



S.A. Nos.443 & 444 of 2023

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DATED : 12.11.2025

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

S.A. Nos.443 & 444 of 2023

and

C.M.P.No. 13329 of 2023

1. Sam International,
rep. by Managing Partner
V.Shanmugam

2. V.Shanmugam

... Appellants in
S.A.No.443 of 2023

1. V.Shanmugam

2. Tamilmani

3. Sam International,
rep. by Managing Partner,

... Appellants in
S.A.No.444 of 2023



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Vs.

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Bama Balaji

.. Respondent
in both S.A.s

PRAYER in S.A.No.443 of 2023 : Second Appeal filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree dated 06.04.2023 made in A.S.No.35 of 2021 on the file of Principal District Judge, Krishnagiri confirming the judgment and decree dated 12.07.2021 passed in O.S.No.193 of 2017 on the file of Principal Sub-Judge, Krishnagiri.

PRAYER in S.A.No.444 of 2023 : Second Appeal filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree dated 06.04.2023 made in A.S.No.34 of 2021 on the file of Principal District Judge, Krishnagiri confirming the judgment and decree dated 12.07.2021 passed in



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O.S.No.11 of 2016 on the file of Principal Sub-Judge, Krishnagiri.

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For Appellants in

both S.A.s : Mr.V.Ramamoorthy

For Respondent in

both S.A.s : Mr.Shangar Murali

COMMON JUDGMENT

Challenging the concurrent findings of the courts below rendered in common judgment and decree passed in A.S.Nos. 34 and 35 of 2021 by the Principal District Judge, Krishnagiri arising out of findings rendered in common judgment and decree passed in O.S.Nos.11 of 2016 and 193 of 2017 on the file of Principal Sub-Judge, Krishnagiri, these Second Appeals were preferred by the defendants 1 and 3.



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2. For the sake of convenience, the parties are denoted as per the ranking in the suit in O.S.No.11 of 2016 before the trial court.

3. Brief facts of the case is as follows :-

The appellants/plaintiffs in S.A.No. 443 of 2023 filed a suit in O.S.No.193 of 2017 (Originally O.S. No. 14 of 2016 seeking for the relief of permanent injunction restraining the defendant from encumbering over the suit properties as described in the plaint schedule in Survey Nos. 59 and 60 situated at Errahalli Village, Krishnagiri Taluk, as well as mandatory injunction directing the defendant to reconvey the suit property to the 1st plaintiff firm.

4. The respondent/plaintiff in both the Second Appeals S.A.No.443 and 444 of 2023 had also filed a suit in O.S.No. 11 of 2016 praying for a declaration to declare her title to the suit lands as described in plaint schedule as well as permanent injunction against defendants not to interfere with her



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peaceful possession and enjoyment of the properties and for consequential relief of claiming damages. Both the parties are one and the same and so also, the suit properties also same in Survey Nos. 59 and 60, situated at Errahalli-1 Village, Krishnagiri Taluk. Therefore, both the suits were tried jointly and issues were framed. On hearing both oral and documentary evidence adduced on their side and finally the trial judge held that the suit filed by the plaintiffs in O.S.No.193 of 2017 was dismissed and the suit filed by the plaintiff in O.S.No. 11 of 2016 was partly decreed declaring the title in favour of her and also granted permanent injunction.

5. Challenging the said findings, the defendants have preferred Appeal Suits in A.S.Nos.34 and 35 of 2021 in respect of suit filed by the plaintiffs in O.S.No.11 of 2016 and the suit filed by the plaintiff in O.S.No.193 of 2017. The first appellate judge also on analysing both oral and documentary evidence, framed points for consideration and finally dismissed both appeals by confirming the findings of the trial judge. Challenging the said findings,



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now the present Second Appeals were preferred by both plaintiff and defendants.

