



S.A.No.418 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.01.2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

S.A.No.418 of 2016
and
C.M.P.Nos.7369 &7370 of 2016

Selvalakshmi

... Appellant

Vs.

1. Manonmani
2. Narmada Devi
3. Suguna
4. Jayanthi
5. Geetha
6. L.Jayakumar
7. L.Jeevakumar
8. Kaigal L.Balakumar
9. L.Devakumar
10. N.Vijayalakshmi

... Respondents

PRAYER: Second Appeal filed under Section 100 of C.P.C., to set aside the Judgment and decree passed in A.S.No.82 of 2015 dated 08.02.2016 on the file of the III Additional District Judge, Salem reversing the Judgment and decree in O.S.No.397 of 2000 dated 22.11.2013 on the file of the I Additional Subordinate Judge, Salem.

For Appellant : Mr.S.Parthasarathy, Senior Advocate



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For M/s.N.Kavitha Rameshwar

For R1 to R5 : Mrs.Hema Sampath, Senior Advocate
For M/s.R.Meenal

For R6 to R8 : Notice Dispensed with

For R9 & R10 : No appearance

JUDGMENT

The above second appeal arises against the Judgement and decree passed in [A.S.No.82](#) of 2015 on the file of the III Additional District Judge, Salem, reversing the Judgment and decree in [O.S.No.397](#) of 2000 on the file of the I Additional Subordinate Judge, Salem.

2. The appellant herein is the 4th defendant in the suit and daughter of the 1st defendant. The plaintiffs are the legal heir of one A.K.Jaganathan who is the brother of the 1st defendant. Based upon the settlement deed executed by her father/1st defendant, the appellant/4th defendant has preferred this second appeal.

3. Before the trial Court, the plaintiffs filed the suit in [O.S.No.397](#) of 2000 on the file of 1st Additional Sub Court, Salem, for the relief of declaration and recovery of possession and also damages in respect of the suit properties. More

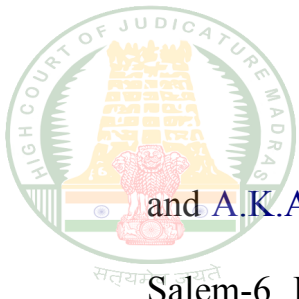
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particularly, the first floor of the building bearing door No.108, Trichy main road, Gugai, Salem claiming that the suit properties belongs to the plaintiffs as per the Will executed by the father of the 1st plaintiff dated 25.03.1994. Further, the 1st defendant who is the brother of the 1st plaintiff's husband was in permissive possession of the suit property and taking advantage, the 1st defendant had obtained a signature in blank papers from the plaintiffs and created the fake documents and executed the Will in favour of his wife and daughters. After came to the knowledge of the plaintiffs, the permission has been revoked and therefore, the 1st defendant is not entitled to continue the possession of the same and hence, the plaintiffs have filed the suit.

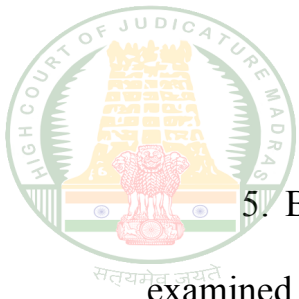
4. The 1st defendant contested the suit and filed a written statement stating that the 1st defendant owns and possesses the suit property. In respect of this property, the 1st defendant has filed a suit in [O.S.No.656](#) of 1997 on the file of the Sub Court, Salem, for declaration and injunction against the plaintiffs and the defendants 2 and 3. Further, originally, one Thanjai Ammal owned and possessed the property bearing door number 106 to 110 Trichy Main Road, Gugai, Salem as per the sale deed dated 29.01.1961 and she executed a settlement deed dated 10.06.1968 in favour of her three sons, namely, [A.K.Loganathan](#), [A.K.Jaganathan](#)



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and [A.K.Arumugam](#) in respect of door numbers 108, Trichy Main Road, Gugai,

