



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-11-2025

CORAM

THE HON'BLE DR.JUSTICE R.N.MANJULA

SA No. 19 of 2012 and

M.P.No.1 of 2012

1. S.RAJENDRAN(died)
S/o Late M.A.Subramaniam, Madaiyankuttai
Navapatty Village, Mettur Tk, Salem Dist.
2. S.Krishnammal
W/o Late M.A.Subramaniam, Madaiyankuttai
Navapatty Village, Mettur Tk, Salem Dist.
3. R. Suseela
W/o. Late. Rajendran at C/o. K.R. Sathiskumar,
D.No.421, Kattukottai, Rajapalayam, Kuppampatti
Post, Thuraiyur Tk, Trichy Dt.
4. R.Akilandeswari
D/o. late Rajendran, W/o. Ravivarma, At
Sankaranpalayam, Post, Paramthi, Namakkal
District.
5. S R. Mahesh
S/o. Late Rajendran, At Nattamangalam,



Madaiyankuttai Post, mettur Taluk, Salem Dt.

(A1 died, A3 to 5 are brought on record as lrs of the deceased A1 vide court order dated 23/09/2025 made in CMP.Nos.24200,24219,24220,24227,24230,24234,24252,24254 and 24257 of 2024 in S.A.No.19 of 2012))

..Appellant(s)

Vs

1. M.S.Balasubramaniam
S/o Late M.A.Samidurai Madaiyankuttai Navapatti
Village Mettur Tk Salem Dist.
2. K.RAMASAMY(died)
S/o Kandasamy Cauvery Cross Navapatti Village
Mettur Tk Salem Dist.
3. The Ponni Sugars
Rep By Its Managing Director, Pallipalayam
Tiruchengode Tk Namakkal Dist
4. K.R.RAVI(died)
S/o Ramsamy, Cauvery Cross, Navapatti Village
Mettur Tk Salem Dist.
5. M.Thirumurugan
S/o Muthusamy, Cauvery Cross, Navapatti Village
Mettur Tk Salem Dist
6. K.Easwari
W/o Kannan, Nedunjalai Nagar, Salem-5.
7. V.Muthulakshmi
W/o G.Venkatesan, Madaiyankuttai, Navapatti
Village, Mettur Tk Salem Dist.



8. K.Sathiya

W/o R.Kannan Sikkampatty, Muthampatty Post
Bommidi, Dharmapuri Dist.

9. S.Saraswathi

W/o Late Ma Samidurai 9to14 At Madaiyankuttai
Navapatti Village Mettur Tk Salem Dist

10.S.Saroja

W/o Late M.A.Samidurai

11.K.Chamundeswari

W/o R.Kongarasan D/o Late M.A.Samidurai

12.G.Bhuvaneswari

W/o N.Gopal D/o Late M.A.Samidurai

13.S.Uma Maheswari

W/o M.Sivasakthi Velan

14.S/suganeswari

D/o Late M.A.Samidurai

15.PALANIAMMAL

W/o Late K.Muthusamy, At Cauvery Cross Near
Muniappan Koil Navapatti Village Mettur Tk Salem
Dist

16.SENTHILKUMAR

S/o Late Muthusamy, At Cauvery Cross Near
Muniappan Koil Navapatti Village Mettur Tk Salem
Dist

17.NITHIYA

W/o Saravanan, At Cauvery Cross Near Muniappan
Koil Navapatti Village Mettur Tk Salem Dist



18.A.S.Selvaraj

S/o Late M.A.Subramaniam Rajiv Colony

Alagapuram Salem-16

19.Sundara Moorthy

S/o. Late K.Ramasamy, At Permanent Residents at

No.109/5/11C, Bolpettai West, Sangarapperi

Village, Melur, Tuticorin TK and DT

20.SARASWATHI

W/o. Late K.Ramasamy, Mother of Late Ravi,

Permanent residents at No.109/5/11C, Bolpettai

West, Sangarapperi Village, melur Tuticorin Tk and

Dt

(R2 died, R19 and 20 are brought on record as lrs of
the deceased R2 vide court order dated 23/09/2025
made in

CMP.Nos.24200,24219,24220,24227,24230,24234,2
4252,24254 and 24257 of 2024 in S.A.No.19 of
2012

21.HEMAVATHI

W/o. late Ravi, Permanent residents at

No.109/5/11C, Bolpettai West, Sangarapperi

Village, Melur, Tuticorin Tk and Dt

22.JAGADEESWARAN

S/o. late Ravi, Permanent residents at No.109/5/11C,

Bolpettai West, Sangarapperi Village, Melur,

Tuticorin Tk and Dt

23.SRIDHARSHINI

D/o. late Ravi, Permanent residents at No.109/5/11C,

Bolpettai West, Sangarapperi Village, Melur,

Tuticorin Tk and Dt



24.SARASWATHI

W/o. late K.Ramasamy, W/o.Late.Ravi, Permanent residents at No.109/5/11C, Bolpettai West, Sangarapperi Village, Melur, Tuticorin Tk and Dt.

