



WEB COPY

A.No.2069 of.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 05.06.2025	PRONOUNCED ON 23.07.2025
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CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A.No.2069 of 2025
& O.A.No.193 of 2025
in
C.S.No.42 of 2025

Ms.Salem Jayakar Uma ... Applicant/Plaintiff in both Applns.

vs.

Mr.S.J.Govardhan ... Respondent/ Defendant in both Applns.,

For Applicant : Mr.K.V.Sundararajan

For Respondent : Mr.N.V.N.Margandyan

COMMON ORDER

This Application in A.No.2069 of 2025 had been filed to permit the applicant to amend the plaint as mentioned schedule of amendment.

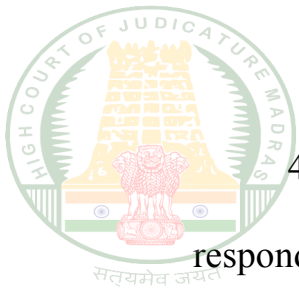
2.The Application in O.A.No.193 of 2025 had been filed to grant ad interim injunction restraining the respondent/defendant, his men, agent or anybody claiming through, and or on behalf of them respondent/defendant for



alienating, leasing mortgaging or in any other manner dealing with the applicants $\frac{1}{2}$ share of the schedule mentioned property.

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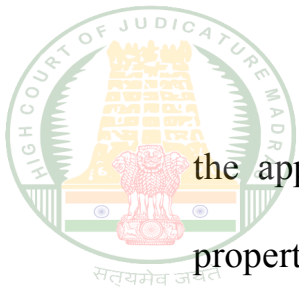
3. The learned counsel appearing for the applicant would submit that the property originally belongs to a Hindu undivided family of which the father of the petitioner was allotted shares and was held by him. Since the said property is an ancestral property which came into the hands of the father of the parties, on the birth of the parties, they have become Coparceners in the property. According to the applicant, the father had died intestate and the applicant gets the share in the property. He would submit that on the written statement being filed, it had come to the knowledge of the applicant that the father had executed a settlement deed in favour of the defendant and hence, he had sought for amendment of the plaint to challenge the said settlement deed. He would submit that the father did not have absolute interest in the property, since on the birth of the applicant, the applicant becomes a Coparceners in the property and therefore, the settlement executed by the father is a void settlement. Therefore, he seeks amendment of the plaint to include the relief of declaration.



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4.He would further submit that from the statement made by the respondent, the respondent claims the property to be his own on the strength of the settlement deed and if he is allowed to deal with the property, it would definitely affect the interest of the applicant and therefore, he would seek injunction. In support of his contentions with regard to the coparcenary rights, he had relied upon various judgments in the cases of **Rohit Chauhan vs. Surinder Singh & Ors.**, reported in (2013) 9 SCC 419; **M.Krishnamoorthy vs. K.Pondeepankar & Ors.**, reported in 2017 (3) CTC 170; **S.Sampoornam vs. C.K.Shanmugam & Ors** made in S.A.No.729 of 2016, dated 05.04.2022; and **Vasumathi & Anr., vs. R.Vasudevan & Ors.**, made in S.A.No.527 of 2022, dated 08.11.2024.

5. Countering his arguments, the learned counsel appearing for the respondent would contend that the concept of Joint Hindu undivided family and a Coparcenary right in the same cannot be made applicable to the facts of this case. He would submit that the property was originally, part of a Hindu undivided family, which had entered into a partition under which the Suit Schedule Property had come into the hands of the father of the parties. After the partition of the assets, the family ceases to be Joint Hindu Coparcenary family and the property vests absolutely in their father. Therefore, the claim of



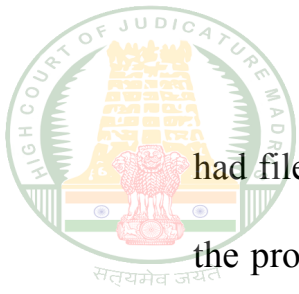
the applicant that the property continued to be a Hindu undivided family property and the applicant has a Coparcenary right in the property, is a fallacy.