Salem-6. Further, on 20.10.1971, [A.K.Loganathan](#) and [A.K.Arumugam](#) executed a partition release deed in favour of [A.K.Jaganathan](#), but this partition release deed was not intended to be acted upon nor was it acted upon, as could be seen from the subsequent conduct of the parties, it was sham and nominal document. Further, the three brothers borrowed a loan from Ponnusamy on various dates and constructed the house. After closure of the loan, as per the family arrangements, the property was allotted to the 1st defendant. Therefore, the said Ponnusamy executed a Will in favour of the 1st defendant in the year 1988. From onwards, the 1st defendant was enjoying the suit property and absolute owner and thereafter, he transferred the property in favour of his daughter/4th defendant. He further contended that as per the Panchayat family arrangements made in respect of the suit property after demise of said A.K.Jaganathan in the year 1977 and said panchayat held among the family members to divide the properties. Further, the suit properties was allotted to the 1st defendant and in that memorandum, the said Ponnusamy was also one of the attestor and the plaintiffs also one of the signatory in that panchayat arrangements. Suppressing all these facts, the plaintiffs filed the suit. Hence, he prayed for dismissal of the suit.



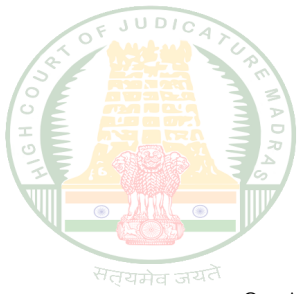
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5. Before the trial Court, on the side of the plaintiffs, 2 witnesses were examined and 12 documents Exs.A1 to A12 were marked and on the side of the defendants, 3 witnesses were examined and 13 documents, Exs.B1 to Ex.B13 were marked.

6. The trial Court, after taking into consideration, the oral and documentary evidence of both sides and the trial Court has found that the plaintiffs have failed to prove their right and title over the suit property, dismissed the suit.

7. Aggrieved over the Judgment and decree of the trial Court, the plaintiffs preferred an appeal in [A.S.No.82](#) of 2015 on the file of the III Additional District Court, Salem and the lower Appellate Judge independently analysed the evidence and finally held that the release deed in favour of the 1st plaintiff's husband as acted upon and the family arrangements Ex.B1 is not been properly registered as per the registration act by relying Judgment ratio laid down in [A.C.Lakshmipathy and another vs A.M.Chakrapani Reddiar and Others reported in 2001 \(1\) CTC 112](#) and the document Ex.B1 inadmissible in evidence, eventually, the Will executed by the Ponnusamy is valid one, thereby the appeal was allowed by decreed the suit.

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8. Aggrieved over the Judgement and decree of the lower Appellate Court, the 4th defendant has filed the above second appeal.

9. At that time of arguments, the second appeal was admitted on the following substantial questions of law are formulated:-

(a) Whether the Lower Appellate Court is correct in law in holding that the plaintiffs need not prove Ex.A3 under which the plaintiffs claim title to the property?

(b) Whether the Lower Appellate Court is correct in law in rejecting Ex.B1 family arrangement by holding that it is inadmissible in evidence as per the provisions of Section 35 of the Indian Stamp Act?

10. The learned counsel for the appellant/4th defendant submitted that the lower Appellate Judge failed to give effect to Ex.B1 has resulted in grave miscarriage of justice and the learned Judge has erred in holding that Ex.B1 is inadmissible in evidence as per the provisions of Section 35 of Stamp Act. He further submitted that the lower Appellate Judge failed to take note of the fact that Ex.A3 release deed relied by the plaintiffs was not been proved as required under law. He further submitted that without appreciating the same granted the relief



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based upon the release deed as such is totally unfair and liable to be set aside.

Further, the learned counsel for the appellant argued that as per the Ex.B1 family arrangements, the interest and claim of the parties to the document has been settled in the presence of Panchayators and Ex.B1 being a family arrangement ought to have been given effect.