(R4 died, R21 to 24 are brought on record as lrs of the deceased R4 vide court order dated 23/09/2025 made in CMP.Nos.24200,24219,24220,24227,24230,24234,24252,24254 and 24257 of 2024 in S.A.No.19 of 2012)

..Respondent(s)

PRAYER : Appeal filed under Section 100 of C.P.C., against the judgment and decree of the learned Additional District Judge cum Fast Track Court Judge I, Salem made in A.S.No.122 of 2002 dated 27.04.2011 confirming the judgment and decree of the learned Subordinate Judge, Mettur, made in O.S.No.377 of 1999 dated 30.10.2001.

For Appellants : Mr.J.Ramakrishnan

For Respondents : Mr.P.R.Balasubramanian, for R1 & R5

Mr.N.Kathiresan, for R15 to R17

Mr.I.Ibrar Md. Abdullah for R18

JUDGMENT

This Second Appeal has been filed against the judgment and decree of the learned Additional District Judge cum Fast Track Court Judge I, Salem made in A.S.No.122 of 2002 dated 27.04.2011 confirming the judgment and decree of



2. The appellants are the plaintiffs 2 and 8. The Trial Court had partly decreed the suit by granting the relief only in respect of 'B' schedule property and dismissed the suit in respect of 'A' schedule property. The First Appeal preferred by the plaintiffs 2, 3, 7 and 8 got dismissed by confirming the judgment of the Trial Court. Aggrieved over that, the plaintiffs 2 & 8 have filed this Second Appeal. During the pendency of the Second Appeal, the second plaintiff / first appellant died and his legal heirs are impleaded as appellants 3 to 5.

3. The short facts pleaded in the plaint are as follows:

The first plaintiff and the first defendant are the sons of one Arumuga Goundar. The second defendant is the son of the first defendant. Arumuga Goundar, first defendant and the first plaintiff constituted an undivided Hindu family for which Arumuga Goundar was the Karta. The properties were ancestral joint family properties and acquired by Arumuga Goundar in a family partition entered into between himself and his brother Chellaiya Goundar



through a registered partition deed dated 24.08.1945. The first defendant and the first plaintiff wanted to establish their own trading activities and earned individual income. The brothers viz., the first plaintiff and the first defendant had executed a mutual agreement dated 06.09.1950 to treat certain business / trade activities as their own individual business and the business consequences shall not have any impact on the joint family properties.

3.1. Arumuga Goundar had purchased some properties in the name of his wife Seerangammal under two registered sale deeds dated 02.05.1955 and 27.03.1956. Seerangammal had voluntarily relinquished her interest in the properties covered under sale deeds dated 02.05.1955 and 27.03.1956 in favour of a joint family and the properties have acquired the character of joint family properties, entitling herself only to right of maintenance. So when the first plaintiff applied for issuance of separate patta for the properties allotted to him in the family partition, the first defendant made objection and thereafter, the revenue authorities had directed the parties to appear before the Civil Court to resolve the issue. The first plaintiff filed a suit in O.S.No.94 of 1987 on the file of Sub-Ordinate Judge Court, Sankari, against the first defendant for seeking the



relief of declaration of title to the properties fell to his share in the said family partition and for permanent injunction. In the said suit, the plaintiff has got an *exparte* decree. In order to grab the whole of the 'A' schedule property to the benefit of the first defendant, the first defendant has created a Will dated 16.05.1985 purported to have been executed by mother Seerangammal in favour of the second defendant. The said document is not a genuine one. Even if that has got the mark of Seerangammal, it ought to have been brought into existence only by coercion or undue influence.

3.2. Even if it is considered that 'A' schedule property is belonged to Seerangammal, Seerangammal had executed her last Will on 10.09.1988 by bequeathing the property in favour of the first plaintiff and the first defendant. So, according to her last Will, both the first plaintiff and first defendant are entitled to equal share in 'A' schedule property also. The transaction made in respect of A schedule property by any of the defendants during the pendency of the suit will not bind the interest of the plaintiffs. So far as 'B' schedule property is concerned, it is ancestral property and hence, the first defendant cannot have any objection for the plaintiff's $\frac{1}{2}$ share in the same. As the defendants are not



amenable for partition, the plaintiffs have filed a suit for partition along with past and future mesne profits.