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6. Brief facts of the case is as follows:-

According to plaintiffs in O.S.No.193 of 2017, the 2nd plaintiff and defendant have constituted the 1st plaintiff firm vide partnership deed dated 01.10.1997 for carrying out the business of export and import. While so, the defendant resigned from the firm for the reason best known to her and consequently, a reconstitution deed was entered on 19.09.2012, wherein the 2nd plaintiff's wife was inducted as a new partner in the place of defendant. Thereafter, the 2nd plaintiff in his individual capacity had ventured to purchase the suit properties, for which Power of attorney dated 28.09.2006 was obtained from the owners Venkatesan, Gnanasekaran and Rajasekaran in favour of 2nd plaintiff. In order to add the deposit of granite into the asset of partnership firm, both 2nd plaintiff and defendant wanted to purchase the suit properties, accordingly, by mutual understanding between them, the property



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was purchased in her name by contributing the funds from the accounts of 1st plaintiff firm and by her letter dated 21.09.2012, the defendant has agreed to convey the suit properties in favour of 1st plaintiff firm subsequently, but she failed to do so. However, she had applied for surveying the property claiming ownership of the properties and also attempted to sell the same. Hence, he preferred a complaint in C.S.R.No. 573 of 2015, issued a paper publication and also filed objection before the Sub-Registrar, Kaveripattinam, inspite of that, she had indulged in sale proceeds by unlawful means. Hence, they have filed the suit.

7. Consequently, the respondent/defendant had filed a suit in O.S.No.11 of 2016 against the plaintiffs in O.S.No.4 of 2016 for a declaration to declare her title to the suit property, permanent injunction as well as claiming damages and also filed her written statement stating that the suit property is not the property of partnership firm and she had purchased the same for a valuable consideration of Rs.5,50,000/- from the 1st plaintiff, who



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is power agent of her vendors Venkatesan, Gnanasekaran and Rajasekaran.

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The suit property was not treated as firm's property by the partners and there is no memorandum of understanding executed between them as stated in the plaint. Eversince from the date of purchase, she was in peaceful possession and enjoyment of suit property. Hence, she prayed to dismiss the suit.

8. The suit in O.S.No.14 of 2016 was transferred and renumbered as O.S.No.193 of 2017 and both suits in O.S.Nos.11 of 2016 and 193 of 2017 were tried jointly. On the side of plaintiff in O.S.No.11 of 2016, she was examined as P.W.1 and the documents Exs. A1 to A7 were marked. On the side of defendants, D.W.1 to D.W.5 were examined and the documents Ex.B1 to B22 were marked.

9. On considering submissions of both sides, finally, the trial judge had partly decreed the suit and granted permanent injunction in favour of plaintiff in O.S.No.11 of 2016 and dismissed the suit in O.S.No.193 of 2017. Challenging the said findings, they preferred an appeals in A.S.Nos.34 and



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35 of 2021, wherein the first appellate judge on analysing the facts and evidence, dismissed both appeals by confirming the findings of trial judge.

Against which, the present Second Appeals have been preferred.

10. Challenging the concurrent findings of the courts below, the learned counsel for appellant raised the following grounds :-

(i) Both the courts have erroneously shifted the burden on the Appellant herein. The courts below based on the erroneous presumption proceeded with both the cases that the Appellant failed to prove his case. This approach of Courts below is against principles of Evidence Act. The Respondent herein as Plaintiff in O.S.No.11/2016 ought to have established that she had acquired right and title over the property by paying sale consideration due to the property purchased in her name. When the Respondent failed to plead and prove the payment of entire sale consideration of Ex. A1, then the suit filed by the respondent in O.S.No.11/2016 ought to have been dismissed.

(ii) The Courts below gravely erred in presuming that the sale



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consideration for Ex. A1 an amount of Rs.5,50,000/- could have been paid by the Respondent herein as Ex. A1 contains the wordings about the payment of Sale consideration. The above inference is not based on any acceptable material. The non-explanation about the mode of payment of Sale consideration and the date and place of payment along with the acknowledgement is not produced to substantiate the claim of payment of Sale Consideration. When the Appellant herein was cross-examined by respondent not even a suggestion was made about the time and mode of payment. This proves case of the Appellant that no sale consideration was paid by the respondent for the execution of Ex. A1.

