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A.S. No.472 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.06.2025

PRONOUNCED ON : 09.07.2025

CORAM

THE HON'BLE DR. JUSTICE G. JAYACHANDRAN

**A.S. No.472 of 2022
and C.M.P. No.17245 of 2022**

1. Veronese Muniammal
2. Veronese Arumugham alias Veronese Selvam
3. Veronese Murthy
4. Veronese Periyasamy alias Veronese Rajesh
5. Veronese Kowsigan
6. Veronese Barathan
7. Veronese Jayaraman ... Appellants/ Plaintiffs

-VS-

1. Veronese Narayanan
2. Thanigachalam
3. Uma
4. Manimekalai ... Respondents/ Defendants



Prayer: This appeal filed under Section 96 of the Code of Civil Procedure to set aside the partly decree and judgment dated 14.03.2022 in O.S.No.146 of 2016 on the file of II Additional District Judge, Puducherry.

For Appellants : Mr. R. Rajarajan

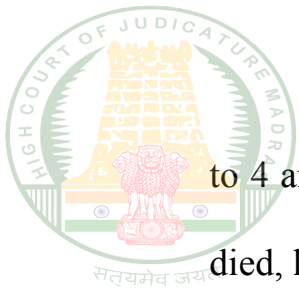
For Respondents : Mr. R. Sreedhar

JUDGMENT

The appeal against the judgement and decree passed in O.S.No.146 of 2016 on the file of the II Additional District Judge, Puducherry, granting decree of declaration that the plaintiffs are the owners of the suit property in respect of half share and the sale deed dated 07.09.2011, executed by second defendant in respect of their half share is invalid.

Plaint Averment:

2. The suit scheduled property was owned by one Subrayan, who purchased it on 17.04.1925. Subrayan died interstate living behind his two sons. His first son Periyasamy had one son by named Jayaraman. The first plaintiff/ Veronese Muniammal is the wife of Jayaraman and the plaintiffs 2

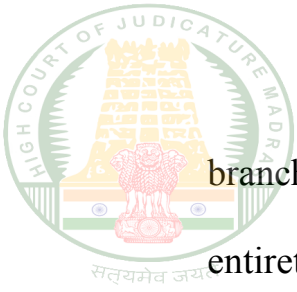


to 4 are their sons, yet another son of Jayaraman named Veronese Rajavelu died, hence his legal heirs are plaintiffs 5 to 7.

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3. According to the plaintiffs, Thanigachalam, the second defendant had created two Power of Attorneys in his favour in respect of the entire suit property. The first Power of Attorney dated 20.11.1996 shows that Murugesan is the sole Legal Heir of Egambaram, who is the sole legal heir of Subrayan and the second Power of Attorney dated 08.05.2000 from Veronese Narayanan, Ammakannu and Anthuvan as if they are the legal heirs of Egambaram. On the strength of the above said two Power of Attorneys, he sold the properties to his wife Uma, the third defendant, who in turn had given a Power of Attorney to the fourth defendant/ Manimegalai. Suit filed stating that the Power of Attorney obtained by Thanigachalam from Veronese Narayanan and Veronese Murugesan for the entire suit property is an illegal document and therefore, alienation based on the said Power of Attorneys is invalid.

4. The property left by Subrayan has to be equally shared between the two branches, namely the branch of Veronese Periyasamy and the



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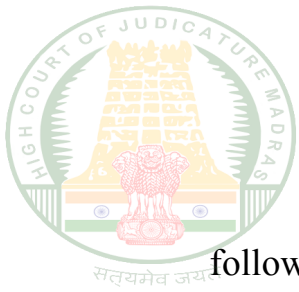
branch of Veronese Egambaram, therefore dealing with the suit property in entirety by the branch of Veronese Periyasamy is *non-ested*. In this connection, already a partition suit in O.S.No.6 of 1997 was filed by the plaintiffs and decree for declaring half share in the suit property passed and there is also an injunction restraining the defendants Veronese Narayanan and Thanigachalam from alienating the property. Decree in the partition suit in O.S.No.6 of 1997 passed on 25.06.1997. While so, contrary to the Court decree, on the strength of the Power of Attorney, Thanigachalam, the second defendant had sold the entire property including the share of the plaintiffs to his wife Uma, the third defendant by a document dated 07.09.2011. This sale in violation of injunction order and in violation of the decree of declaration in respect of the half share of the suit property is to be declared as not valid.

