



A.S.No.716 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 14.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Appeal Suit No.716 of 2017

and

C.M.P.No.22808 of 2017

Janaki

... Appellant

Versus

- 1.Palaniammal
- 2.Vasantha Kumar
- 3.Sasikala
- 4.Maheshwari
- 5.Dhanabal
- 6.Jayabalan (died)
- 7.Jayalakshmi (died)
- 8.Pushpa (died)
- 9.Thulasimani
- 10.Mariammal
- 11.Karthikeyani
- 12.Parthiban
- 13.S.Santhi
- 14.Chandra Mohan
- 15.Yogaraj

... Respondents

[Respondent 6 died, Respondents 10 to 12 are brought on record as LR's of deceased 6th respondent vide order of Court dated 26.07.2023 made in A.S.No.716 of 2017. Memo recorded on 28.09.2021.]

[Respondent 7 died, Respondent 13 is brought on record as LR's of deceased 7th respondent vide order of Court dated 23.11.2023 made in CMP.Nos.21936, 21957 & 21959 of 2023 in A.S.No.716 of 2017]

[Respondent 8 died. Respondents 14 & 15 are brought on record as LR's of deceased, 8th Respondent namely Pushpa vide Court order dated 09.07.2025 made in CMP.Nos.15568, 15570 & 15573 of 2025 in A.S.No.716 of 2017]

PRAYER Appeal Suit filed under Section 96 of CPC r/w Order XLI, Rule 1 of



A.S.No.716 of 2017

CPC, against the judgment and decree dated 17.03.2014 made in O.S.No.676 of 2010 on the file of the learned V Additional District & Sessions Judge, Coimbatore.

For Appellant : Mr.C.Deivasigamani

For R1 to R5
& 10 to 12 : Mr.C.Nithysh Sekhar

For R6 & R7 : Died (steps taken)
For R8 & R9 : Mr.J.Edison Gnanaraj

For R13 : M/s.R.Pushpalatha

JUDGMENT

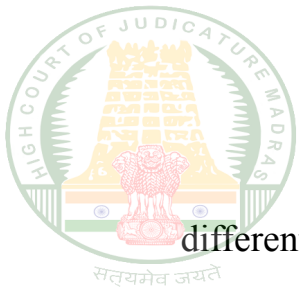
This Appeal Suit has been filed to set aside the Judgment and Decree dated 17.03.2014 passed in O.S.No.676 of 2010 by the learned V Additional District & Sessions Judge, Coimbatore.

2. The Appellant is the Plaintiff, who had instituted the suit in O.S.No.676 of 2010 seeking cancellation of the partition deed executed on 01.07.1996 and seeking partition of 1/6 share in the Suit property.

3. For the sake of convenience, the parties are referred to as Plaintiff and Defendants as referred in the suit.

4. **The plaint averments in brief are as follows:-**

4.1. The suit property was purchased by one Nagappan under three



A.S.No.716 of 2017

WEB COPY

different sale deeds dated 19.04.1946, 16.06.1954 and 29.08.1980. As such all these properties are his self-acquired properties. He died on 14.10.1982 leaving behind his two sons Palanisamy, Jayabalan (6th Defendant herein) and four daughters, the Plaintiff and the Defendants 7 to 9. The Defendants 1 to 5 are the legal heirs of Palanisamy, who died on 05.09.2010. So, the Plaintiff and Defendants are the only heirs to succeed Nagappan's estate and the Plaintiff is having 1/6th share. During the year 1996, the Defendants obtaining the signature and thump impression of the Plaintiff in certain papers stating that name in the revenue records is to be altered. However, the Plaintiff has come to know on 18.05.2010 that her brothers are trying to sell the properties to third parties and she further came to know that they actually obtained the signature and transferred the properties in their name. She is a poor illiterate and they have transferred the title fraudulently without pay any amount as stated in the partition deed. So the partition deed dated 01.07.1996 obtained by playing fraud and the partition is to be cancelled and the Plaintiff is to be allotted 1/6th share in the suit property. She further seeks an injunction restraining the Defendants from selling the suit properties.