(iii) The Courts below have misconstrued the entire case and disputes that had arisen between the Appellants and Respondents. The Courts have relied upon Ex. A1 and decided that possession of the property was handed over with the respondent. The Courts below failed to see that the entire plaint averments of the Respondent and the oral evidence adduced, as no pleadings or evidence to prove the



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delivery of possession. The courts below should have verified from whom and when the possession of the suit property was handed over with the respondent and by whom. When Ex. B 20 the power deed executed in favour of the first Appellant does not refer to handing over of the suit property with the first Appellant then, first Appellant could not give possession of the suit property. It is not the case of the Respondent she had received possession from the vendors of the suit property. Therefore the finding of the courts below in respect of possession of the suit property is not sustainable under law.

(iv) The Trial Court as well as Appellate Court failed to understand the facts of the case in proper perspective. The payment of Rs.5,00,000/- by the third Appellant by way of 2 demand drafts to the vendors of the suit property taken into consideration. When the company paid the amount of Rs.5,00,000/-and further the respondent was being a partner at the time of payment of Rs.5,00,000/- by way of 2 demand drafts to and in favour of the vendors of the suit property is bound to explain why and what was the need to pay the amount of Rs.5,00,000/- to the vendors of the suit property by the



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company. The stoic silence by the respondent was not taken into consideration. The erroneous appreciation of the entire facts has caused grave injustice to the Appellants.

(v) The trial court and first Appellate court has gravely erred in interpreting Sec.92 of the Evidence Act. It is being perceived by the courts below that Sec. 92 of the Evidence Act does not provide for letting in oral evidence against written documents. The above perception of Courts below is totally wrong. Sec 92 of the Indian Evidence Act is not applicable to the facts of the case. The Appellants did not dispute the execution of A1, but explained the circumstances leading to the execution of A1. When there is a separate Agreement varying with the Ex. A1 is produced and that document is marked as Ex. B14, then the courts below ought to have appreciated the validity of Ex.B14 instead the courts below put a total embargo to the production of evidence both oral and documentary by the appellants, thereby caused grave prejudice to the appellants.



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(vi) The finding of the trial court and 1 Appellate court is that

appellants ought to have filed a suit for declaration and without declaration the suit filed by the Appellant for mandatory injunction is not maintainable. The courts below ought to have taken the entire pleading. The Appellants having paid the entire court fee for the value of the suit property should have been allowed to amend the plaint as reading of the entire plaint filed by the appellants in clear terms indicates that the appellants sought for declaration and mandatory injunction. Unfortunately the minor lapse on the part of the Appellant was exaggerated by the courts below. The Appellants now filed separate application to amend the prayer as such the findings of the Courts below needs to be reversed.

11. By way of reply, the learned counsel for respondent would submit that the respondent/plaintiff in O.S.No. 11 of 2016 was the absolute owner of the suit property through sale deed Ex.A1 dated 23.04.2008 executed by the power agent/1st defendant vendor, on behalf of original owner by receiving valid sale consideration. Eversince she was in absolute possession and

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enjoyment of the property and it was never treated as a 3rd defendant firm's property nor it was thrown into hotspot of 3rd defendant firm. Before the trial court, she proved right and title. Accordingly, the suit filed by her in O.S.No.11 of 2016 was decreed as prayed for. Since the appellants/defendants have not proved their right and title over the property, the suit in O.S.No.193 of 2017 (originally O.S.No.14 of 2016) pending before the Sub-Court, Krishnagiri, which was rightly dismissed and the first appellate court also analysed entire oral and documentary evidence, rightly concluded that the respondent is the owner of the property and the defendants not produced any material evidence to prove that the property was purchased on behalf of firm nor produced any reconveyance deed, without which, right and title claimed by the defendants as such is not proved. Therefore, he prayed to dismiss the both Second Appeals as there is no substantial question of law is involved. To substantiate his argument, he relied on the following authorities :-



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(i) reported in **2023 SC 773** in the case of ***Prakash (dead) by Lr. Vs.***

G.Aradhya & others, wherein the Apex Court held in para 25.4 as follows:-

*“25.4 The judgment of this Court in **Umabai v. Nilkanth Dhondiba Chavan, 2005 (6) SCC 243**, has also been referred to, which defines the distinction between mortgage by conditional sale and a sale with a condition of repurchase. In a mortgage, the debt subsists and a right to redeem remains with the debtor; but a sale with condition of repurchase is not a lending and borrowing arrangement. Proviso to Section 58(c) of the 1882 Act was referred to in the aforesaid judgment to hold that if the condition for re-transfer is not embodied in the document, which effects or purports to effect a sale, the transaction will not be regarded as a mortgage”*

(ii) reported in **2021 (2) L.W. 717** in the case of ***M/s.Gudiyttam Lungi***



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Company rep. by its Managing Partner, Vellore and others Vs.