4. The averments made in the written statement filed by the first defendant in brief:

It is true that the first plaintiff and the first defendant started their own separate business. The properties purchased in the name of Seerangammal through a sale deed dated 02.05.1955 and 27.03.1956 are separate properties purchased through her separate funds and over which, she has absolute right. She has not relinquished her right in the suit 'A' schedule property in favour of joint family and interest in the immovable property cannot be relinquished orally. Seerangammal had executed a registered Will in respect of 'A' schedule properties in favour of the second defendant. Seerangammal did not execute any Will on 10.09.1988 as alleged by the first plaintiff. Seerangammal fell down and she was ill and bedridden during the year 1986 and she died on 22.09.1988 and she was residing with the first defendant in his house. While she was alone in the house, the first plaintiff and his son and some others came to his house and forcibly took the thumb impression of the Seerangammal and for which, a



complaint has already been given. So, the Will dated 10.09.1988 is a fabricated one. 'B' schedule properties were acquired by the Government for the purpose of constructing dam. As some portion of the above properties were found to be not immediately required by the Government, the occupiers were allowed to enjoy the property as permissive occupiers and the Government has issued B memo to the occupiers. So, the first plaintiff cannot claim any right on the basis of the patta in respect of 'B' schedule property. 'A' schedule properties were absolute properties of the second defendant by virtue of last Will dated 16.05.1985. Hence, the plaintiffs are not entitled to the relief as prayed.

5. The fourth defendant has submitted a written statement stating that he is an unnecessary party in the suit as no allegations are made against him.

6. The fifth and sixth defendants are subsequent purchasers and have filed a written statement stating that they have lawful possession of the same as they have purchased 'A' schedule property from the second defendant by bonafidely believing his ownership.



7. As stated already, the Trial Court has decreed the suit as prayed in respect of 'B' schedule property and dismissed the suit in respect of 'A' schedule property. The First Appeal preferred by the plaintiffs 2, 3, 7 and 8 also got dismissed by confirming the judgment and decree of the Trial Court. Aggrieved over the same, the plaintiffs 2 and 8 have filed this Second Appeal by raising the following substantial questions of law:

“a) In the absence of pleadings and valid proof regarding the independent source of income of mother Seerangayammal, whether the judgment and decree of the Courts below that the suit A schedule properties covered under Exs.A18 and A19 are self acquired properties of mother?

b) Whether in law, the Ex.A11, which has been found to be a valid document, itself is not sufficient enough to rebut the legal presumption if any, to the effect that the suit A schedule properties are dealt with as joint family properties and hence, the judgment and decree of the Courts below in non suiting the plaintiffs in respect of suit A schedule properties is not perverse?

c) Having regard to scope of Sections 68 of Evidence Act and Section 63 of Indian Succession Act when the defendants



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miserably failed to prove the due execution and genuineness of Ex.B8 Will and more particularly when the Ex.B8 is surrounded by suspicious circumstances, whether the judgment and decree of the Courts below in upholding the Ex.B8 Will is sustainable?

d) Whether the judgment and decree of the Courts below in discarding Ex.A20 Will is sustainable in law when the execution and genuineness of the same has been proved through P.W.1 to P.W.3 beyond any suspicion? ”

8. So far as 'B' schedule property is concerned, even though the first defendant claims that it is the property belonged to the Government, he did not file any cross appeal either before the First Appellate Court or before this Court. So, the preliminary decree granted in favour of the plaintiffs in respect of 'B' schedule property has attained finality and that will bind the parties to the suit. So the dispute is only with regard to 'A' schedule property.

9. The fact that 'A' schedule property was purchased in the name of the wife of Arumuga Goundar who is the mother of the first plaintiff and the first defendant through two registered sale deeds dated 02.05.1955 and 27.03.1956 was not denied. The contention of the appellants is that even though the suit



property was purchased in the name of Seerangammal, that has been considered as joint family property and Seerangammal had relinquished her right in respect of the above property and whatever right she had in the said property can only be for the purpose of her maintenance. In other words, it is claimed that the right of Seerangammal over the suit property is only a limited interest. The Trial Court did not get convinced with the submission so made by the plaintiffs and the Trial Court has got convinced with the self acquired nature of 'A' schedule property by Seerangammal and the Will executed on 16.05.1985 in favour of the second defendant. Even the First Appellate Court did not have any difficulty to accept the conclusion that 'A' schedule property is the self acquired property of the mother Seerangammal.

10. The learned counsel for the appellants submitted that Seerangammal did not have any source of income to purchase 'A' schedule property covered under Exs.A18 and A19. Hence, the Courts ought to have considered that as the joint family property. He further submitted that the alleged Will dated 16.05.1985 which has been marked as Ex.B8 is not true and it has not been proved to be valid under Section 68 of the Evidence Act and Section 65 of the



Indian Succession Act. It is further submitted that the appellants have proved the latest Will which was marked as Ex.A20. But the Courts below had ignored the same.