11. By way of reply, the learned counsel for the respondents/plaintiffs submitted that the suit property belongs to the plaintiffs and the 1st defendant was permitted to occupy the portion of the property as help to his family, taking into advantage of the death of the 1st plaintiff's husband A.K.Jaganathan/brother of the 1st defendant, he used to obtain signature in the blank papers and fabricated the documents and without her knowledge, the Will was created and grab the property but later she realised that the fraud committed by the 1st defendant. Thus, the 1st defendant false claim right over the suit property based on the Ex.B1 family arrangements. Further, she submitted that the 1st defendant got a Will in respect of the 1st floor of the building bearing No.108 in favour of Ponnusamy, father of the 1st plaintiff on 01.11.1996. Thereafter, he had obtained a Will from Ponnusamy in his favour and in favour of his wife and two sons on 23.05.1981 and thereafter cancelled the same and got another Will in his exclusive on



08.06.1988. Only in the year 1994, the 1st plaintiff came to know about the same and immediately cancelled the Will 08.06.1988 and Ponnusamy executed his late Will dated 25.03.1994 bequeathing the property in favour of the plaintiffs and the defendants 2 and 3. Therefore, the plaintiffs and the defendants 2 and 3 are entitled to the 1st floor of the building bearing door No.108. Hence, the lower Appellate Judge has rightly appreciated the said aspects and decreed the suit in favour of the plaintiffs.

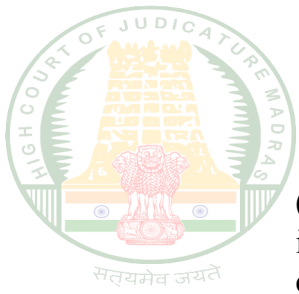
12. By relying the ratio laid down Judgment in *A.C.Lakshmipathy and another vs A.M.Chakrapani Reddiar and Others reported in 2001 LW 257*, the relevant paragraph is extracted hereunder:-

41. We hold that the document in question is being an unstamped and unregistered, the same cannot be looked into for any purpose. Similarly, oral evidence cannot be let in about the contents of the said document.

42. To sum up the legal position (I) A family arrangement can be made orally.

(II) If made orally, there being no document, no question of registration arises.

(III) If the family arrangement is reduced to writing and it purports to create, declare, assign, limit or extinguish any right, title or interest of any immovable property, it must be properly stamped and duly registered as per the Indian Stamp Act and Indian Registration Act.



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(IV) Whether the terms have been reduced to the form of a document is a question of fact in each case to be determined upon a consideration of the nature of phraseology of the writing and the circumstances in which and the purpose with which it was written.

(V) However, a document in the nature of a Memorandum, evidencing a family arrangement already entered into and had been prepared as a record of what had been agreed upon, in order that there are no hazy notions in future, it need not be stamped or registered.

(VI) Only when the parties reduce the family arrangement in writing with the purpose of using that writing as proof of what they had arranged and, where the arrangement is brought about by the document as such, that the document would require registration as it is then that it would be a document of title declaring for future what rights in what properties the parties possess.

(VII) If the family arrangement is stamped but not registered, it can be looked into for collateral purposes.

(VIII) Whether the purpose is a collateral purpose, is a question of fact depends upon facts and circumstances of each case. A person can not claim a right or title to a property under the said document, which is being looked into only for collateral purposes.

(IX) A family arrangement which is not stamped and not registered cannot be looked into for any purpose in view of the specific bar in [Section 35](#) of the Indian Stamp Act.

13. The another Judgement in ***Hemendra Rasiklal Ghia vs Subodhmody*** reported in ***2008 6 Mh.L.J***, the relevant paragraph is extracted hereunder:-

76. In the third case merely because a document has been marked as "an exhibit", an objection as to its admissibility is not excluded. It is available to be raised even at later stage or even in appeal or revision. There is no question of inadmissible documents being read into evidence merely on account of such documents being given exhibit numbers in affidavit filed by in examination-in-chief or while recording oral evidence. For example in case of unregistered sale-deed or gift-deed or lease-deed requiring registration, no evidence of the terms thereof can be given. On the ground of public



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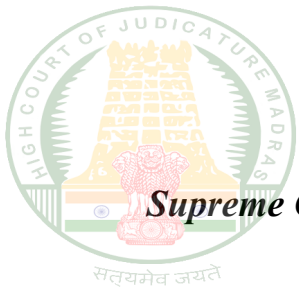
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policy, evidence the derived from unpublished official records of State cannot be given except with the permission of the head of the department concerned as laid down under [section 123](#) of the Evidence Act. Such a document, therefore, can be tentatively exhibited and the decision thereon can be postponed till the suit reaches the stage of judgment. However such objection has also to be decided before the judgment is delivered. The objection to the admissibility of such evidence can always be taken at any stage of the suit.