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G.Vasantha & others, wherein the Apex Court held in para 30 as follows:-

“30. In order to substantiate the same, the petitioners/defndants relied upon Ex.B4 and Ex.B5, which are entries in the book of accounts maintained by the partnership firm to show that the properties were treated as the assets of the firm The trial Court considering these documents has held that the first and second defendant firms were started in the year 1959 and the properties were purchased much prior to the constitution of the partnership firms and merely because some entries were made in Ex.B4 and Ex.B5,which is related to the year 1960-61, it cannot be held that the properties were treated as partnership assets. That finding was confirmed by the first appellate and this court also after considering all the documents.”



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12. Considering both side submissions, both the Second Appeals are admitted on the following question of law :-

“(a) Whether the document executed by one of the parties due to fiduciary relationship can be either varied or modified, when the person in whose name the document was executed had agreed for such variation and amendment and whether such facts are barred under Sec.92 of the Evidence Act from proving the executing of the agreed document?

(b) Whether the trial court has the power to decide a case based on a sole document i.e. relying on the sale deed when there are subsequent developments and understandings varying with the sale deed pleaded and proved by the other party?

13. Based on the sale deed, Ex.A1, the respondent/plaintiff claiming absolute right over the suit property and approached the court for the relief of



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declaration with consequential relief in respect of suit property, an extent of 3.58 acres belong to her by way of purchase through sale deed dated 23.04.2008 and also contended that the defendants herein caused interference and also made false claim over the property. Therefore, she came forward with the suit before the trial court. The defendants in the said suit filed another suit subsequently O.S.No. 193 of 2017 (Originally O.S.No.14 of 2016) stating that she is not absolute owner of property, on the other hand, the 3rd defendant M/s. Sam International, which is a registered partnership firm, wherein the plaintiff and defendants are the partners as per the partnership deed dated 01.10.1997 and the object of firm is carrying out business of export and import. While so, the plaintiff resigned from the 3rd defendant's firm and reconstitution deed was executed on 19.09.2012. The 2nd defendant's wife Tamilmani was inducted as a new partner. While carrying the business, the 3rd defendant business proposed to purchase the suit property for the firm, which belongs to original owners viz., (1) Venkatesan,



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(2) Gnanasekaran and (3) Rajasekaran, who gave power of attorney to the 1st defendant/partner of 3rd defendant's firm on 28.09.2006 since the property has deposit of granite and to add as an asset to the partnership firm based upon the mutual understanding. Since the 1st defendant as a General Power of Attorney holder, the suit property was purchased in the name of plaintiff on behalf of 3rd defendant firm, who was then partner of 3rd defendant's firm. She had also agreed to reconvey the property as and when required by 3rd defendant, besides the sale consideration of Rs.5,00,000/- was paid through demand draft dated 08.01.2007 from the 3rd defendant's account. Contrary to the mutual understanding, the plaintiff refused to reconvey the property. Therefore, the dispute arose between the parties. Therefore, disputing the title of plaintiff, they came forward with the suit in O.S.No.193 of 2017 (originally O.S.No.14 of 2016) with the prayer for permanent injunction not to alienate the property and also mandatory injunction to reconvey the suit property to the 3rd defendant firm.



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14. Both suits were tried jointly and both parties adduced oral and documentary evidence. Based on that, issues were framed. Finally, the trial judge has concluded that as per Ex.A1 sale deed, the plaintiff is the absolute owner of the property, on the other hand, the defendants not proved the mutual understanding to reconvey the property agreed by the plaintiff nor they established that the sale amount as paid out of 3rd defendant's firm account, besides, the plaintiff also proved that the mutation of records effected in her name. Furthermore, Ex.B14 letter relied on by the defendants also not established that it is a valid document for reconveyance, thereby the trial judge has decreed the suit filed by the plaintiff and dismissed the suit filed by the defendants in O.S.No.14 of 2016 (New No.193 of 2017). Aggrieved that findings, the defendants preferred two appeals in A.S.Nos.34 and 35 of 2021 and the same were dismissed by confirming the findings of



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trial judge.