5. The suit was contested by the defendants 2 to 4 by filing a written statement and the fourth defendant/ Manimegalai was examined as a witness for the defendants. According to the defendants, the suit filed by the plaintiffs in O.S.No.6/1997, an ex-parte preliminary decree for partition was passed on 25.06.1997, the plaintiff did not take any steps for final



decree. Though it is true that Subrayan, the original owner of the property had two sons by named Veronese Periyasamy and Veronese Egambaram.

The said Veronese Egambaram died living behind his sons Veronese Murugesan and Veronese Narayanan, but it is not true that the said Veronese Periyasamy died living behind his son Jayaraman and the plaintiffs are his wife, children and grand children [the legal heirs of the Veronese Rajavelu (the deceased son of Jayaraman)]. It is incorrect to claim that Veronese Murugesan and Veronese Narayanan, who are the sons of Veronese Egambaram relinquished their right in the suit property and left the suit property. The Power of Attorney deeds in favour of the second defendant/ Thanigachalam are true and genuine and the second defendant is the true representative of the property owners. The Ex-parte preliminary decree in O.S.No.6 of 1997 dated 25.06.1997 is neither valid nor binding on the defendants. By virtue of the sale deed dated 07.09.2011, the third defendant has become absolute owner and now, the fourth defendant as a Power Agent is in possession and enjoyment of the suit property on behalf of the principal.



6. The Trial Court based on the pleadings had framed the following issues.

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1. *It is true that Veronese Murugesan and Veronese Narayanan orally relinquished their right to the plaintiffs as alleged?*

2. *Whether the second defendant created a fraudulent power deed dated 20.11.1996 and 08.05.2000 as alleged by the Plaintiffs?*

3. *Whether the plaintiffs are not the legal heirs of Jayaraman as alleged by the defendants?*

4. *Whether the plaintiffs are in continuous possession and enjoyment of the suit properties as alleged?*

5. *Whether the plaintiffs are entitled to decree of declaration and for permanent injunction as prayed?*

6. *Whether the plaintiffs are entitled to decree of declaration that the sale deed dated 07.09.2011 executed by 2nd defendant in favour of the 3rd defendant is a creation of fraud, non est in eye of Law as prayed?*

7. *To what other relief, the plaintiffs are entitled to?*

7. On the side of the plaintiffs, the second plaintiff was examined as P.W.1 and 37 documents were marked as Exs.A1 to A37. The fourth defendant, who is the Power Agent of the second defendant examined as D.W.1 and two documents Exs.B1 and B2 were marked.



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8. The Trial Court held that the sale of entire suit property by the descendants of Veronese Egambaram namely Veronese Murugesan and Veronese Narayanan will not bind the plaintiffs, who are holding half share in the suit property, as descendants of Veronese Periyasamy. Consequentially, the injunction for the entire property was granted.

9. In the appeal, it is contended that when there is a decree for partition and injunction restraining from alienation, subsequently, alienation based on the Power of Attorneys/ Exs.A4 and A5 is not valid in toto. After the decree of partition and injunction, subsequent sale deed dated 07.09.2011/ Ex.A6 is to be held invalid as a whole and not to be limited to half share above. Therefore, the entire sale transaction has to be set aside and declared as invalid.

10. The learned counsel for the appellants/ plaintiffs further submitted that the suit property was never been in possession of the defendants. The Power of Attorney describes that Veronese Egambaram as the sole legal heir of Subrayan, which clearly shows that the documents



were prepared with the intention to fraud the other son of Subrayan i.e., Veronese Periyasamy. Based on ineffective and in-executable Power of Attorneys, the second defendant had conveyed the property to his wife on 07.09.2011 when the injunction order was in force. The Trial Court failed to appreciate that the defendants ought not to have been conferred with the right of half share in the suit property, when they have not made any counter claim.

