IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.09.2025
PRONOUNCED ON : 24.10.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

S.A. No. 32 of 2014

P.Dhanasu
S/o.Perumal Gounder
Vanur Village,
Vanur Taluk ...Plaintiff/Appellant/Appellant

Versus

1. Mr.T.Ayyanarappan (Died)
S/o.Thillaikannu
Vanur Village, Vanur Taluk.

2. Vedavalli, W/o.Thillaikannu

3. A.Leela, W/o.T.Ayyanarappan

4. Minor A.Kamalesh, S/o.Ayanarappan

5. Minor A.Tharun
S/o.Ayanarappan

R3 and 4 Minors Rep. By
Mother Natural Guardian G.A.Leela
R2 to 5 Residing at Mettu street,
Vannur, Vannur Taluk, Villupuram District.

R2 to 5 brought on record as LRS of the
Deceased Sole Respondent viz.T.Ayyanarappan
Vide Order of Court dated 27.09.2019

made in CMP No.9371 and 9372 of 2018
in SA No.32/2014 (RSMJ) ...Defendants/Respondents/Respondents

PRAYER in S.A.:

Second Appeal filed under Section 100 of the Civil Procedure Code to set aside the Decree and Judgment passed in AS No.48 of 2009 dated 26.08.2011 on the file of learned Principal Sub Judge, Vanur, confirming the decree and judgment passed in OS No.30 of 2002 dated 22.07.2009 on the file of District Munsif Court, Vanur and decree the suit as prayed for and thus render justice.

APPEARANCE OF PARTIES:

For Appellant : Mr.K.Sukumaran for Mr.V.Baskaran,
Mr.Aravindan, Mr.Kamalesh Kannan,
Advocates.

For Respondents : Mr.R.P.Ruban Chakravarthy
for Mr.S.Kaithamalai Kumaran

J U D G M E N T

Heard.

2.This Second Appeal is filed against the judgment and decree of the first appellate court/Principal Subordinate Court, Tindivanam in A.S. No.48 of 2009, dated 26.08.2011 which confirmed the judgment and decree of the trial court/District Munsif Cum Judicial Magistrate Court, Vannur in O.S. No.30 of 2002, dated 22.07.2009.

3.The appellant, who is the plaintiff, was unsuccessful before both the courts below. He instituted Original Suit No. 30 of 2002 seeking a declaration of title and a decree of permanent injunction in respect of an immovable property measuring 0.84 cents, situated on the eastern side of the land comprised in Survey No. 481/1A, R.S. No. 313/4, located in Vannur Panchayat, Vannur Village, Villupuram District.

4.In this appeal, the plaintiff before the Trial Court is the appellant, and the defendant is the first respondent. For the sake of convenience, the parties will be referred to in the same rank as they stood in the Trial Court.

5.The brief facts of the case necessary for the disposal of this second appeal are as follows: It is an admitted fact that the suit property originally belonged to Perumal Gounder. On 02.09.1996, Perumal Gounder executed a registered Power of Attorney (Ex. B3) in favour of his son. The defendant purchased the suit property through the said power agent/son of Perumal Gounder, by a sale deed dated 22.10.1996

(Ex. B4), which was registered on 21.11.1996. The plaintiff also purchased the suit property from Perumal Gounder under a sale deed dated 20.11.1996 (Ex. A3), which was registered on 30.01.1997.

6.Meanwhile, Perumal Gounder had cancelled the earlier Power of Attorney (Ex.B3) through a registered cancellation deed dated 20.11.1996 (Ex. A14). The plaintiff claims title to the suit property under the sale deed Ex.A3, whereas the defendant claims title under Ex.B4. The defendant's sale deed is earlier in point of time. The plaintiff challenges the sale deed Ex.B4 which stands in the name of the defendant on the ground that the Power of Attorney (Ex.B3) executed by Perumal Gounder was not a valid document.

7.The essence of the case, is thus narrowed down to the issue of determining which of the two documents - Ex.B4 or Ex.A3 - is valid and effectively conveys title to the respective purchaser.