5. The averments in the written statement filed by Defendants 1 to 7 and 9 in brief are as follows:-

5.1. It is true that all these suit properties are the self-acquired



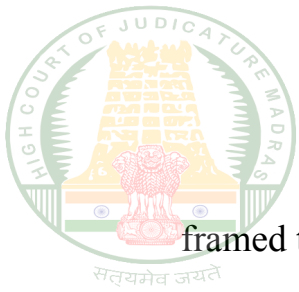
A.S.No.716 of 2017

WEB COURT

properties of Nagappan. The Plaintiff and Defendants are his legal heirs. The Plaintiff failed to disclose their relationship of Defendants 1 to 5 to the above said Nagappan. The suit is filed in a hurried manner without giving true particulars. The date of death of Palanisamy mentioned in Plaint as 05.09.2010. But the date of death is 05.10.2011. The suit has been filed after 14 years of registration of a partition deed. After the death of their father the children of Nagappan partitioned the suit property on 01.07.1996 and the Plaintiff and other sisters were given only money equivalent to their shares. All the daughters of Nagappan were got married with proper jewels and other seer. Hence, no property was given to them. The Plaintiff is one of the consented party to the documents. There is no fraud played upon the Plaintiff. Now, the Defendants 1 to 6 alone enjoyed the property as absolute owner. The Plaintiff was not having any share. She is not in joint possession. The Court fee paid is not correct. She is not entitled to any share and she is not entitled to any relief.

5.2. The eighth Defendant filed a separate written statement admitting the case of the Plaintiff entirely.

6. On the pleading in the plaint and the written statement filed by the Defendants, the learned V Additional District and Sessions Judge, Coimbatore,



A.S.No.716 of 2017

framed the following issues regarding partition deed are as follows:

WEB COPY

- a) Whether the partition deed dated 01.07.1996 is valid and binding on the Plaintiff?
- b) Whether the Plaintiff is entitled to 1/6th share in the suit property?
- c) Whether the partition deed dated 01.07.1996 can be cancelled as prayed for?
- d) Whether the payment of Court fee is correct?
- e) Whether the Plaintiff is entitled for the relief of permanent injunction?
- f) Whether the Plaintiff is entitled for the relief of Partition as prayed for?
- g) What other relief, if any?

7. Based on these issues, evidence was recorded. The Plaintiff examined herself as P.W-1, documents were marked as Ex.A-1 to Ex.A-4. Ex.A-1 is the certified copy of the Sale deed dated 19.06.1946. Ex.A-2 is the certified copy of the sale deed dated 29.08.1980. Ex.A-3 is the certified copy of the sale deed dated 16.06.1954 and Ex.A-4 is the certified copy of the partition deed dated 01.07.1996. On the side of the Defendants, the sixth Defendant examined himself as D.W-1. One Kumarasamy was examined as D.W-2 and the documents on the side of the Defendants were marked as Ex.B-1 to Ex.B-8. Ex.B-1 is the admitted signature in the original partition deed dated 01.07.1996. Ex.B-2 is the original sale deed dated 29.08.1980. Ex.B-3



A.S.No.716 of 2017

is the original sale deed dated 19.06.1946. Ex.B-4 is the original sale deed dated 16.06.1954. Ex.B-5 is the original partition deed dated 01.07.1996. Ex.B-6 is the patta dated 20.09.2008. Ex.B-8 is the adangal dated 03.11.2010.

8. On conclusion of trial and on appreciation of evidence, the learned Judge had answered the issues against the Plaintiff and dismissed the Suit. Aggrieved by the same, this Appeal had been preferred by the Plaintiff.

9. It is the contention of the learned Counsel for the Appellant that the suit properties were acquired by the father of the Plaintiff and Defendants 6 to 9 and it is a self-acquired property. The father of the Plaintiff and Defendants 6 to 9 died intestate and that the Plaintiff is entitled to 1/6th share in the suit properties. The learned Counsel for the Appellant submitted that the Plaintiff is an illiterate. She is not worldly wise. Her ignorance had been exploited by the Defendants by getting her signature as though they were seeking her signature for applying for Patta. Believing their words, she put her signature. But it was a partition deed wherein, as per the claim of the Defendants, the suit property was to be equally divided, but it was not so.