77. Thus, we hold and rule that ordinarily an objection to the admissibility of the document in first and second categories of cases (excluding third type of case) has to be taken before the document is exhibited which, necessarily, postulates decision on the objection then and there. In other words, whether document is admissible or inadmissible is matter which should always be ruled upon at the time when the document is being proved or put in or the question asked to the witness. Such practice and procedure is fair to both parties.

14. The learned counsel for the appellant submitted that Ex.B1 family arrangements was made before the Panchayators and the plaintiffs have signed the documents in the presence of panchayators. Therefore, Ex.B1 family arrangements was arrived between the 1st defendant and his brothers Arumugam, plaintiffs who are legal heir of A.K.Jaganathan hence, it does not require registration as it is a arrangements between the parties and the terms were recorded in the memorandum and the same was rightly appreciated by the trial Judge but the lower Appellate Judge erroneously concluded that ExB1 is not valid one as such is erroneous one. He relied on the Judgement in ***Kale and others vs Deputy Director of Consolidation and others reported in (1976) 3***

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Supreme Court Cases 119, paragraphs 9, 15 and 18 are extracted hereunder:-

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"9. Before dealing with the respective contentions put forward by the parties, we would like to discuss in general the effect and value of family arrangements entered into between the parties with a view to resolving disputes once for all. By virtue of a family settlement or arrangement members of a family descending from a common ancestor or a near relation seek to sink their differences and disputes, settle and resolve their conflicting claims or disputed titles once for all in order to buy peace of mind and bring about complete harmony and goodwill in the family. The family arrangements are governed by a special equity peculiar to themselves and would be enforced if honestly made. In this connection, Kerr in his valuable treatise "Kerr on Fraud" at p. 364 makes the following pertinent observations regarding the nature of the family arrangement which may be extracted thus;

"The principles which apply to the case of ordinary compromise between strangers, do not equally apply to the case of compromises in the nature of family arrangements. Family arrangements are governed by a special equity peculiar to themselves, and will be enforced if honesty made, although they have not been meant as a compromise, but have proceeded from an error of all parties, originating in mistake or ignorance of fact as to that their rights actually are, or of the points On which their rights actually depend."

The object of the arrangement is to protect the family from long drawn litigation or perpetual strifes which mar the unity and solidarity of the family and create hatred and bad blood between the various members of the family. Today when we are striving to build up an egalitarian society and are trying for a complete reconstruction of the society, to maintain and uphold the unity and homogeneity of the family which ultimately results in the unification of the society and, therefore, of the entire country, is the prime need of the hour. A family arrangement by which the property is equitably divided between the various contenders so as to achieve an equal distribution of wealth instead of concentrating the same in the hands of a few is undoubtedly a milestone in the administering of social justice. That is why the term "family" has to be understood in a wider sense so as to include within its fold not only close relations or legal heirs but even those persons who may have some sort of antecedent title, a semblance of a claim or even if they have a spes successions so that future disputes are sealed for ever and the family instead of fighting claims inter se and wasting time, money and



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energy on such fruitless or futile litigation is able to devote its attention to more constructive work in the larger interest of the country. The Courts have, therefore, leaned in favour of upholding a family arrangement instead of disturbing the same on technical or trivial grounds. Where the Courts find that the family arrangement suffers from a legal lacuna or a formal defect the rule of estoppel is pressed into service and is applied to shut out plea of the person who being a party to family arrangement seeks to unsettle a settled dispute and claims to revoke the family arrangement under which he has himself enjoyed some material benefits. The law in England on this point is almost the same. In Halsbury's Laws of England, Vol. 17, Third Edition, at pp. 215-216, the following apt observations regarding the essentials of the family settlement and the principles governing the existence of the same are made:

"A family arrangement is an agreement between members of the same family, intended to be generally and reasonably for the benefit of the family either by compromising doubtful or disputed rights or by preserving the family property or the peace and security of the family by avoiding litigation or by saving-its honour.