8.While admitting this Second Appeal on 01.11.2019, this Court formulated the following substantial questions of law, which are reproduced verbatim below:

"1.Whether the Courts below were right in concluding that the plaintiff would not get a better title solely on the ground that the Sale Deed executed by Meibalan, Power Agent of Perumal, though registered on 21.11.1996, traced the date of execution as 22.10.1996?

2.Whether the Courts below were right in ignoring vital admissions/contradictions in the evidence of the attesting witnesses to Ex.B4 Sale Deed which would have the effect of rendering the findings of the Courts below, perverse?"

9.The plaintiff challenged the execution of the Power of Attorney (Ex.B3) executed by Perumal Gounder in favour of his son on the following grounds:

(i) Of the four stamp papers used, three were purchased on 20.09.1996, whereas the Power of Attorney was stated to have been executed on 02.09.1996.

(ii) The stamp papers used for Ex.B3 were purchased from different vendors, on different dates, and in names other than those of the principal or the agent.

(iii) The Power of Attorney deed was torn and subsequently pasted together.

10.The plaintiff contended that since the date of execution of document is ante-dated, it ought not to have been registered in view of Rule 32(v) of the Registration Rules, which reads as follows:

> *"(v) If the date of execution is not stated or if it is altered or if the Document bears an impossible date or a fictitious date anterior to the date of purchase of stamp on which the document or any portion of it is written, the document shall be refused registration if the correct date cannot be ascertained."*

11.The recitals in the Power of Attorney deed state that it was executed on 02.09.1996. However, the records reveal that while one of the stamp papers was purchased prior to that date, the remaining three stamp papers on which the document was written were purchased only on 20.09.1996, and the deed was subsequently registered on 30.09.1996. It is, therefore, evident that the execution could not have taken place on 02.09.1996 as recited, and that the said date constitutes merely an ante-dated recital. Such mis-recital, by itself, does not render the instrument invalid; the execution shall accordingly be deemed to have occurred subsequent to 20.09.1996.

12.Rule 32(v) of the Registration Rules serves as a pre-registration safeguard, that triggers refusal of registration only where the correct date of execution cannot be ascertained. Once registration has been duly effected, the statutory presumption under Section 60 of the Registration Act, 1908, attaches as to its due execution and authenticity and any discrepancy in the recital date becomes a matter of evidentiary weight, not voidness. Furthermore, the principal himself acknowledged the execution of Ex.B3 in the registered cancellation deed (Ex.A14), wherein he stated that the Power of Attorney was revoked as he needed to discharge an agricultural loan obtained from the Agricultural Co-operative Society. Accordingly, the Power of Attorney (Ex. B3) is held to be valid and operative notwithstanding the mis-recital of the date of execution.

13.Rule 32(2) of the Registration Rules reads as follows:

> *"(ii) The date of execution of a document is the date on which it is signed by the party and the date which a document bears at its head is not necessarily the date of its execution though it is prima facie so."*

14.The recital date of 02.09.1996 appearing at the head of the instrument is not conclusive of the actual execution date. The date of execution is the date on which the executant actually signs the document. It is well settled that the date mentioned in a document serves only as prima facie, and not conclusive, evidence of its execution. The materials on record, along with the endorsement of the registering officer, clearly establish that the execution occurred after the purchase of the stamp papers and before the registration.

15.The first appellate court found that, since the defendant was not a party to Ex.B3, no adverse finding could be drawn against him. This reasoning is acceptable because, being a non-party to Ex.B3, the defendant cannot be expected to explain the discrepancy why the document recites the date of 02.09.1996 when three of the stamp papers were purchased on 20.09.1996. The defendant likely relied on the statutory presumption contemplated under Section 60 of the Indian Registration Act, 1908, given that Ex. B3 was duly registered. Therefore, the document cannot be invalidated merely on the ground of a mis-recital of the date.

16.Regarding the stamp papers purchased in the names of third parties, and not in the names of the parties to the Power of Attorney deed (Ex.B3), the first appellate court observed in paragraph 12 of its judgment that neither side cited any legal provision requiring that stamp papers must be purchased solely in the name of either the principal or the agent. Ex.B3 was registered in the office of the Registrar, Pondicherry (Puducherry), and both parties to the document were residents of Puducherry. As rightly noted by the first appellate court, there was no law in force in Puducherry at the time of execution of Ex.B3 prohibiting the use of stamp papers purchased standing in the names of persons other than the parties to the document. Similarly, there was no legal bar against using stamp papers purchased on different dates.