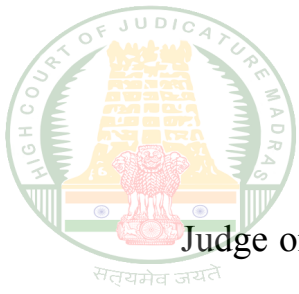
10. The learned Counsel for the Appellant invited the attention of this Court to the recitals in the partition deed, wherein the daughters were given



only a meagre amount of money; that too was actually not paid, and they had executed partition deed with respect to the immovable properties among the male heirs alone and the daughters were not given any share in it. The fraud played by the Defendants came to the knowledge of the Plaintiff when the Defendants attempted to sell the properties. By then, she had instituted the Suit.

11. The learned Counsel for the Appellant had relied on the decision reported in *AIR 1963 SC 1203 in the case of Kharbuja kuer Vs. Jangbahadur Rai* wherein it is held that the pardanashin are not worldly wise and she did not know what was happening around her. Here, the facts are also similar. The learned Judge dismissed the suit for partition and the claim seeking to cancel the partition deed claiming that the Plaintiff had affixed her signature. The Plaintiff had herself taken steps to summon the Headmaster of the School. That Petition was subsequently closed by the trial Court.

12. The learned Counsel for the Appellant invited the attention of this Court to the averments in the Plaint, averments in the written statement, deposition of witnesses viz., P.W-1, D.W-1 and D.W-2 particularly regarding the educational status of the Plaintiff. The D.W-1 was examined who had admitted that the Plaintiff had only studied up to 4th standard. In spite of the fact that the Plaintiff was not educated and was an illiterate woman, the learned



A.S.No.716 of 2017

Judge on appreciation of evidence refused to accept the fact that the Plaintiff's signature was obtained by fraud by the Defendants, thereby, rejected the claim of the Plaintiff and dismissed the suit.

13. In support of his contention, the learned Counsel for the Appellant relied on the following reported rulings:

(i) AIR 1968 SC 956 in the case of ***Ningawwa vs. Byrappa shiddappa hireknrabar and others.***

(ii) AIR 2004 Raj 196 in the case of ***Virendra Singh & Ors. Vs. Kashiram (deceased) through Lrs.***

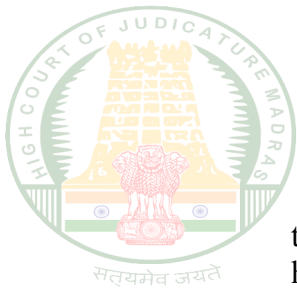
(iii) S.A.No.207 of 1961 in the case of ***Marudanayagam Pillai Vs. Solai Pillai.*** The relevant portion is extracted hereunder:

Family - partition - Articles 48 and 127 of Schedule to Indian Limitation Act and Section 37 of Court-fees Act - suit for partition and separate possession - lapse of time is never in itself bar to partition - statute of limitation will operate from time plaintiff is excluded from his share and such exclusion became known to him - there can be no exclusion without denial of coparcener's right to share - once plaintiff establishes his claim to share in joint family property then onus is on defendant to establish exclusion to plaintiffs knowledge for over 12 years prior to suit - defendants failed to discharge onus casted on them - held, no evidence to show plaintiff's exclusion from joint family properties as would warrant rejection of plaintiffs claim under Article 127 Limitation Act.

(iv) 2019 (2) CTC 30 in the case of ***Andivel Chettiar and Another v. Murugesan and Others*** it is held as follows:

"The burden of making out ouster is on the person claiming to displace the lawful title of a co-heir by his adverse possession." Section 101 of the Evidence Act runs as follow:

"101. Burden of proof. Whoever desires any Court to give Judgment as



WEB COPY



A.S.No.716 of 2017

to any Legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist. When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person."

(v) AIR 1963 SC 1203 in the case of Mst. Kharbuja Kuer Vs. Jangbahadur Rai and Others.

(vi) AIR 1937 PC 274 in the case of Omanhene Kwamin Bassayin Vs. Omanhene Bendentu II.