11. Per contra, the learned counsel appearing for the respondents/ defendants submitted that, admittedly the suit property belongs to Subrayan, who purchased the property on 17.04.1925. He died interstate living behind his two sons Veronese Periyasamy and Veronese Egambaram, that fact is also not disputed. While the third defendant had purchased the property through the Power Agent of the members of the Veronese Egambaram branch, even though they have purchased the entire property by mistake on the basis of the misleading information given by Veronese Murugesan and Veronese Narayanan, the plaintiffs who belong to the branch of Veronese Periyasamy are entitled for declaration of title only in respect of their half share and not for the entire suit property. Further more, having failed to file



application for the final decree, the plaintiffs have no locus to challenge the subsequent sale deed dated 07.09.2011.

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12. The point for consideration in this appeal is whether by virtue of decree passed in O.S.No.6 of 1997 [Ex.A3], the plaintiffs are entitled to nullify the sale deed dated 07.09.2011 [Ex.A6].

13. The suit property admittedly purchased by Subrayan under sale deed dated 17.04.1925 (Ex.A1) and his two sons Veronese Periyasamy and Veronese Egambaram are entitled for half share each, after the demise of Subrayan. The right of the plaintiffs can be only in respect of the half share inherited by Veronese Periyasamy. No doubt sons of Veronese Egambaram had dealt the property in entirety and sold the property through the Power of Attorneys. The Trial Court after proper appreciation of evidence, had declared that the transactions made by the members of the Veronese Egambaram branch, valid only to the extent of their half share of Veronese Periyasamy branch. In respect of the other half share held by the branch of Veronese Egambaram, the Trial Court held to that extent, it is valid.

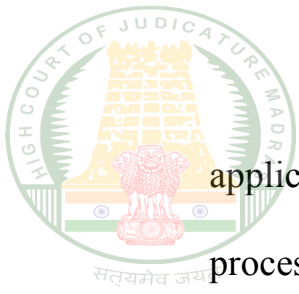


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14. The learned counsel for the appellants based on the ex-parte decree passed in O.S.No.6 of 1997, wherein there is restraining order for the entire suit property, submitted that when there is an injunction restraining the defendants from alienating the property, the sale deed dated 07.09.2011 (Ex.A6), which is in breach of the injunction order has to be treated as not valid.

15. This Court on considering the evidence and the ex-parte decree passed in O.S.No.6 of 1997 finds that though the plaintiffs had only half share in the suit property, the restrain order is for the entire suit property, which amounts to injunction against the co-owner. The judgment passed in O.S.No.6 of 1997, which is marked as Ex.A3 indicates that the judgment was delivered on 25.06.1997, by declaring the plaintiffs have half share in the suit property and granting injunction restraining the defendants. The Court has also graciously granted three months time for the plaintiff to work out amicable settlement for division, failing which to proceed with final decree application.

16. Admittedly, the plaintiffs have not filed the final decree



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application. Thus they have not taken care to divide the property by legal process and take their half share. After the preliminary decree, the present suit again filed for partition after nine years. When the first suit for partition is already in force, no proper reasons assigned for filing the second partition suit. However, the Court below taking note of the subsequent events had rightly reaffirmed that the plaintiffs are entitled for half share in the suit property, leaving the alienation of the remaining half share undisturbed, since it has been dealt by lawful sharers of the property.

17. In the said circumstances, the plaintiffs cannot have any grievance in the judgment and decree passed by the Trial Court, which has recognized and reiterated the right of the plaintiffs in the suit property by declaring them as the owners of half share in the suit property and the sale dated 07.09.2011 for the entire suit property will not bind them, as far their half share and dismissed the injunction prayer.

18. This Court is of the view that the present appeal is filed without any reasons, except to delay the delivery of half share to the lawful owner (i.e.,) the third defendant.



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19. In view of the above observations, facts and circumstances, the appeal stands dismissed and the judgment and decree of the Trial Court in O.S.No.146 of 2016 dated 14.03.2022 stands confirmed. Consequently, connected Civil Miscellaneous Petition stands closed. There shall be no order as to costs.

09-07-2025

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

1. The II Additional District Judge,
Puducherry.
2. The Section Officer,
VR Section,
High Court of Madras.



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A.S. No.472 of 2



Dr. G. JAYACHANDRAN, J.,

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**Pre-delivery Judgment made in
A.S. No.472 of 2022
and C.M.P. No.17245 of 2022**

09.07.2025