The agreement may be implied from a long course. Of dealing, but it is more usual to embody or to effectuate the agreement in a deed to which the term "family arrangement" is applied.

Family arrangements are governed by principles which are not applicable to dealings between strangers. The court, when deciding the rights of parties under family arrangements or claims to upset such arrangements, considers what in the broadest view of the matter is most for the interest of families, and has regard to considerations which in dealing with transactions between persons not members of the same family, would not be taken into account. Matters which would be fatal to the validity of similar transactions between strangers are not objections- to the binding effect of family arrangements".

15. In [Tek Bahadur Bhujil v. Debi Singh Bhujil](#) it was pointed out by this Court that a family arrangement could be arrived at even orally and registration would be required only if it was reduced into writing. It was also held that a document which was no more than a memorandum of what had been agreed , to did not require registration. This Court had observed thus:



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Family arrangement as such can be arrived at orally. Its terms may be recorded in writing as a memorandum of what had been agreed upon between the parties. The memorandum need not be prepared for the purpose of being used as a document on which future title of the parties be founded. It is usually prepared as a record of what had been agreed upon so that there be no hazy notions about it in future. It is only when the parties reduce the family arrangement in writing with the purpose of using that writing as proof of what they had arranged and, where the arrangement is brought about by the document as such, that the document would require registration as it is then that it would be a document of title declaring for future what rights in what properties the parties possess."

18. In a recent decision of this Court in [S. Shanmugam Pillai and others v. K. Shanmugam Pillai](#), the entire case law was discussed and the Court observed as follows:

"If in the interest of the family properties or family peace the close relations had settled their disputes amicably, this Court will be reluctant to disturb the same. The courts generally lean in favour of family arrangements.

Now turning to the plea of family arrangement, as observed by this Court in [Sahu Madho Das and others v Pandit Mukand Ram \(supra\)](#) the courts lean strongly in favour of family arrangements that bring about harmony in a family and do justice to its various members and avoid, in anticipation, future disputes which might ruin them all. As observed in [that case](#) the family arrangement can as a matter of law be inferred from a long course of dealings between the parties.

In [Maturi Pullaiah and Another v. Maturi Narasimham \(supra\)](#) this Court held that although conflict of legal claims in praesenti or in future is generally condition for the validity of family arrangements, it is not necessarily so. Even bona fide dispute present or possible, which may not involve legal claims would be sufficient. Members of a joint Hindu family may to maintain peace or to bring about harmony in the family, enter into such a family arrangement. If such an agreement is entered into bona fide and the terms thereto are fair in the circumstances of a particular case, the courts would more readily give assent to such an agreement than to avoid it."

15. The another Judgement in ***Korukonda Chalapathi Rao and Ors, vs***



Korukonda Annapurna Sampath Kumar, in Civil Appeal No.6141 of 2021, the

paragraph 14 is extracted hereunder:-

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14. There is a long line of judgments of this court dealing with the question as to whether a family arrangement is compulsorily registrable. We need only refer to the case of [Kale v. Dy. Director of Consolidation MANU/SC/0529/1976 : AIR 1976 SC 807](#). This Court has summed up the essentials of the family settlement in the following proposition:

10. In other words to put the binding effect and the essentials of a family settlement in a concretised form, the matter may be reduced into the form of the following propositions:

- (1) The family settlement must be a bona fide one so as to resolve family disputes and rival claims by a fair and equitable division or allotment of properties between the various members of the family;
- (2) The said settlement must be voluntary and should not be induced by fraud, coercion or undue influence;
- (3) The family arrangement may be even oral in which case no registration is necessary;
- (4) It is well settled that registration would be necessary only if the terms of the family arrangement are reduced into writing. Here also, a distinction should be made between a document containing the terms and recitals of a family arrangement made under the document and a mere memorandum prepared after the family arrangement had already been made either for the purpose of the record or for information of the court for making necessary mutation. In such a case the memorandum itself does not create or extinguish any rights in immovable properties and therefore does not fall within the mischief of [Section 17\(2\)](#) of the Registration Act and is, therefore, not compulsorily registrable;



