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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2025

CORAM

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

A.S.No.657 of 2019

and CMP. No.16059 of 2025

1. Sulochana (Died)
2. V. Radhesh Kumar
3. Vasumathi

... Appellants/Plaintiffs

Vs.

1. R.Varadharaj
2. V.Ramesh Kumar
3. V.Balakumar
4. B.Sneha
5. R.Mathan Raj

... Respondents/Defendants

Prayer: Appeal Suit has been filed under Section 96 read with Order XLI

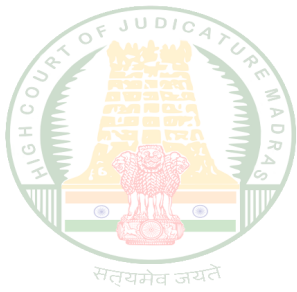
Rule 1 of Code of Civil Procedure, against the judgment & decree dated

27.07.2018 in O.S.No.5136 of 2014 on the file of the learned VII

Additional City Civil Court, Chennai.

For Appellants : Mr. R.Varadaraj

For Respondents : Mr.R.Ravindran



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JUDGMENT

Unsuccessful plaintiffs have preferred the present appeal. The suit is filed for partition and for declaration to declare the settlement deed dated 01.02.2007 executed by the first defendant in favour of the third defendant as null and void and to declare the settlement deed 11.01.2012 executed by the first defendant in favour of the defendants 3 & 4 as null and void and to declare the settlement deed dated 11.01.2012 executed by the first defendant in favour of the defendants 2 & 5 as null and void. The trial Court has dismissed the suit in entirety. For the sake of convenience, the parties are referred to as per their ranking in the trial Court.

2. The brief case of the plaintiffs is as follows:

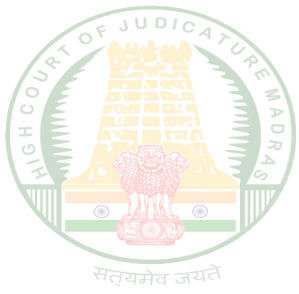
The first plaintiff is the legally wedded wife of the first defendant. The first plaintiff was employed as teacher in Kumbakonam prior to her marriage. Immediately after the marriage the first plaintiff could not



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come down to Chennai to lead the matrimonial life. Hence, the first defendant who was an employee in Integral Coach Factory (ICF) in Peramburm Chennai, will be frequently visiting the plaintiffs parental house in Kumbakonam. Ever since the date of the marriage, the first defendant used to collect the monthly salary of the first plaintiff. While the first defendant visiting the parental house of the first plaintiff, he had developed a relationship with one Renuka, who is the sister of the first plaintiff. In order to overcome the embarrassment in her matrimonial life, the first plaintiff had obtained a job as Teacher in a Government Aided School Chennai, in 1962. Out of the wedlock with the first plaintiff, two sons viz., V.Ramesh Kumar, V.Radhesh Kumar and a daughter viz., Vasumathi were born. Due to the illicit relationship with one Renuga, a son and a daughter was born viz., V.Balakumar and V.Vaijayanthimala were born. In order to maintain both the families the first defendant collected the entire salary from the first plaintiff and used to pay the conveyance charges only to the first plaintiff.



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2.1 Meanwhile in the year 1964, the Tamil Nadu Housing Board allotted the plot No.AP 981, Door No.227, Block No.Z, Anna Nagar, Chennai-40 comprised in S.No.104/2, T.S.No,748, Block No2, of Mullam Village measuring to an extent of 900 sq. ft. (hereinafter referred to as a suit property) . Initially the first defendant who was not having sufficient amount to pay the sale consideration. At the point of time, the first defendant had assured the first plaintiff that the suit property shall be registered in their name jointly. Subsequently, the first defendant herein had fraudulently obtained the sale deed registered in his name. Though, the entire sale transaction amount was paid by the first defendant from and out of the amount received by pledging the first plaintiff's jewels. The first plaintiff's salary and that of her two sons were utilized for the construction of the suit property with the Madras Purasawakkam Hindu Janopakara Swaswatha Nidhi was redeemed by the first defendant from and out of the contribution made by the plaintiff and her sons. The first

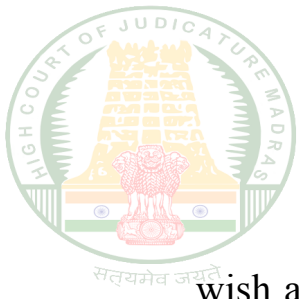


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defendant forced the first plaintiff to give voluntary retirement from the service and used the terminal benefits to put up the additional construction in the suit property. The first defendant used to live with the said Renuga in Kolathur Area and occasionally came to meet the first plaintiff and her children in the suit property only to collect the pension amount from the first plaintiff.

