



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 13.11.2025

Order pronounced on : 21.11.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

A.S.No.825 of 2025

& CMP.No.18898 of 2025

Kousalya Srinivasan

... Appellant

Vs.

1.C.Krishnan

2.C.Ramadurai

3.C.Seshadri

4.C.Subadra

... Respondents

Prayer: Appeal Suit filed under Section 96 r/w Order XLI of CPC, 1908, to set aside the order dated 05.03.2025 in I.A.No.6 of 2023 in O.S.No.55 of 2023 on the file of the learned Principal District Judge, Chengalpattu, rejecting the Appellant's suit in O.S.No.55 of 2023 and consequently restore the said suit for hearing and disposal in accordance with law.

For Appellant : Mr.S.Diwakar

For Respondents : Mr.S.K.Rahul Vivek for R1
No appearance for RR2 & 4
R3 not ready in notice



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JUDGMENT

This First Appeal arises out of the proceedings initiated by the 2nd defendant, seeking to reject the plaint.

2.The 2nd defendant filed an application I.A.No.6 of 2023 under Order VII Rule 11 of CPC. On enquiry, the trial Court has proceeded to reject the plaint. Challenging the said rejection of the plaint, the present appeal has been filed.

3.I have heard Mr.S.Diwakar, learned counsel for the appellant and Mr.S.K.Rahul Vivek, learned counsel for the contesting 1st respondent, who took out an application for rejection of the plaint. The respondents 2 and 4, despite service, have not chosen to appear.

4.Mr.S.Diwakar, learned counsel for the appellant would submit that the suit was filed for the reliefs of a preliminary decree for partition and for a declaration that the release deed dated 13.12.1996 is null and void, non-est and not binding on the plaintiff. It is the contention of the learned counsel



for the appellant that the plaintiff and the defendants are children of late S.Chakrapani and Jayalakshmi. The suit property was purchased by the father of the parties, in and by sale deed dated 26.05.1958, from and out of his own income. The plaintiff was married even at her age of 13 in 1963. The plaintiff's father died intestate, on 27.04.1996 and subsequently, the mother also died intestate, on 21.09.2000.

5.The learned counsel for the appellant would further submit that the as a class-I legal heir, the plaintiff is an entitled to equal share in the suit property and when the plaintiff noticed that the defendants 1 and 2 had commenced demolition of the suit property, the plaintiff issued a letter on 12.12.2022, calling upon the defendants to come forward for partition and also share the profits. In reply, the defendants 1 and 2 informed the plaintiff that the plaintiff has already released her share in the suit property and hence, she did not have any right in the property. The plaintiff, alleging that she never signed any document, much less the release deed and that it has been brought about by impersonation and fraud, has filed the suit. The learned counsel for the appellant would therefore submit that no case was made out for rejection of the plaint and the trial Court ought to have



relegated the parties to full fledged trial. He would therefore pray for the appeal suit being allowed.

6.Per contra, Mr.S.K.Rahul Vivek, learned counsel for the contesting 1st respondent would submit that the suit is hopelessly barred by limitation and when the plaintiff herself is a party to the release deed, executed even in December 1996, it is not open to the plaintiff to challenge the same at such belated point of time. He would further state that the suit has also been undervalued, as admittedly, the defendants have been in absolute possession and enjoyment, to the knowledge of the plaintiff and rightly, the trial Court has proceeded to reject the plaint. He would therefore state that no interference is warranted in this appeal.

7.I have carefully considered the submissions advanced by the learned counsel on either side.

8.The only point that arise for consideration is as to whether the 2nd defendant has made out a case for rejection of the plaint under Order VII Rule 11 of CPC.



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9.The relationship between the parties is admitted. One of the daughters of late S.Chakrapani, has sought for partition of her 1/5th share in the suit property. The plaintiff has been put on notice about the alleged released deed said to have been executed by her even in 1996. In the plaint, the plaintiff disowns the said release deed and categorically asserts that she never executed any such document and that it has been brought about by playing fraud and impersonation, as well as forgery.

10.It is the contention of the 2nd defendant, who sought for rejection of the plaint, that the relief of declaration is hopelessly time barred; the suit ought to have been valued under Section 40 and not under Section 25; valuation under Section 37(2) is also incorrect, as the plaintiff is admittedly out of possession, subsequent to execution of the release deed.

11.I can understand if the plaintiff admits to the execution of the release deed and thereafter did not challenge the said document within a period of three years, then the suit can certainly be thrown out, as one barred by limitation. However, in the present case, the plaintiff has come to Court



with a specific case that her signature in the release deed is forged and that she came to know about the release deed only towards end of 2022 when the defendants 1 and 2 started demolishing the existing building in the suit property. In such circumstances, by no stretch of imagination, such a plaint can be nipped in the bud, on the ground that it is time barred. When the plaintiff alleges impersonation, forgery and fraud, then it is clearly a matter for trial.

12. Further, once the plaintiff is able to establish that she has not executed the release deed, then the release deed would consequently be declared as non-est, null and void and not binding on the plaintiff and consequently, the valuation of the other relief for partition would fall in place and cannot be questioned on the ground of improper valuation.

13. The trial Court, unfortunately has proceeded to allow the reject the plaint application by erroneously assuming that the release deed dated 13.02.1996 is not disputed and therefore, the suit filed after 27 years is hopelessly barred by limitation. Even with regard to improper valuation and deficit Court fee, the trial Court, without even any discussion, has



proceeded to hold that there is no cause of action for the suit and the Court fee paid is erroneous, rendering the suit liable to be rejected. These findings are not even supported by any reasons whatsoever.

14.As already discussed, when the plaintiff comes to Court with a case that she is a class – I legal her, entitled to share in the property and that the release deed, which has been put against her, was never executed by her, none of the limbs of Rule 11 of Order VII of CPC would be available to any of the defendants, to seek rejection of the plaint. The trial Court has clearly erred in allowing the application for rejection of the plaint. The findings are clearly perverse and improper, based on erroneous assumption of facts. The said order is liable to be interfered in appeal. Accordingly, the point is answered in favour of the appellant.

15.In fine, the Appeal Suit is allowed and the order dated 05.03.2025 in I.A.No.6 of 2023 in O.S.No.55 of 2023 on the file of the learned Principal District Judge, Chengalpattu, is set aside. The learned Principal District Judge, Chengalpattu, shall permit the parties to go through a regular trial and thereafter, the suit shall be disposed of on merits and in accordance with



law. Considering that the suit is of the year 2023, I direct the learned Principal District Judge, Chengalpattu, to dispose of the suit, within a period of six months from the date of receipt of a copy of this order. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

21.11.2025

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
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To
The Principal District Court, Chengalpattu.



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P.B. BALAJI,J.

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Pre-delivery order made in

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