(vii) AIR 1982 HP 1 in the case of Mangheru etc vs. The State of Himachal Pradesh and others.

(viii) MANU/MH/0090/1912 in the case of Vithappa Devappa Patil Vs. Basagowda Devappa Patil. The relevant portion reads as follows:

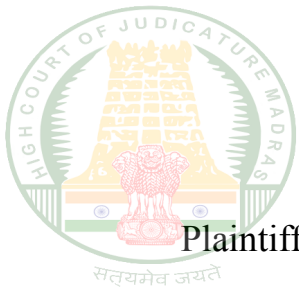
Limitation Act (IX of 1908), Section 18, Article 127-Fraud-Knowledge of fraud-Suit to set aside partition tainted with fraud-Exclusion-Knowledge of exclusion.

Where a Court finds that in the matter of partition of family property, one co-parcener has imposed upon the others and has thereby brought about an unfair and inequitable partition, the case becomes reduced to one of a fraudulent partition and the plaintiff's cause of action then becomes in substance one to set aside that partition on the ground of fraud and to treat the family as joint and seek for a fresh partition of the family estate. For the purpose of limitation the case is taken out of Article 127 of the Limitation Act.

Where fraud is found and the Court has to apply the Limitation Act in order to see whether the suit is within time, the Court ought to have evidence of a definite character to show the point of time at which the plaintiff had not merely suspicion but definite knowledge of fraud.

Rahimbhoy Habibbhoy v. Charles Agnew Turner (1892) I. L. R. 17 Bom. 341, followed.

14. As per the submission of the learned Counsel for the Appellant, the question of limitation does not arise in this case as she had approached the Court only on coming to know about the fraud played by the brothers of the



A.S.No.716 of 2017

WEB C

Plaintiff, the Defendants herein, which is acceptable in the light of the ruling of the Hon'ble Supreme Court in *AIR 1968 SC 956* in the case of *Ningawwa vs.*

Byrappa shiddappa hireknrabar and others and *AIR 2004 Raj 196* in the case of *Virendra Singh & Ors. Vs. Kashiram (deceased) through Lrs.*

Therefore, learned Counsel for the Appellant prayed this Court to set aside the Judgment of dismissal by the learned V Additional District Judge, Coimbatore in O.S.No.676 of 2010 dated 17.03.2014.

15. The Respondents 1 to 9 in this Appeal are the Defendants in O.S.No.676 of 2010. As per the written statement filed by the Defendants, the suit is barred by limitation. The learned Trial Judge had on proper appreciation of evidence had rejected the claim of the Plaintiff for partition and dismissed the suit.

Point for Determination:

Whether the judgment of the learned V Additional District & Sessions Judge, Coimbatore, in O.S.No.676 of 2010 dated 17.03.2014 is perverse warranting interference by this Court?

16. Heard learned Counsel for the Appellant/Plaintiff Mr.C.Deivasigamani and since the Respondents/Defendants did not advance arguments or file written submissions as was directed by this Court, this Court



A.S.No.716 of 2017

exercises discretion by perusing this record till this judgment.

WEB COPY

17. On perusal of the records and the judgment of the learned V Additional District & Sessions Judge, Coimbatore, in O.S.No.676 of 2010 dated 17.03.2014, it is found that it is the specific case of the Plaintiff that the Plaintiff is an illiterate/semi-literate, that she can only sign her name, and that her status as illiterate and semi-literate was exploited by her brothers. The deceased, Palanisamy, elder brother and the 6th Defendant herein, Jayabalan had obtained her signature as though they were applying for patta for the properties left intestate by their father, Nagappan, who died on 14.10.1982. The elder brother of the Plaintiff, Palanisamy died on 05.09.2010. On coming to know about the fraud, misrepresentation by the Defendants on the Plaintiff, she had contacted her Counsel and filed a suit for partition.

18. It is the contention of the 6th Defendant in the written statement that the Plaintiff had filed the suit only for the purpose of extracting money. It is her specific case that the so-called partition deed was created after the death of their father, Nagappan, and before the death of their elder brother, Palanisamy.