2.2 The first plaintiff had contributed her life time salary and savings. Her two sons' salary also utilized for construction of building in the suit property. Hence, the suit property is a joint family property. The first plaintiff sent an Advocate Notice dated 26.07.2011 for demanding partition. The defendants had not sent any reply notice. In order to pacify the plaintiffs, the first defendant had give a copy of the Will dated 08.05.1998 registered document No.8/1998, in which, he had bequeathed a portion of the suit schedule property in favour of the first plaintiff. The first defendant has no locus standi to execute as per his



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wish and the same will not bind the plaintiffs' share in the suit property.

Hence, the suit.

3. The brief case of the first defendant is as follows:

The first defendant is the absolute owner of the suit property and the same was allotted in his name on 14.08.1970 by the Tamil Nadu Housing Board. The first defendant has paid all the dues from and out of his own money periodically through his employer viz., ICF, Perambur, Chennai. Thereafter, the Tamil Nadu Housing Board had executed a registered sale deed in the name of the first defendant on 04.03.1987. The first respondent had constructed a ground floor building in the suit property out of his own money by availing housing loan from his employer. Subsequently, constructed first and second floor for various periods. The first defendant had spent all the education expenses of the children without any biased. The first plaintiff is very adamant and inflexible character and due to her cruel acts, made the first defendant



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marry the first plaintiff's sister one Renuga, is denied. The first defendant had set up the matrimonial home at ICF colony along with first plaintiff and her sister and mother in law. The first plaintiff has never paid any money for the construction of the suit building. The first defendant filed additional written statement, wherein it has stated that the first plaintiff spent all her earnings to purchase an immovable property at Plot No.54, First floor, Teachers colony, Second Layout, Kolathur, Chennai and put up two individual construction and the same was later settled into two pieces to her one son/second plaintiff and daughter/3rd plaintiff. The first defendant is absolute possession and enjoyment of the suit schedule property from the date of allotment till 11.01.2012.

4. The brief case of the second defendant is as follows:

The first plaintiff has never involved in purchase of the suit property. The first defendant has applied for allotment of plot, immediately after the allotment, he has paid earnest money to the housing



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Board in his name. Subsequently, the first defendant has paid all the dues from his salary through his employer. The first plaintiff has never contributed anything for the purchase for developing the suit property. The recital in the sale deed executed by the Housing Board to the first defendant would disprove the claim of the plaintiff. The suit property is the absolute property of the first defendant and the plaintiffs have no equal right in the suit property. The first plaintiff spent all her earning to purchase an immovable property in plot No.54, Teacher's Colony, Second Lay-out, Kolathur, Chennai and put up two individual construction and later settled the said property was settled into two pieces to the first plaintiff's son and daughter.

5. The brief case of the third defendant is as follows:

There is no cause of action to file the suit. The first plaintiff has filed a suit only to threaten the first defendant and other family members. The suit is only based on assumption and presumption and non-est in



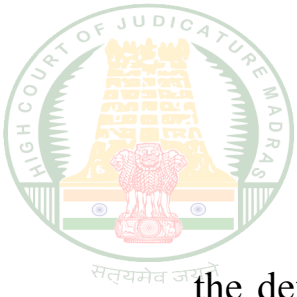
6. Based on the above pleadings, the trial Court has framed the following issues and also framed additional issues:

- 1. Whether the suit is bad for non-joinder of parties?*
- 2. Whether the suit property is purchased out of the common nucleus fund?*
- 3. Whether the plaintiff s' are entitled to the relief of partition as prayed for?*
- 4. To what other relief the plaintiffs are entitled to?*

Additional issues:

- 1. Whether the plaintiffs' are entitled to declare the settlement deed dated 01.02.2007, 11.01.2012 and 11.01.2012?*
- 2. Whether it is true as stated by the defendants (B,C,D) was inserted beyond the period of limitation and this Court has no pecuniary jurisdiction to try the suit?*

During the trial, on the side of the plaintiffs, the second plaintiff himself has examined as PW1 and Ex.A1 to Ex.A23 were marked. On the side of

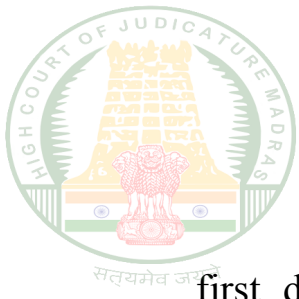


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the defendants, the first defendant himself was examined as DW1 and Exs.B1 to 23 were marked.

