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A.S. No. 85 of 2018

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

RESERVED ON : 15.10.2025

PRONOUNCED ON : 14.11.2025

CORAM

**THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

A.S. No. 85 of 2018

1.Boovaragan (major)

2. Muthukumaran (major)

... Appellants

Minors 1 & 2 are represented by  
their mother and guardian Mahalakshmi  
A1 & A2 are declared as Major and discharge  
the guardianship (mother of the A1 & A2) of  
the appellants vide Court order dated 11.06.2025  
made in CMP.No.7801 of 2025 & 7802 of 2025  
in A.S.No.85 of 2018.

Vs.

1. Veeramuthu

2. Rajendiran

...Respondents

PRAYER : Appeal Suit filed under Section 96 of Civil Procedure Code to set aside the judgment and decree dated 30.01.2015 in O.S.No.203 of 2010 on the file of Principal District Court, Cuddalore.



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For Appellants : Mr.P.Mani  
For Respondents : No appearance for R1  
Mr.Ashok Kumar  
for Mr.D.Baskar for R2

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

Heard.

2. This appeal is directed against the judgment and decree dated 30.01.2015 passed by the learned Principal District Judge, Cuddalore, in O.S. No. 203 of 2010.

3. For the sake of convenience, the parties will be referred to in the same rank as they stood in the Trial Court.

4. The plaintiffs' case, in brief, is that the suit property, along with other ancestral properties, originally belonged to one Venkatachala Padayachi, who had four sons - (1) Muthaiyan, (2) Iyyanperumal, (3) Ezhumalai, and (4) Rajamanickam, among whom an oral partition of their father's properties was



5. Iyyanperumal, the second son, had three sons - (1) Kuppusamy, (2) Veeramuthu, and (3) Rajendran. **The plaintiffs are the minor (since major) sons of Veeramuthu, the first defendant and the second defendant is the brother of the first defendant.**

6. During his lifetime, Iyyanperumal executed a registered partition deed dated 10.11.1998, partitioning the ancestral properties among his three sons and allotting the C Schedule suit properties to the first defendant. Thereafter, at the instance of the first defendant, Iyyanperumal executed two settlement deeds dated 01.09.2004 and 01.12.2005 in favour of the first defendant, in respect of the same C Schedule properties.

7. The plaintiffs claim entitlement to a two-thirds share in the suit properties, leaving one-third to their father (the first defendant). They allege that their father was addicted to alcohol and illicit relationships and had incurred heavy debts; when they sought partition in October 2010, he refused. They further allege that, to satisfy his debts, he executed a sale deed dated



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10.10.2005 in favour of his brother (the second defendant), conveying a portion of item 2 measuring 0.70 cents out of 1 acre 44 cents in S.No.353/4. The plaintiffs contend the sale was neither for family benefit nor necessity, and, being minors at the time, they seek (i) partition of their 2/3 share and (ii) a declaration that the said sale deed is null and void.

8. The first defendant, in his written statement, admits the relationship and ancestral lineage. He avers that Venkatachala Padayachi executed a partition deed dated 11.09.1952 dividing his properties among his four sons; thereafter, Rajamanickam, the brother of Iyyanperumal, sold his share to Iyyanperumal on 13.08.1964.

9. Subsequently, Iyyanperumal effected a partition among his three sons by a registered deed dated 10.11.1998, allotting the suit properties to the first defendant. Despite the partition, the properties continued to be enjoyed jointly, whereupon Iyyanperumal executed a settlement deed dated 01.09.2004 in favour of the first defendant.

10. The 1<sup>st</sup> defendant further states that he went abroad in search of



employment, returned jobless, and underwent kidney surgery; owing to financial hardship he borrowed loans. When pressed by creditors, he borrowed Rs. 45,000/- from the second defendant, who agreed to lend only on the security of a portion of the suit property; accordingly, by sale deed dated 10.10.2005, 0.70 cents was conveyed. On the same day, the second defendant agreed to reconvey the property if Rs. 2,22,000/- was repaid within two years, for which a receipt was executed. When the first defendant later expressed readiness to repurchase, the second defendant evaded; a legal notice dated 06.03.2009 was issued by the first defendant which was replied to on 09.03.2009. Thereafter, the first defendant lodged a criminal complaint and objected to mutation of patta. He claims readiness to repay Rs. 2,22,000/- to the second defendant for reconveyance and is agreeable to partition with the plaintiffs.