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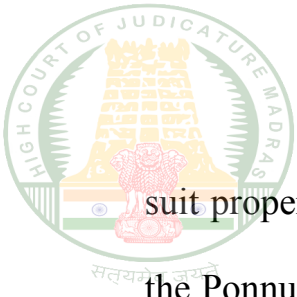


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(5) The members who may be parties to the family arrangement must have some antecedent title, claim or interest even a possible claim in the property which is acknowledged by the parties to the settlement. Even if one of the parties to the settlement has no title but under the arrangement the other party relinquishes all its claims or titles in favour of such a person and acknowledges him to be the sole owner, then the antecedent title must be assumed and the family arrangement will be upheld and the courts will find no difficulty in giving assent to the same;

(6) Even if bona fide disputes, present or possible, which may not involve legal claims are settled by a bona fide family arrangement which is fair and equitable the family arrangement is final and binding on the parties to the settlement.” (Emphasis supplied)

16. Admittedly, the ground floor of the suit property under occupation of the plaintiffs who are the legal heirs of A.K.Jagannathan. According to them, the suit properties, 1st defendant was permitted to possession and enjoyment of the suit properties who is brother of the said A.K.Jaganathan, The property originally belongs to one Thanjalal Ammal and thereafter she executed the settlement deed in favour of three sons namely, A.K.Loganathan/1st defendant, A.K.Jaganathan husband of the 1st plaintiff and one Arumugam. Further, the said [A.K.Loganathan](#) and [A.K.Arumugam](#) had executed a release deed in favour of [A.K.Jaganathan](#), therefore, the said [A.K.Jaganathan](#) become the absolute owner of the entire property based upon the settlement deed on 10.06.1968 which was marked as Ex.A2. After death of the said [A.K.Jaganathan](#), the 1st defendant take care of the plaintiffs and taking advantage, he was permitted to occupy the first floor of the

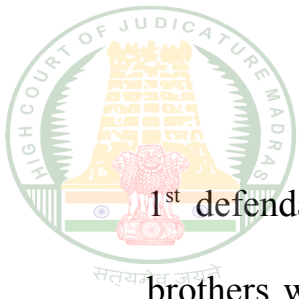


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suit property but he wants to grab the property and created the Will in faovur of the Ponnusamy who is the father of the 1st plaintiff as well as the sisters husband of three brothers in the year 1981 and the same was cancelled by the said Ponnusamy in the year 1988. Further, in the year 1988, on came to know about the defraud committed by the 1st defendant, the said Ponnusamy has executed the Will in favour of the 1st plaintiff. In the meantime, the 1st defendant has executed the settlement deed in favour of his daughter/4th defendant for which, he has no right over the property. Hence, the plaintiffs seeking the declaration and recovery of possession but the 1st defendant claimed that the Will was executed from Ponnusamy as security for loan borrowed by him in order to put up construction in door No.108 so the release deed executed in favour of [A.K.Jaganathan](#) was not acted upon. All the three brothers have enjoyed the suit property, subsequently, the loan was discharged. Further, in the year 1979 , in the presence of panchayator, the ground floor of the suit property was allotted to the plaintiffs and the first floor of the suit property allotted to the 1st defendant as per the family arrangements marked as Ex.B1.

17. But as per the evidence of PW1, she relied the gift deed Ex.A2 transfer the property in the name of her husband but the said document was denied by the



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1st defendant stated that the document was not acted upon in order to all the brothers were put up construction and borrowed a loan. Subsequently, the loan was discharged by the 1st defendant. Therefore, initial burden is on the plaintiffs to prove that the release deed Ex.A3 was acted upon but the original release deed was produced on the side of the 1st defendant. It is settled proposition that original document is to be produced by the beneficiaries in order to establish that the release deed was acted upon but the beneficiaries are failed to establish that gift deed was acted upon. Therefore, the findings of the first Appellate Judge with regard to Ex.A3 as such as liable to be set aside.