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15. As per the arguments advanced on the side of appellants/defendants that inspite of letter Ex.B14, wherein this plaintiff agreed to reconvey the property, besides, the payment of consideration paid from the account of 3rd defendant's firm also been proved through document Ex.B10, thereby they proved that the sale consideration was paid by the 3rd defendant's firm not by the plaintiff as well as the mutual understanding between the parties are also been proved. Inspite of that, through those documentary evidence, the non-payment of consideration was proved as required under Sec.92 of Evidence Act, which permits the party to adduce contra evidence to rebut the written terms of documents, thereby the courts below failed to appreciate the same. Therefore, he prayed to set aside the findings by considering those documents as well as oral evidence to support those documents.



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16. Per contra, the learned counsel for respondent would submit that as per sale deed Ex.A1, the plaintiff purchased the property in the individual capacity and not as a partner of the firm nor sale consideration was paid through demand draft and the sale consideration was paid through cash and the same was rightly observed by the courts below. Therefore, under Sec.92 of Indian Evidence Act, the plaintiff proved that she is absolute owner of property as per the recitals of document. Accordingly, under Sec.92 of Indian Evidence Act, the alleged rebuttal evidence also not supported the case of defendants/appellants.

17. Considering both side submissions and on perusal of Ex.A1 sale deed, the recitals proves that the plaintiff purchased the property in the individual capacity and the sale consideration of Rs.5,50,000/- was paid by cash not through demand draft. Admittedly, two demand drafts relied on by the defendants dated 08.01.2007 those stands in the name of vendors Gnanasekaran and Venkatesan for the total sum of Rs.5,00,000/- drawn from

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the account of 3rd defendant dated 08.01.2007, but the sale deed was executed

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on 23.04.2008, wherein the sale consideration was mentioned only as

Rs.5,00,000/- and the same was paid as cash not by demand draft. The

payment made through demand draft was paid to alleged Gnanasekaran and

Venkatesan long back in the month of January 2007, on the other hand, the

sale deed was executed in favour of plaintiff in the month of April 2008

nearly about 15 months later from the date of alleged demand draft taken

from the 3rd defendant's firm and not relevant to the period of purchase made

by the plaintiff. Therefore, those alleged two demand drafts relied on by the

defendants marked as Ex.B18 not supported the case of defendants, since it

was not paid to the vendors on the date of sale of the year April 2008.

Therefore, the courts below rightly held that the defendants failed to establish

that those demand drafts are related to the sale consideration, besides, the

demand draft is meant for Rs.5,00,000/- and payment of sale consideration

was made Rs.5,50,000/- in cash, still the sale consideration is not tallied with



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the submissions made by the defendants. When there is a clear recital of sale deed, which stands in the name of plaintiff in the individual capacity, the defendants, who contested the case stated that the property was purchased in the name of plaintiff, who was then partner of 3rd defendant's firm, the burden is heavily upon them to rebut the presumption attached to the sale deed Ex.A1 as prescribed under Sec.92 of Indian Evidence Act.

18. As discussed above, the alleged sale consideration paid through 3rd defendant's account also not tallied with the sale consideration made in Ex.A1 nor there is no relevance to the purchase made by the plaintiff. Furthermore, the recitals of Ex.A1 clearly proves that in the individual capacity, the plaintiff purchased the property. According to the defendants, there was mutual understanding to reconvey the property as and when required by 3rd defendant. But, as rightly observed by the courts below, there is no such mutual understanding was placed before the court. Therefore, the plaintiff failed to prove that the plaintiff agreed to reconvey the property to