17.It is also worthwhile to note that the restriction requiring stamp papers to be purchased in the name of either of the parties to the document was found in Rule 6(2) of the Indian Stamp Rules, 1925, as applicable to the State of Tamil Nadu. However, this provision was subsequently omitted by the Government of Tamil Nadu through G.O. Ms. No. 42602/6-2/1983, dated 20.08.1983 KG, 1985/December/ page 350). In these circumstances, the objection raised by the appellant on this ground is untenable and is accordingly rejected.

18.Another contention raised by the appellant is that Ex. B3, being torn and later pasted, had lost its validity. This argument is untenable. Even with utmost care, documents may accidentally tear during handling, and the proper remedy is to restore them by pasting or mending. A mere tear, smudge, or physical damage to a registered document does not affect its validity or legal efficacy.

19.On behalf of the appellant, it was contended that the courts below had attached undue importance to the non-issuance of written notice to the agent regarding the cancellation of the Power of Attorney (Ex. B3) through the cancellation deed (Ex. A14). It was contended that, since both the executant and the agent were residing in the same house and were father and son, the issuance of a formal notice was unnecessary.

20.The agent, examined as D.W.4, denied the cancellation and asserted that the sale deed (Ex. B4) executed by him, as power agent, was valid. In such circumstances, the burden lay on the plaintiff to prove that due notice of the cancellation of the Power of Attorney (Ex. B3) had been given to the agent.

21.In this connection, the respondent relied upon the following decisions of this Court:

(i) *Senthilselvan and Others v. Srinivasan*, 2014 (2) MWN (Civil) 120;
(ii) *D. Neela v. K. V. Kumar and 20 Others*, 2019 (2) MWN (Civil) 752; and
(iii) *Dr.B.R.Shankar and 3 Others v. B. R. Srinivasa Rao and Another*, 2019 (3) MWN (Civil) 419 (DB).

22.In all these decisions, it has been categorically held that, under Section 208 of the Indian Contract Act, 1872, the termination of agency takes effect only when it becomes known to the agent.

23.Now, let us consider the substantial questions of law framed in this appeal. The sale deed standing in the name of the defendant, Ex. B4, was executed on 22.10.1996 and registered in the office of the Sub-Registrar, Vannur, on 21.11.1996. The sale deed standing in the name of the plaintiff was executed on 20.11.1996 and registered in the same office on 30.01.1997.

24.Under Section 47 of the Registration Act, 1908, once a document is registered, it takes effect from the date of its execution. It was contended that Ex. B4 was ante-dated after the executant became aware of the execution of Ex. A3. However, apart from this assertion, there is no evidence to substantiate the allegation. On the contrary, Ex. B4 was registered on 21.11.1996, thereby becoming a public document. When the plaintiff's sale deed, Ex.A3, was registered later on 30.01.1997, the plaintiff could have known of the prior existence and registration of Ex. B4. It is therefore more probable that the date mentioned in Ex. A3 i.e 20.11.1996 was fixed one day prior to the registration of Ex. B4.

25.Since Ex. A3, though dated 20.11.1996, was registered only on 30.01.1997, there was no possibility for the defendant to have known of its existence at the time of executing Ex. B4. Hence, the courts below committed no error in accepting Ex. B4, executed by the power agent in favour of the defendant, as valid and effective.

26.With regard to the second substantial question of law, P.W.4, one of the attesting witnesses to Ex. B4, was examined on the side of the plaintiff. In his chief proof affidavit, he stated that Ex. B4 was executed on 21.11.1996 and registered on the same date. However, during cross-examination, he affirmed a suggestion that the sale deed had been executed in October. Another attesting witness, examined as D.W.2, stated in his chief examination that Ex. B4 was executed on 22.10.1996. In cross-examination, he answered in the affirmative to a suggestive question referring to P.W.4's statement that all the transactions took place on the date of registration.