11. The appellants appear to have taken a confusing stand as to the character of 'A' schedule property. At one stretch, they have submitted that those properties are joint family properties though it has been purchased in the name of Seerangammal. At another stretch, they have submitted that even if those properties are considered as self-acquired properties of Seerangammal, she had executed a Will dated 10.09.1988 which was marked as Ex.A20, by bequeathing the 'A' schedule property equally between the first defendant and the first plaintiff.

12. Whenever a transaction concerning the property is reduced into writing and if the party claims any right in respect of the subject matter of the said instrument, he has got an obligation to place those written documents itself as evidence. Once the said document is produced, then the initial presumption would be only in favour of the person who claims title through the said document. Since the defendants have produced the original title deed in the



name of the mother as Exhibit.B6 and B7, it is for the appellants to disprove the same. As per Section 92 of the Evidence Act, when the document is produced in accordance with the Section 21 with regard to any dispossession of property, that would exclude oral evidence only under certain exceptional circumstances found in the proviso to Section 92 of the Evidence Act.

13. It is not the contention of the appellants that any of the proviso as shown under Section 92 of the Evidence Act is present in order to enable them to let any oral evidence to refute Exhibit.B6 and B7. In fact, the appellants did not deny the genuineness and validity of the above said documents. But, their only claim is that even though the properties have been purchased in the name of Seerangammal, those properties have not been considered as a self-acquired property of Seerangammal, because she did not have income of her own to purchase the same.

14. The first plaintiff's father Arumuga Goundar himself did not said anything as to the resources for purchase of the properties in any of his transactions or such recitals were also not found to be present in Exs.B6 and B7. So, the first plaintiff who has got a burden to prove that his mother has



relinquished her rights in respect of 'A' schedule property did not adduce any evidence to that effect. Because, he himself has stated at some point of time that the first plaintiff and the first defendant had started an individual business and also executed a mutual agreement saying that the consequences of their respective business will not have any impact on the joint family properties. In such case, it is difficult to presume that the properties purchased in the name of the mother had remained as joint family property.

15. Even for the sake of argument, if the sale proceeds for those purchases have been supplied by Arumuga Goundar, it would be only out of his own willingness and without any reservation. So, the property which has been purchased in the name of Seerangammal cannot be considered as joint family property in the absence of any evidence to prove the same. Even for the sake of argument, if it is considered that the mother Seerangammal had reserved only a limited interest in the suit 'A' schedule property even when it is stood in her name, such properties allotted to Hindu woman who has limited estate for the purpose of maintenance, would blossom into her absolute property after coming into force of Hindu Succession Act, 1956.



16. But in the instant case, 'A' schedule property has been purchased in the name of Seerangammal herself and hence, even without seeking any recourse to Section 14(1) of the Hindu Succession Act, 1956, Seerangammal has got absolute interest over the suit 'A' schedule property. In fact, the appellants themselves have claimed that Seerangammal has written a Will dated 10.09.1988 and bequeathed the suit property in favour of the first plaintiff and the first defendant. So, it is seen that the appellants appears to be blowing hot and cold in taking mutually contradictory pleas. As the title in respect of 'A' schedule property has been proved through Exs.B6 and B7 which are sale deeds, it is not difficult to presume that she is the absolute owner of the same.

17. The contradictory pleas made by the appellants as regards the character of 'A' schedule property has not been proved by them. Now, coming to the question of the Will executed by Seerangammal in favour of the second defendant who is the son of the first defendant, the first defendant claims that Seerangammal had executed a Will in favour of his son, the second defendant on 16.05.1985. However, the first plaintiff has claimed that Seerangammal has executed a last Will on 10.09.1988. The Trial Court has dealt the proof of the



Will basing upon the evidence available on record. The attestor of the Will has been examined to prove the Will which was marked as Ex.B8. Ex.B8 is the registered Will and Ex.A20 is an unregistered Will. The Trial Court has dealt about the validity and the manner of proof of Ex.B8 Will in accordance with Section 68 of the Evidence Act and Section 63 of the Indian Succession Act and had rightly arrived at a conclusion that the Will of Seerangammal which has been marked as Ex.B8 alone is a genuine Will.

18. When the first defendant was able to prove the genuineness and validity of Ex.B8 Will dated 16.05.1985, the appellants failed to prove the other Will which was marked ad Ex.A20 dated 10.09.1988. After the demise of Seerangammal, her Will dated 16.05.1985 which was marked as Ex.B8 came into force and accordingly, the first defendant's son the second defendant had acquired the same. As the mother Seerangammal has not died intestate and she had made a testamentary dispossession in respect of 'A' schedule property, the first plaintiff could not have any right over the same.

19. As both the Trial Court and the First Appellate Court had rightly dealt the materials and the position of law surrounding the proof of the materials, I do



not find any question of law much less the substantial question of law arises for consideration as claimed by the appellants.

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20. In the result, this Second Appeal is **rejected**. Consequently, connected miscellaneous petition is closed.

12-11-2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

GSK



To

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