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3rd defendant's firm. However, the defendants relied on the letter said to be written by the plaintiff marked as Ex.B14, through which, they contended that the plaintiff has agreed to reconvey the property in the name of firm. It is an undisputed fact that the plaintiff was retired from the firm and reconstituted firm was made on September 2019. Thereafter, the alleged letter was said to be executed by plaintiff on 21.09.2012, but that document came into force not immediately after the Ex.A1 sale deed of the year 2008. Even assuming that, the plaintiff has agreed for reconveyance, the defendants have not taken any steps to get the sale deed in the name of firm nor they produced any memorandum of understanding dated 23.06.2007 as relied on the side of defendants. Therefore, without any such supporting document, Ex.B14 alone is not sufficient to conclude that the plaintiff agreed to reconvey the property in the name of 3rd defendant's firm nor the said letter would confer any valid right and interest over the property as rightly observed by the courts below. Therefore, Ex.B14 also not supported the case



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of defendant. As per Sec.92 of Indian Evidence Act, the party, who disputed

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the recitals of sale deed entitled to adduce contra evidence. But, as discussed above, the defendants not adduced the relevant material contra evidence to disprove the recitals found in the Ex.A1 sale deed. Furthermore, the attestor of the sale deed was also not been examined on the side of defendant. On perusal of cross-examination of D.W.5, he was not able to say how the sale consideration was paid to the plaintiff. So also, another witness D.W.4 also not aware of entire sale transaction. Admittedly, they were close associates of 1st defendant. It also not supported the case of defendants about the payment of sale consideration on the date of execution of sale deed. Apart from that, the defendants also produced individual witness to show that they have been leased out the property based on the Muchalika marked as Ex.B6, B7 and B8, but all were unregistered documents. Those documents are not sufficient. Admittedly, Ex.B7 meant for lease period for three years, but same also requires registration, but it is an unregistered document, it cannot be



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considered as evidence nor it is supported with any other material documents

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that those witnesses have enjoyed the property as a lessees. Therefore, there was no proof for validity of those documents as rightly observed by the trial court, which needs no interference. Hence, the plaintiff has proved that the property was enjoyed by her as absolute owner and subsequently, revenue records also mutated, on the other hand, the 3rd defendant failed to prove that the suit property was purchased on behalf of firm and the sale consideration was paid from the account of 3rd defendant firm nor they established that they were in possession of the property. Therefore, both the courts below rightly dismissed the suit filed by them in O.S.No.193 of 2017 (Originally O.S.No.14 of 2016) and rightly decreed the suit, which was filed by the respondent/plaintiff in O.S.No.11 of 2016. Accordingly, the question of law (a) and (b) is answered. The findings of the courts below requires no interference and on both facts and legal aspects, the courts below rightly observed the findings and no substantial question of law involved.



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Accordingly, both the Second Appeals are dismissed. The findings of trial court is confirmed and consequently, the suit filed by the plaintiff in O.S.No.11 of 2016 on the file of Sub-Court, Krishnagiri is confirmed and another suit in O.S.No.193 of 2017 (Original O.S.No.14 of 2016) is dismissed. No costs.

19. Furthermore, in so far as petition filed in C.M.P.No. 5742 of 2024 while pending appeal praying to receive the following documents and mark the same as Exhibits on the side of the appellants viz.,

- (i) Canara Bank Statement of Account for the period 2010-2011
- (ii) Canara Bank Statement of Account for the period 2012 to 2014
- (iii) Kist receipt in the name of appellant March 2009
- (iv) Kist receipt in the name of appellant March 2011
- (v) ITR as on March 2015
- (vi) Summons from Revenue Divisional Officer, Krishnagiri dated 24.01.2022
- (vii) Summons from Revenue Divisional Officer, Krishnagiri dated



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09.02.2022.

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The reason assigned by the appellants that he along with respondent herein was partners of the business to carry out export of minerals and granite stones. Since she resigned from the partnership on 19.09.2012, at that time her account was thoroughly verified with the help of auditor and her share was duly ascertained, which comes around Rs.35 lakhs. As she already availed loan of Rs.20,00,000/- on 16.04.2010, it was agreed that the said loan was adjusted in the amount of respondent and the balance amount of Rs.15,00,000/- was paid on 20.09.2013 and another sum of Rs.5 lakhs was paid on 06.02.2014. To that effect, MOU was entered between them and the original M.O.U. was retained by the respondent. Out of company funds, sale consideration was paid by the company and the property was purchaed in the name of the plaintiff. Further, the power deed stands in the name of the 2nd appellant, who is one of the partner of firm. In order to prove that there was



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cordial relationship between the respondent and the appellant and to falsify the contention of the respondent that relationship becomes strained in the year of 2012, so those documents are necessary. Therefore, he prayed to permit him to produce the additional documents on their side.