7. The findings of the trial Court: Ex.A2 is the passbook stands in the name of the first defendant in respect of the property loan and the name of the first plaintiff is not found in place. PW1, in his cross examination, deposed that yet another property was purchased by his mothers name and that property was divided and settled in favour of the plaintiffs 2 & 3. The suit schedule property was allotted to his father/first defendant and at that time, PW1 was aged about six years old. After payment of installments, the Housing Board executed a sale deed in favour his father/first defendant. In order to establish the fact that the first defendant is in possession of the suit property as an absolute owner and he had paid property tax demanded by the Government from the year 1997 to 2007, relied upon Ex.B5 to Ex.B7. The property tax receipt has been marked as Ex.B8 and Water tax receipts stands in the name of the

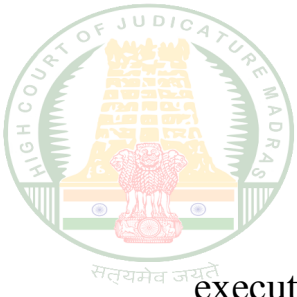


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first defendant under Ex.B11. From the above said document, it is evident that the first defendant is the absolute owner of the suit schedule property.

8. During pendency of the appeal, the plaintiffs have filed a petition under Order 41 Rule 27 of CPC., to receive the document pertains to the first plaintiff's Indian Overseas Bank Cheque Book as an additional document. It is stated in the affidavit that the suit plot was purchased only from the nucleus fund of the joint family as the deceased first plaintiff had pledged her jewels and gave it to the first defendant for payment of the initial amount for purchase of the suit scheduled property. The ground floor of the suit property was constructed during 1978. Only out of the nucleus fund from the joint family as the deceased first plaintiff was also working as Government Teacher and she was giving her salary to the first defendant ever since the marriage during 1961 to till 2007. The deceased first plaintiff was also a co-applicant and



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executed a mortgage deed and raising a mortgage amount of Rs.1,80,000/- for construction of the first floor building. The first defendant suppressed the fact about the property tax paid by the deceased first plaintiff and the deceased first plaintiff paid property tax from the period 1992-1993, 1997 to 1998 for amount of Rs.8,630/- that was deducted from the account of the first plaintiff in her account number and Cheque No.004491 dated 04.12.1997 at Indian Overseas Bank, Anna Nagar Tower Branch. After death of first plaintiff, the second plaintiff was not able to find out some of the important documents that was in the name of the deceased plaintiff and recently only found out the cheque book of the Indian Overseas Bank. The said document is necessary to prove the joint possession with the first defendant and paid the property tax payment through the said bank account that was operated by the first defendant.

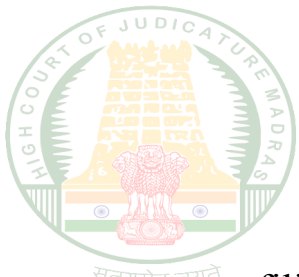
9. The respondents/ defendants have filed counter affidavit wherein



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it has been stated that the suit property was allotted in the name of the first respondent/first defendant based on his application dated 14.08.1970. The first defendant was put in possession of the suit property by the Tamil Nadu Housing Board, under lease cum sale agreement. The first defendant had been paying the periodical dues under lease cum sale agreement to the Tamil Nadu Housing Board through his employer by deducting the same from his monthly salary. The first defendant is the absolute owner of the property. Being a lawful owner, the first defendant executed a settlement in favour of the third defendant and thereafter, he executed a settlement deed in favour of defendants 3 & 4 and also in favour of the defendants 2 & 5. Ever since the date of settlement deed, the beneficiaries under the settlement have been in absolute possession and enjoyment of the respective portions. The proposed additional document is filed with only due to drag on the appeal proceeding. The proposed document is inadmissible in evidence and there is no relevancy to the case. The appellant has failed to substantiate any factual reason for



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not filing the same before the trial Court.