19. In the he cross-examination of the Plaintiff as P.W-1 it is seen that



A.S.No.716 of 2017

WEB.COM

the Plaintiff has knowledge of the partition. She admits that her marriage was in the year 1980, long prior to the Tamil Nadu Amendment regarding the right of the Hindu woman to immovable property as a coparcener as amended by the Tamil Nadu State in the year 1989. As per the said amendment, those women who were married prior to 1989 are not entitled to claim a share in the joint family property. She admits all these facts in the cross-examination. She admitted that she was read over the partition deed prior to its registration by the Sub Registrar. It was read over to her and that after having understood she had affixed her signature in the partition deed. Now after several years due to the amendment brought about by the Parliament to the Hindu Succession Act in the year 2005, amending Section 6 thereby including the daughters to be entitled to an equal share as that of sons, this suit had been instituted with an ulterior motive to extract money from the persons who are enjoying the property. To seek partition, she has to seek a declaration that the partition deed executed between the parties is null and void. She has not sought such a declaration. To seek such declaration, she has to implead the Sub Registrar concerned as a proper and necessary party without which she cannot seek partition. In the cross examination she had admitted “பத்திர பதிவாளர் படித்து காண்பித்தார்”. The father of the Plaintiff had married her off with all his resources at his command. She admitted that her marriage was in the year 1980. Ayyasamy, husband of the 7th Defendant, had also affixed his signature



A.S.No.716 of 2017

WEB.COM

in the partition deed. For which, P.W-1, the Plaintiff, claims ignorance. The

original litigant is the 8th Defendant; where husband and son are Advocates.

The Plaintiff had admitted the status of 8th Defendant that her husband and sons are Advocates. Therefore, they are the original Plaintiffs who had instigated the Plaintiff to institute the suit and the 8th Defendant had filed separate written statement.

20. If what had been claimed by the Plaintiff was true, that the brothers of the Plaintiff viz., the deceased Palanisamy and the 6th Defendant had obtained a signature from the Plaintiff and other sisters under the guise of getting patta, and instead had utilized the signature of the Plaintiff and other sisters of the 6th Defendant to execute a partition deed, the 8th Defendant her husband and her son being Advocates, would have approached this Court at the earliest opportunity without waiting for this long period. That is why the 8th Defendant had not entered the witness box even though she had filed a written statement supporting the claim of the Plaintiff in this case.

21. After registering the partition deed, the Plaintiff having come with a false case as though the brothers of the Plaintiff had misused the signature of the Plaintiff and other sisters and executed a partition deed is nothing but a ploy to extract money by misusing the amendment brought about by the



A.S.No.716 of 2017

WEB COPY

Parliament in the year 2005 long after the marriage of the Plaintiff. If this is allowed, it will open up floodgates of litigation. The Plaintiff had not approached the Court at the earliest opportunity. The plaint is nothing but a clever draft.

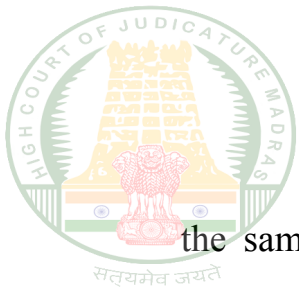
22. On perusal of the judgment of the learned V Additional District & Sessions Judge, Coimbatore, in O.S.No.676 of 2010 dated 17.03.2014, the reasoning given by the learned Judge is found acceptable. On perusal of the deposition of P.W-1, the Plaintiff, she admitted that she had affixed her signature in the partition deed dated 01.07.1996. Her signature was marked as Ex.B-1. The original partition deed was marked as Ex.B-5.

