.From the discussions and conclusions we have reached above with reference to various provisions of Statutes and precedents, we reiterate the dictum of Hon-ble Supreme Court in Thota Ganga Laxmi and Ors.-vs-Government of Andhra Pradesh & Ors., reported in (2010) 15 SCC 207 and the Full Bench of this Court in Latif Estate Line India Ltd., case, reported in AIR 2011(Mad) 66 and inclined to follow the judgment of three member Bench of Hon'ble Supreme Court in Veena Singh-s case reported in (2022) 7 SCC 1 and the judgment of two member Bench of Hon'ble Supreme Court in Asset Reconstruction Company (India) Ltd., case, reported in 2022 SCC On-line SC 544 for the following propositions:

(a)A sale deed or a deed of conveyance other than testamentary dispositions which is executed and registered cannot be unilaterally cancelled.

(b)Such unilateral cancellation of sale deed or a deed of conveyance is wholly void and non est and does not operate to execute, assign, limit or extinguish any right, title or interest in the property.

(c)Such unilateral cancellation of sale deed or deed of conveyance cannot be accepted for registration.

...”

Emphasis supplied



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17. In view of the above, I do not find any merits in this appeal. The points are answered accordingly.

18. In the result, this Appeal Suit is dismissed and the judgment and decree of the trial Court in O.S.No.143 of 2013 dated 26.11.2019 is confirmed. Consequently, connected miscellaneous petition is closed.

29.04.2025

Index : Yes / No
Internet: Yes
Speaking/non speaking order

vrc/dhk

N. SATHISH KUMAR, J.

vrc/dhk

To,

1. The Principal District Judge, Salem
2. V.R.Section, High Court, Madras.

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