11. The second defendant, in his written statement, accepts the relationship and derivation of title; contends that the partition deed dated 05.04.1956 was unregistered; states that Iyyanperumal executed a partition deed on 10.11.1998 with his three sons under which the C Schedule properties were allotted to the first defendant; that, at the first defendant's instance, the



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10.11.1998 deed was revoked by a revocation deed dated 31.08.2004; and that, thereafter, Iyyanperumal executed a settlement deed dated 01.09.2004 in favour of his three sons, again allotting the same C Schedule properties to the first defendant. He further avers that the first defendant, being indebted, sold 0.70 cents from Item 2 for valid consideration of Rs. 1,38,250/-, denies that the sale was nominal or for Rs. 45,000/-, and alleges that the present suit is collusive between the plaintiffs and the first defendant.

12. The trial court decreed the suit in part, granting suit prayers (i), (ii), (iii), **and (v)**, i.e., for partition, permanent injunction and costs, but rejected the prayer for a declaration that the sale deed dated 10.10.2005 is null and void. The plaintiffs have preferred this appeal limited to the denial of declaration. The defendants have not filed any cross-appeal or independent appeal challenging the other findings.

**13. Point for Determination in this appeal is** whether the sale deed dated 10.10.2005 executed by the first defendant in favour of the second defendant in respect of 0.70 cents in Item 2 of the suit property is void?



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14. There is no controversy inter se the parties regarding the relationship among the parties or the ancestral character of the properties; the properties are ancestral Hindu joint family properties in which the plaintiffs have a right by birth.

15. The second defendant's contention that the properties became the first defendant's self-acquisitions by virtue of the settlement deed is untenable. A settlement executed by the father, Iyyamperumal, in favour of his sons does not, by itself, efface the ancestral character of the properties. The label or nomenclature of the instrument is not determinative of its legal effect; a Hindu joint family karta cannot, by styling a document as a "settlement," unilaterally divest coparceners of their rights.

16. Accordingly, it is confirmed that the suit properties are ancestral, with the plaintiffs together holding a  $\frac{2}{3}$  share and the first defendant to the remaining  $\frac{1}{3}$  share.

17. The plaintiffs alleged that the first defendant sold the property to fund a wayward lifestyle, but no evidence supports that claim. On the contrary,



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the first defendant admits he was indebted on account of foreign travel and medical expenses. Under Mitakshara Hindu law, a karta's power to alienate joint family property is confined to cases of legal necessity, benefit of the estate, or the discharge of indispensable duties; the burden of proof lies on the purchaser to establish that the alienation was for such necessity.

18. The trial court held that the sale deed executed by the first defendant in favour of the second defendant was bona fide and for valid consideration, and as such he is entitled for a portion of the item of property i.e., 70 cents on equity.

19. The sale deed executed by the first defendant cannot be held void; it is voidable at the instance of the coparceners only to the extent of their shares and remains valid to the extent of the father's  $\frac{1}{3}$  share.

20. It is well settled that the manager of a Hindu joint family is competent to alienate joint family property for family necessity or for the benefit of the estate, and such an alienation binds not only the manager's share but also the shares of the other coparceners. Though a father-manager enjoys



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certain special privileges, the manager's power to effect such alienations of joint family property in the contingencies recognized by law is coextensive, which would be binding on the other coparceners as well in certain contingencies; an alienation that does not meet this standard of family necessity is not void but only voidable. Accordingly, the trial court's rejection of the prayer for a declaration that the sale is null and void is affirmed.

21. However, the trial court's observation directing allotment of a "0.70 share" to the second defendant requires modification. As the precise metes and bounds cannot presently be determined, the second defendant shall, in the final decree proceedings, be entitled to have carved out of the first defendant's 1/3 share such portion as corresponds to the property conveyed under the sale deed dated 10.10.2005.

22. While passing the final decree, the trial court shall ascertain and allot to the second defendant an appropriate extent and corresponding value, having due regard to soil value and other relevant factors.

**23. In the result,**

a) The sale deed dated 10.10.2005 executed by the first defendant in



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favour of the second defendant is valid only to the extent of the first defendant's one-third share.

- b) It is not binding on the plaintiffs' two-third share.
- c) The second defendant shall be entitled to seek allotment in the final decree proceedings corresponding to the share purchased by him out of the first defendant's portion.
- d) With this modification, the appeal is dismissed.
- e) No order as to costs. Connected Civil Miscellaneous Petitions, if any, are closed.

14.11.2025

*dpq*

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

1. The Principal District Court  
Cuddalore.

2. The Section Officer,

VR Section,  
High Court of Madras,  
Chennai

**DR. A.D. MARIA CLETE, J**



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