23. On perusal of Ex.B-1, it is found that the signature of the Plaintiff is found in it. It is found that there are recitals for each of the sisters who had been granted Rs.5,000/- and it is mentioned as schedule 'C, D, E, F' regarding money given to the sisters. Apart from that, it is a registered partition deed where the parties had signed in the presence of the Joint Sub Registrar, Coimbatore, admitting the recitals. In the course of the cross-examination, the Plaintiff was confronted with the fact that she had signed the partition deed in the year 1996 at the time of presentation of the partition deed for registration before the Sub Registrar concerned. She admitted her signature. Whether she



WEB COPY

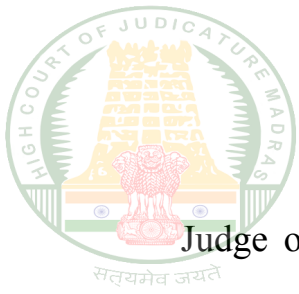
had read and found it, she says that it was read over to her and others in the presence of the Joint Sub Registrar. There ends the matter. Apart from that, as per Section 114 of the Indian Evidence Act, all the Acts done before the Officials of the State are presumed to be carried out as per law. Here, the Joint Sub Registrar had recorded the partition deed. The partition deed was executed whereby the self-acquired property of the father, Nagappan, was divided between the brothers as 'A' schedule and 'B' schedule. 'A' schedule to Palanisamy for the value 72469, 'B' schedule for the 6th Defendant, Jayabalan, for the value 5469 and rest of the sisters were given money *in lieu of* their share on the ground that they were married off with all resources at the command of the father, and recitals of the same are reflected in the partition deed. The daughters of Nagappan who were identified as parties, 4-Janaki, 5-Jayalakshmi, 6-Pushpa and 7-Thulasimani were allotted Rs.5,000/- each, as they were married off with all resources of the family “நம்மில் 4, 5, 6, 7 லக்கமிட்டவர்களுக்கு அவர்கள் திருமண சமயத்தில் நல்ல முறையில் சீறுசிறப்புகளுடன் திருமணம் செய்துவைத்து நல்ல முறையில் இருந்துவருவதாகவும் இதன் அடியில் காணும் பொது குடும்ப ரொக்க தொகையை நம்மில் 4, 5, 6, 7 லக்கமிட்டவர்களுக்கு போதுமானது என்று மனப்பூர்வமாக ஒப்புக்கொண்டு இந்த பாக சாசனத்தில் 1, 4, 5, 6, 7 லக்கமிட்டவர்களுக்கு கையெழுத்து செய்து கொண்டார்கள்” and Rs.5,000/- was given to each of the daughters 4, 5, 6 and 7, and admitting



A.S.No.716 of 2017

the same, they have affixed their signatures in the document. The Plaintiff having knowledge of the registered partition deed in the year 1996 cannot now turn around and say that fraud had been played upon the sisters by the brothers, Palanisamy, who is dead by the time the suit is filed, and the 6th Defendant, Jayabalan. The Plaintiff having filed the suit in the year 2010 on the ground of the deceased, Palanisamy, and the 6th Defendant having played fraud on the sisters is found unacceptable and challenging the partition deed, which is a registered partition deed of the year 1996 is also unsustainable due to the admission made by P.W-1 in her cross-examination, when she was confronted about whether she was read over the recitals in Ex.B-5, the partition deed dated 01.07.1996. She clearly stated that it was read over and she understood the same and signed. There ends the matter. After 14 years she had approached the Court with the false claim that the brothers had played fraud on the sisters. To support her claim, the 8th Defendant, Pushpa, had filed a written statement. She had not entered the witness box to support her claim. Under those circumstances, the observation of the learned Trial Judge is on proper appreciation of evidence.

24. As per the guidelines of the Hon'ble Supreme in the reported decisions in *Betal Singh -vs- State of M.P.* reported in (1996) 8 SCC 205 and in *V.Sejappa - Vs - State* reported in 2016 (12) SCC 150, if the learned Trial



A.S.No.716 of 2017

WEB COPY

Judge on proper appreciation of evidence, had arrived at a finding then the learned Appellate Judge on the same set of evidence, even though arriving at a different finding and conclusion, shall not disturb the finding of the learned Trial Judge. This is the law laid down by the Hon'ble Supreme Court as the guidelines for the Appellate Court while re-appreciating the evidence. This is because the learned Trial Judge had the advantage of observing the demeanour of the witnesses, which was not available to the Appellate Court. Therefore, the Appellate Court shall not disturb the finding of the Trial Court if the Trial Court finding is based on proper appreciation of evidence. Here the attempt of the Plaintiff to seek documents from the school where she studied was closed *suo motu* by the learned Judge on the ground that the Plaintiff was attempting to prolong the proceedings.