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Since the father of the parties had executed a settlement deed absolutely in favour of the respondent, the respondent is entitled to deal with the property. That apart, he would submit that since the father had an absolute right in the property, there is no legal impediment for settling the property in favour of the respondent and there was no necessity to allow the amendment as prayed for. In support of his submissions, he had relied upon various judgments particularly reported in *Vineeta Sharma vs. Rakesh Sharma & Ors.*, reported in (2020) 9 SCC 1; *Life Insurance Corporation of India vs. Sanjeev Builders Pvt Ltd., & Anr.*, reported in (2022) 16 SCC 1; and *Angadi Chandranna vs. Shankar & Ors.*, reported in 2025 SCC Online SC 877. Therefore, he would submit that the Suit itself is without any cause of action to the plaintiff and the plaint itself should be rejected.

6. I have considered the rival submissions made by the learned counsel appearing on either side and perused the materials placed on record.

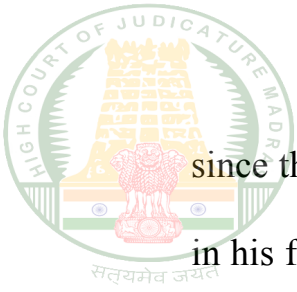
7. Admittedly, there is no dispute with regard to the relationship between the parties. The applicant had initially filed a Suit for partition in which a counter along with application for injunction had been filed. The respondent



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had filed a counter and a written statement claiming an independent right over the property on the strength of a settlement deed executed by the father in his favour. The applicant would claim that the father did not have an independent right, as the property is an ancestral property which was in the hands of the father of which the applicant would have become a Coparcener, in view of the amendment to the Hindu Succession Act in the year 2005. The settlement deed had come in to be in the year 2015. Various judgments have been relied upon by the respective counsels on the right of the father to execute the settlement deed. This Court is of the view that if any findings are being given on the arguments made by the learned counsels appearing on either side, it would be giving a finding in the suit before the trial. It would only be proper for this Court to give a finding on those aspects as contended by the learned counsels only after recording of evidence, but however since the respondent claims the property to be his own on the strength of the settlement and the applicant seeks to challenge the settlement on various grounds which could only be decided at the time of trial. Therefore, this Court is of the view that the amendment prayed for can be entertained.

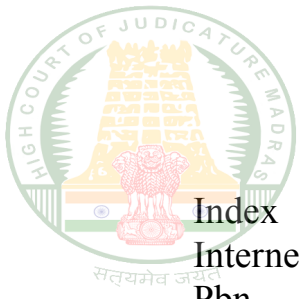
8. This Court had earlier granted an order of injunction restraining the respondent from dealing with the property, it is the claim of the respondent that



since the father who had absolute right in the property had settled the property in his favour, such injunction ought to be vacated and not be continued against the respondent. On the contrary, the applicant/plaintiff had claimed that the father did not have any absolute right to execute a settlement deed in favour of the respondent. Since I have already held that these issues can only be decided at the end of the trial, I am of the view that the parties should be directed to maintain status quo in respect of the Suit Schedule Properties.

9. In fine, Application in A.No.2069 of 2025 is allowed and the applicant/plaintiff shall carry out necessary amendment within a period of two weeks from the date of receipt of a copy of this order. The respondent/defendant shall file any additional written statement on the amended plaint within a period of two weeks from the date of service of the amended plaint.

10. Original Application in O.A.No.193 of 2025, the parties shall maintain *status-quo* as on date, till the disposal of the Suit. However, there shall be no order as to costs.



Index : Yes / No

Internet : Yes / No

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K.KUMARESH BABU.J.,

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Pre-Delivery Order in
A.No.2069 of 2025 &
O.A.No.193 of 2025
in
C.S.No.42 of 2025

23.07.2025