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10. The learned counsel appearing for the appellants/plaintiff 2 & 3 would submit that the trial Court failed note that the plot of the suit property was purchased only from the nucleus fund of the joint family as the deceased first plaintiff had pledged her jewels and gave it to the first defendant for the payment of initial amount for the purchase of the suit property. But the first defendant had fraudulently cheated the deceased first plaintiff that the said plot would be registered both in the name of the deceased first plaintiff and the first defendant. Subsequently after getting money from the deceased first plaintiff, the first defendant had registered the suit property in his own name. The ground floor of the suit property was constructed during the year 1978, only out of the nucleus fund of the joint family as a deceased first plaintiff was also working as Government Teacher and she has given her salary every month to the first defendant ever since from marriage from the year 1961 to 2007. The first



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defendant had obtained two loans, one is Rs.60,000/- in the year 1987 and Rs.60,000/- in the year 1988 by mortgaging the suit property for the purpose of construction of the first floor under mortgage deed in Ex.A10 and Ex.A11. Whereas the first defendant contended that in the year 1987 loan agreement that it was obtained for the marriage of his daughter. In fact, his daughter got married in the year 1983 itself. Since the first defendant made default for the payment of the housing loan, the first defendant and the deceased first plaintiff jointly mortgaged the suit property and obtained a loan Rs.1,80,000/- during 1995 under Ex.A12. Hence, the said loan was repaid only by the first defendant and the deceased first plaintiff. It is only for this reason that in the property loan passbook, the name of the first defendant and "another" was mentioned. Since the first plaintiff's two sons had joined in ICF by that time and the deceased first plaintiff by using her pension as well as the salary of her two sons and they have paid the loan amount.



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11. The learned counsel would further argued that the first defendant could not able to pay the EMI and the Madras Purasawakkam Hindu Janopakara Swaswatha Nidhi had sought public auction notice to the first defendant under Ex.A17. At that point of time, the salary of the first defendant is only Rs.1,900/- whereas the salary of the deceased first plaintiff was Rs.2,536/-. In order to repay the loan, the first defendant had forced the first plaintiff to go for voluntary retirement service during 1990 and the entire terminal benefits of the deceased first plaintiff were used for repayment of the housing loan dues, which is evident under Ex.A16. The original document of the suit property after the fore closure of housing loan was received by deceased first plaintiff and the first defendant by putting their signature which evidence under Ex.A13. The Indian Overseas Bank statement of the deceased first plaintiff would disclose the fact that Rs.40,000/- was drawn from the first plaintiff's account on 29.07.2004 and a sum of Rs.27,326 was paid on 29.07.2004 and the said amount drawn from the savings of the first plaintiff. The



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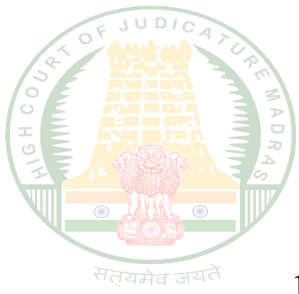
deceased first plaintiff has been already executed a Will, wherein, she has been narrated all these facts.

12. The learned counsel would further submit that the first defendant had registered settlement deed in favour of the defendants 2 to 5 while the suit was pending before the trial Court. The said execution of the documents is certainly hit by the *doctrine of lis pendens* has provided under Section 52 of the Transfer of Properties Act. The trial Court failed to note that PW1 never accepted in his evidence that the concubine of the first defendant Renuga had contributed money to the welfare of the family. The evidence of PW1 was misquoted by the Court below. The trial Court failed to note that since first defendant had executed two Wills dated 29.06.1989 and 08.05.1998 bequeathing the ground floor in her favour it was only for the reason that the first plaintiff has not taken any steps to include her name in the documents of the scheduled property.



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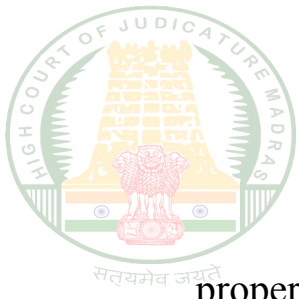
13. The learned counsel further reiterated the contention of the grounds raised in the appeal. To strengthen his contention, the learned counsel relied upon the judgment of this Court in ***S.A.No.59 of 2016 dated 21.06.2016 in the case of Kannian Naidu (died) and others Vs. Kamsala Ammal @ Banumathi and others*** shows that the proper presumption is that the beneficial interest belongs to them jointly. The property may be purchased either in the name of the husband or wife along, but nevertheless, it is purchased with money saved by their joint efforts. Another judgment of this Court in ***S.No.573 of 2017 dated 20.04.2022 in the case of Vadivelan and others Vs. Gandhi and another*** to show that when kartha or Manager of the Hindu joint family has no independent income or if it is established that he is in possession of sufficient nucleus from the joint family properties, the burden lies on the kartha or Manager to prove that the property has been acquired without the aid of the joint family.