25. As rightly contended by the learned Counsel for the Respondents (Defendants before the Trial Court), in their written statement that the claim of the Plaintiff is barred by limitation. The Plaintiff had admitted the execution of the partition deed and registration of the partition deed in the year 1996. The claim made by the Plaintiff that brothers have cheated them is found unacceptable as when the partition deed was presented for registration it is presumed that the recitals were read over to the parties in the presence of the Sub Registrar. The sisters had received Rs.5,000/- each as their share then they



A.S.No.716 of 2017

WEB COPY

had signed the document admitting the recitals. This presumption is available to the Court when the registered document is presented as a document before the Trial Court. Therefore, the claim made by the Plaintiff in the plaint as well as in her evidence that the brothers of the Plaintiff played fraud on sisters has to be rejected outright.

26. It is true that the Hindu Succession Act was amended by the Parliament in the year 2005 [Hindu Succession (Amendment) Act, 2005 (39 of 2005)]. In the same Act, Section 6, there is a proviso, which reads as follows:

“Provided that nothing contained in this sub-section shall affect or invalidate any disposition or alienation including any partition or testamentary disposition of property which had taken place before the 20th day of December, 2004. “

27. Therefore, as on 20th December 2004, any disposition or alienation, including any partition, cannot be invalidated. Here, Ex.B-5 is a registered partition deed between the sons and daughters of the late Nagappan of the year 1996. Palanisamy died subsequent to the partition deed and before the filing of the suit. The legal heirs of the Palanisamy had been impleaded as Defendants 1 to 5. The 6th Defendant is the surviving only brother of the Plaintiff. Defendants 7, 8 and 9 are the other sisters. Though they had filed the written statement none of them had supported the claim of the Plaintiff except 8th Defendant. Even though the 8th Defendant had filed written statement



A.S.No.716 of 2017

seeking partition supporting the claim of the Plaintiff, she had chosen to remain

WEB COPY *ex parte.*

28. The ruling of the Hon'ble Supreme Court reported in **(2020) 9 SCC 1 (Vineeta Sharma Vs. Rakesh Sharma and Others)** will not be applicable to the facts of this case, as the document under Ex.B-5 confirms that the Plaintiff has no right or claim as per the amendment to Section 6 of the Hindu Succession Act. To overcome this, the Plaintiff had found a new way by claiming fraud and misrepresentation of the Defendants. Therefore, the judgment of the learned V Additional District & Sessions Judge, Coimbatore, in O.S.No.676 of 2010, dated 17.03.2014 is a well reasoned judgment that does not warrant any interference by this Court exercising the power of Appeal under Section 96 and Order XLI, Rule 1 of CPC.

29. In the light of the above discussion, the point for determination is answered against the Plaintiff/Appellant and in favour of the Defendants. The rulings cited by the learned Counsel for the Appellant in the case of **Andivel Chettiar and Another Vs. Murugesan and Others** reported in **2019 (2) CTC 30** will not help the Plaintiff's case in the light of Ex.B-5, which is a registered document. Therefore, the Court has to presume that it was duly executed. Therefore, the reliance placed on by the learned Counsel for the Appellant in



A.S.No.716 of 2017

Andivel Chettiar and Another Vs. Murugesan and Others reported in **2019**

WEB COPY (2) **CTC 30** is rejected regarding the facts available in this case.

In the result, this **Appeal Suit stands dismissed as devoid of merits.**

The judgment and decree dated 17.03.2014 made in O.S.No.676 of 2010 on the file of the learned V Additional District & Sessions Judge, Coimbatore is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

14.07.2025

cda

Index : Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No

To

1.The V Additional District & Sessions Judge,
Coimbatore.

2.The Section Officer,
VR Section, High Court,
Chennai.



WEB COPY



A.S.No.716 of 2017

SATHI KUMAR SUKUMARA KURUP, J.,

cda

Judgment made in
A.S.No.716 of 2017

14.07.2025