



A.S.No.60 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 24.03.2025

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THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

A.S.No.60 of 2025 and
C.M.P.Nos.822 and 823 of 2025

Tr.N.Sundar Rajan

... Appellant/13th Defendant

-VS-

1. Smt.Gowri
2. Sri.Srinivasan
3. Selvi.V.Pavithra
4. Smt.Lakshmi
5. Kumari
6. S.Rajeshwari
7. V.Gomathi
8. S.Balaji
9. S.Kavitha
- 10.M.Vijaya
- 11.Bhavani Shankar
- 12.Ellappan
- 13.Gopalakrishnan
- 14.S.Govindaraj
- 15.M/s.Bharath Textiles and Proofing (P) Ltd.,
No.21, Thulasingham Street,
Chennai-600 079.
- 16.S.Vadivelu
- 17.T.V.Geetha Lakshmi
- 18.T.K.Jamuna Rani

... Respondents/Defendants

Prayer: Appeal Suit is filed under Section 96 of CPC to partially set aside the judgment and decree in O.S.No.10 of 2015 dated 22.09.2023 on the file of IV Additional District and Sessions Judge, Tiruvallur at Ponneri insofar



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as it denied the relief of declaring the subsequent sale deed dated 08.08.1988 bearing Doc.No.1633 of 1988, sale deed dated 29.09.1992 bearing Doc.No.1994 of 1992 and partition deed dated 26.04.2011 bearing Doc.No.1661 of 2011 registered by the defendants before the Sub Registrar Office, Gummidipoondi based on the Koorchit dated 15.12.1980 to be sham and nominal and allow the First Appeal.

For Appellant : Mr.C.K.Chandrasekar
For R16 : Mr.E.Prabhu

J U D G M E N T

A challenge has been made to the decree and judgment of the Trial Court, wherein the relief sought for by the plaintiff in respect of declaration of registered documents dated 08.08.1988, 29.09.1992 and 26.04.2011 marked as Ex.A5, Ex.A6 and Ex.A8 respectively as sham and nominal has been rejected by the Trial Court.

2. In the given case, though the appellant is the Defendant No.13 in the suit, his claim for complete partition was rejected, whereas the claim of the Defendants 5 to 9 and 16 in respect of segregating their properties for the purpose of sale was allowed in part.

Background of the case in nutshell:

3. The plaintiff, who is the daughter one Narasimmalu Chetty



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has filed a suit for preliminary decree on the ground that there was a partition by way of Koorchit dated 15.12.1980 amongst family members.

The property was originally owned by one Munniamma, w/o.Govindha Chetty, who had three sons, namely, Narasimmalu Chetty, Allasamy Chetty and Sriramalu Chetty. The plaintiff is one of the daughters of Allasamy Chetty. Defendant Nos.10 to 13, 17 and 18 are the sons and daughter of Narasimmalu Chetty and Defendant Nos.1 to 4 and the plaintiff are from Allasamy Chetty and Defendant Nos.6 to 9 are claiming right under Sriramalu Chetty.

4. In the suit, the plaintiff, among various other reliefs, sought for the following specific reliefs:

“b) To declare that the sale deed dated 08.08.1988 registered as Doc.No.1633 of 1988 before the Sub Registrar Office at Gummidipoondi is sham and nominal document and not binding on the plaintiff and her right over the suit property.

c) To declare that the sale deed dated 29.09.1992 registered as Doc.No.1994 of 1992 before the Sub Registrar Office at Gummidipoondi is sham and nominal document and not binding on the plaintiff and her right over the suit property.

d) To declare that the Partition Deed dated 26.04.2011 before the Sub Registrar Office at Gummidipoondi is sham and nominal document and not binding on the plaintiff and her right over the suit property.”



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5. The Trial Court has disbelieved Ex.A4 / Koorchit, which is

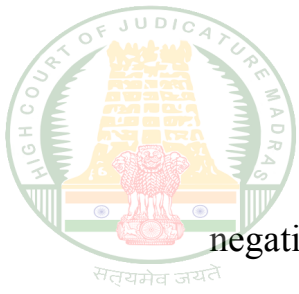
an unregistered document and dismissed the suit. Insofar as the other relief of declaration is concerned, it was negatived on the ground of limitation. The appellant has filed the instant appeal only as against the finding of the Trial Court, rejecting the prayer extracted supra.

6. Learned counsel for the appellant would mainly submit that if the finding of the Trial Court with regard to the above prayer is not challenged, it will have a serious repercussions on other legal heirs, while claiming partition. Hence, the appeal has been filed only challenging the particular finding.

7. Considering the fact that only a limited issue is involved in this case, notice to other respondents is not necessary.

8. The point for consideration in this appeal is as to whether the appeal is maintainable only as against the particular finding alone?

9. Admittedly, there is no decree and judgment passed against appellant. In fact, the relief of declaration sought for by the plaintiff has been



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negated and that portion of the finding alone has been called in question in the appeal. Therefore, Appeal is not maintainable. The only apprehension of the appellant is that since the appellant has right in the property, the sale deeds dated 08.08.1988, 29.09.1992 and 26.04.2011 shall not come in the way of the appellant to claim the right.

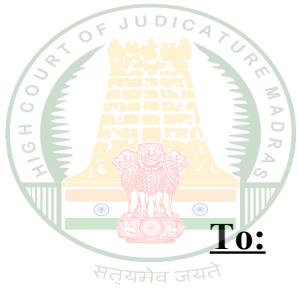
10. It is needless to mention here that when the parties exercise their rights for partition, mere sale by undivided sharers will not take away the rights of the co-owners.

11. With the above observation, this Appeal Suit is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index: Yes / No
Internet: Yes / No
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N.SATHISH KUMAR,J.,
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To:

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1. The IV Additional District and Sessions Judge,
Tiruvallur at Ponneri.
2. The Section Officer,
V.R.Section,
High Court,
Madras.

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