27.It is unclear whether D.W.2's affirmative response was in reference to the deposition of P.W.4, who was examined in chief on 19.01.2007 and cross-examined on 19.02.2007, whereas D.W.2 was cross-examined much later, on 06.07.2007. Moreover, the suggestive question put to the witness was vague and did not specifically pertain to the issue of execution. Hence, there is no clear or unequivocal admission regarding the date of execution.

28.Further, under Section 92 of the Indian Evidence Act, oral evidence is admissible against the documentary evidence. Therefore, the submission made by the appellant on this issue is untenable and stands rejected.

29.On behalf of the appellant, reliance was placed on the decision of the this Court in **Bharathi Ammal v. Jayaraman and Others, [(2001) 3 M.L.J. 391]**. In that case, the registered sale agreement had been executed on stamp papers purchased in the names of third parties. Neither the persons in whose names the stamp papers were purchased nor the stamp vendors were examined. Moreover, it was alleged that the executant had been kidnapped and that the document was obtained under coercion. In those circumstances, the Court held that the sale agreement was not genuine.

30.In the present case, however, the execution of the Power of Attorney (Ex. B3) by the principal is not in dispute. On the contrary, the principal himself, in the cancellation deed (Ex. A14), has expressly admitted the execution of Ex. B3 by referring to its document registration number and date, though he has avoided mentioning the specific date of execution. The only contention raised pertains to the validity of the document on the ground that it was engrossed on stamp papers purchased in the names of third parties. Since there exists no statutory prohibition against such a purchase, Ex. B3 cannot be declared invalid on that ground. Accordingly, the decision in **Bharathi Ammal v. Jayaraman (supra)** is clearly distinguishable and does not apply to the facts of the present case.

31.On behalf of the appellant, it was further argued that Ex. B4 was executed on a Rs.10/- stamp paper purchased within the jurisdiction of the Mylam Sub-Registrar's Office, whereas the property covered under the document lies within the jurisdiction of the Vannur Sub-Registrar's Office. It is true that Ex. B4 was written on a Rs. 10/- value stamp paper; however, the deficit stamp duty was duly paid in cash before the Sub-Registrar, Vannur, in accordance with Section 41 of the Indian Stamp Act, 1899. The Sub-Registrar, upon being satisfied with the reasons stated by the executant, exercised his discretion as Collector (Stamps) under the said provision and collected the balance duty. Since this procedure is legal**,** the validity of the registration cannot be questioned on this ground.

32.As regards the contention concerning the use of stamp paper purchased outside the jurisdictional limits of the Sub-Registrar within whose jurisdiction the immovable property is situated, Rule 3(iii) of the Indian Stamp Rules, 1925, as in force in the State of Tamil Nadu, provides as follows:

> *"3(iii) Stamps purchased in the Tamil Nadu State shall alone be used for instruments chargeable with duty under the Act as in force in that State."*
> *— [G.O. Ms. No. 1365, Rev. dated 28.04.1955]*

33.Thus, there is no prohibition under the Rules against the use of stamp papers purchased from any part of the State of Tamil Nadu, so long as used for instruments chargeable with duty under the Act as applicable in the State. Consequently, the objection raised on this ground is devoid of merit. Accordingly, both objections relating to Ex. B3 and Ex. B4 are unsustainable, and the documents are held to have been validly executed and registered in accordance with law.

34.In view of the foregoing discussion, this Court is of the considered opinion that the findings rendered by the Courts below regarding the genuineness and validity of Exhibits B3 and B4 are well-reasoned, supported by legal evidence, and in conformity with the statutory provisions. There is no perversity or substantial question of law arising for consideration in this regard. Accordingly, the substantial question of law is answered against the appellant and in favour of the respondents.

35.For the reasons stated above, both substantial questions of law are answered against the plaintiff/appellant. The judgments and decrees of the trial court and the first appellate court are hereby confirmed. Accordingly, this Second Appeal is dismissed with costs.

24.10.2025

ay

Index: Yes / No
Speaking Order / Non-speaking Order
Neutral Citation : Yes / No

To

1.The Principal Sub Judge, Vanur.

2.The District Munsif Court, Vanur.

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

DR. A.D. MARIA CLETE, J

ay

PRE DELIVERY JUDGMENT
S.A. No. 32 of 2014

24.10.2025