18. The contentions raised by the plaintiffs is that the 1st defendant had manipulated the documents by creating the Will in favour of the said Ponnusamy but having come to know that he executed the Will in the year 1988, she become the owner of the property. It is admitted fact that the said Ponnusamy not only the father of the 1st plaintiff but also the sister's husband of the 1st defendant.

19. But the contention of the 1st defendant is that originally the door No.108 was put up construction of all three brothers and the Will was executed as security. Before the trial Court, the Will was executed by the husband of the 1st

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plaintiff in favour of the father-in-law. Subsequently the loan was discharged by the 1st defendant, thereby, the said Ponnusamy executed Will in favour of the 1st defendant. Thereafter, the Will was cancelled by the said Ponnusamy and executed in favour of the 1st plaintiff. But the plaintiffs have suppressed the entire facts as well as Ex.B1 family arrangements in the presence of Panchayators with regard to allotment of share in the suit properties indeed the plaintiff have signed the documents.

20.About the family arrangement made in the presence of Panchayators held in the year 1979, even during the evidence, the 1st plaintiff admits that the building was constructed by borrowed a loan from the Salem Co-operative Society and she admitted her signature in Ex.B1 also that the suit property was allotted to the share of the 1st defendant. Thereby, the ground floor door No.108 was allotted to the plaintiffs and the first floor of building door No.108 was allotted to the shares of the 1st defendant.

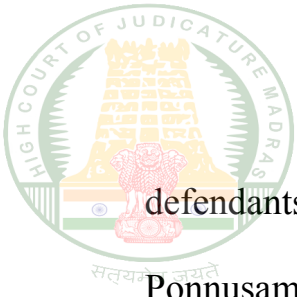
21. Therefore, in the presence of panchayators, the family members to solve the dispute amicably entered into family arrangement Ex.B1 which need not require to the Registration Act to that effect ratio laid down in the Judgement relied by the 1st defendant is applicable to the facts of the present case. Therefore,



Ex.B1 clearly proves that in the presence of panchayators, the entire properties of family members of three brothers amicably settled. But during the evidence, the 1st plaintiff deposed that she was not aware of the said memorandum of family arrangements but herself admits that she signed the documents, therefore, the evidence to that effect by the PW1 is not reliable one.

22. Furthermore, as rightly pointed out by the 1st defendant to solve the dispute among the family members terms were agreed, family arrangements was made in the presence of panchayators and the same was admitted by the plaintiffs and as per that divided the properties among the family members. Ex.B1 is memorandum of agreement between the parties as per the terms agreed in the presence of panchayators, hence, Ex,B1 does not require registration, to that effect, the referred authorities relied by the 4th defendant is supporting the defendant's defence but 1st Appellate Judge failed to appreciate the said legal proposition. Hence, the findings about Ex.B1 is set aside, question of law (B) is answered.

23. Therefore, as per the family arrangements held in the presence of panchayators in the year 1979 itself. Accordingly, the first floor given to the 1st



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defendants. Even after the execution of the said panchayat 1979, the said Ponnusamy has not raised any objection all these years but suppressing the Ex.B1, the plaintiffs as well as the said Ponnusamy colluded and created a Will in the year 1994 would not bind the 1st defendant. Hence, the trial Court has appreciated the facts but the 1st Lower Appellate Judge failed to take note of the said issues as such is totally erroneous one. Therefore, the lower Appellate Court is not correct in law in holding that the plaintiff need not prove Ex.A3/release deed under which the plaintiff claimed title to the property. Thereby, those findings are set aside as illegal. Accordingly, question of law (A) is answered.

24. In view of the above, the findings rendered by the Lower Appellate Court is set aside. The Second appeal is allowed. Thus suit is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

28. 01.2025

Speaking / Non Speaking order
Neutral Citation : Yes/No
Index : Yes/No
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1. The learned III Additional District Judge, Salem.

2. The I Additional Subordinate Judge, Salem.

3. The Section Officer,
V.R,Section
High Court of Madras.

T.V.THAMILSELVI, J.

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