20. The said application was objected by the respondent that the suit property was purchased by her in individual capacity not as a partner of the firm nor sale consideration was paid out of funds of the firm. Therefore, those documents are not necessary. Furthermore, resignation of partnership by the respondent is not issue in the suit pending between them. Hence, those documents are not necessary, only in order to fill up lacuna, those documents were produced before this Court belatedly.

21. Considering both side submissions, even though the respondent came forward with the suit to declare that she is absolute owner of the suit property stating that she purchased the property in the individual capacity not



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as a partner of the third defendant/2nd appellant herein nor sale consideration
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was paid out of company account before the Trial Court, both parties adduced evidence and on the side of the appellants, evidence also been adduced with regard to payment of amount through two Demand Drafts to satisfy the sale consideration, but the same was not accepted by the Courts below for the reason that payment of those amount not tallied with the execution of payment of sale consideration as mentioned in sale deed nor tallied with date of transaction, besides, the recitals of the sale consideration also mentioned in the sale deed as if amount was paid in cash not through Demand Drafts. Therefore, the main contention of the appellants is that sale consideration was paid out of company account has not been accepted by the courts below. So also, in these appeals, the relationship between the parties whether strained or cordial is not the core issue of the appeals. Therefore, adjustment of the respondent loan amount need not be discussed. To that effect, the additional documents relied on by the petitioners is totally



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irrellavant. Even before the first appellate court, they have not taken any

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steps to produce those documents though the same were in their custody, but they have not produced those documents with due diligence as such is not maintainable, besides, those documents are irrelevant to the facts of the present case. Accordingly, the petition in C.M.P.No. 5742 of 2024 is dismissed.

22. In so far as the petition in CMP No. 21015 of 2023 is concerned, the petitioner/respondent herein came forward with this petition to receive additional documents and mark the sale deeds dated 29.03.2010 and 13.03.2012 as exhibits in the suit. According to her, the 3rd defendant/respondent, who is power of attorney, sold the suit property to her through registered sale deeds marked as Ex.A1 in respect of extent of 3.58 acres based upon the power of attorney obtained from his vendors for entire extent of 15.28 acres and remaining extent of 9.75 acres was sold in favour of his wife through sale deeds dated 29.03.2010 and 13.03.2012 in his



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individual capacity of his and as power agent of his vendors. To prove the same as well as conduct of D1, she wanted to mark those sale deeds as additional documents. The said petition was objected by the defendants/respondents stating that there was no such pleadings in the plaint. Therefore, without any such pleadings, those documents cannot be received at the appeal stage.

22. Admittedly, as per the contention of the petitioner/respondent herein, at the time of filing of the suit, in individual capacity she purchased the property not as partner of the 3rd defendant firm nor the amount was paid out of company account. To that effect, she relied recitals of Ex.A1. Both the Courts below concurrently held that sale deed stands in the name of the petitioner/respondent, as individual capacity the sale consideration paid by her. The vendors to third respondent herein/Sam International, power agent of his vendors sold the property, not as a partner of the 1st appellant/Sam International. To that effect, evidence relied by the petitioner/respondent



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herein was rightly appreciated by the Courts below. Therefore, the remaining extent is not the subject matter of the property, which is said to be purchased by the wife of the 3rd respondent herein, so it is not necessary to receive those documents. Since, already both the courts below concluded that sale deed stands in the name of the petitioner/respondent herein as an individual capacity, the sale consideration was not paid out of company account, those documents are not necessary to proceed further. Accordingly, this petition in C.M.P.No. 21015 of 2023 is also dismissed. No costs. Consequently, other connected Civil Miscellaneous Petitions in C.M.P.Nos.13329, 17164 of 2023 and 2583 of 2024 are closed.

12.11.2025

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
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1. Principal District Judge, Krishnagiri.
2. Principal Sub-Judge, Krishnagiri.
3. Section Officer, VR Section, Madras High Court.

T.V.THAMILSELVI, J.

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