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14. Per contra, the learned counsel appearing for the respondents/defendants would submit that the Tamil Nadu Housing Board has allotted the suit plot in the name of the first defendant, based on his application dated 14.08.1970. Thereafter, the first defendant was put in possession of the suit property under lease cum sale agreement. The first defendant was employed in ICF at Chennai and had been paying the periodical dues under lease cum sale agreement to the Housing Board through his employer by deducting the same from his monthly salary. After paying the entire dues to the said housing board, the housing board executed and registered sale deed dated 04.03.1987 in the name of the first defendant. Further, the first defendant has also constructed the ground floor building over the suit land out of his own money and also by availing housing loan from his employer and subsequently constructed first and second floors on various period. The first defendant is in absolute possession and enjoyment of the entire suit property from the date of allotment till 11.01.2012. The revenue records,



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property tax, water tax, sewage connection and electricity connection etc., with respect to the suit property stands in the name of the first defendant alone. The first defendant is the absolute owner of the suit property with all rights of alienation. Being a lawful owner, the first defendant executed a settlement deed in favour of the defendants. ever since the date of execution of the settlement deed, the beneficiaries under the settlement deed have been in absolute possession and enjoyment of their respective portions with all rights of alienation by mutating in the revenue records etc., The deceased first plaintiff had no manner of right, title and interest over the suit schedule property. Whatever her claim of partition and other reliefs was rightly dismissed by the the trial Court.

15. This Court has considered the submissions made on either side and perused the materials available on record.

16. The points for determination arise in this appeal is that



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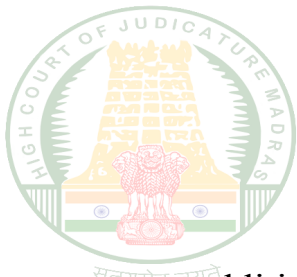
(i) Whether the petition filed in CMP. No.16059 of 2025 under Order 41 Rule 27 CPC is to be allowed?

(ii) Whether the suit schedule property has purchased out of the common family nucleus fund?

(iii) Whether the plaintiffs are entitled for relief for partition and other reliefs prayed for in the suit?

Point No.(i)

17. It is stated in the affidavit that after death of his mother, the petitioners/appellants could not able to find out some of the important bank documents that was in the name of the deceased first plaintiff and recently they have found out the Indian Overseas Bank cheque book in Account No.12400 stands in the name of the deceased first plaintiff. The said Indian Overseas Bank's Cheque book is necessary to prove the joint possession with the first defendant. The proposed document is evident that the property tax payment has been paid for nine years through bank account of the deceased first plaintiff, that has been operated by the first defendant. It is just and necessary to receive the said document as an



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additional evidence.
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18. Per contra, the respondents/defendants contended that the proposed document is inadmissible in evidence and there is no relevancy to decide the issues involved in this appeal. At this juncture, it is relevant to refer under **Order 47 Rule 27 of CPC** which reads as follows:

"27. Production of additional evidence in appellate Court.

(1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the appellate court, but if

a. The court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

aa. The party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or

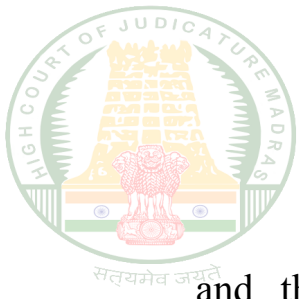


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(b) the appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the appellate Court may allow such evidence or document to be produced or witness to be examined.

(2) wherever additional evidence is allowed to be produced by an appellate Court, the Court shall record the reason for its admission. "

19. The reasons stated in the affidavit are not sufficient and not attracted the above said provision as mandated to receive the document as an additional evidence. The appellant has not show any reasons that the evidence sought to be produced, could not be produced, at the stage of trial, in spite of exercise of due diligence and that the evidence could not be produced, as it was not within his knowledge and hence, was fit to be produced before this Court. The document filed along with this petition i.e. Indian Overseas Bank Cheque Book, has no relevancy to decide the issue involved in this appeal. There is no merit in the petition



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and the same is liable to be dismissed. Point No.1 is answered accordingly.

20. It is seen from records that initially the suit was filed by the first plaintiff against her husband for partition. After the first defendant appearance and filed written statement wherein it has been stated that he had already executed settlement deed in favour of other defendants and therefore, they were added as defendants 2 to 4 in the suit. During pendency of the suit, the first plaintiff died and thereafter, the 2nd and 3rd plaintiffs were impleaded as plaintiffs.

Point Nos.ii and iii:

21. Admittedly, the deceased first appellant/first plaintiff was the legally wedded wife of the first defendant. At that time of the marriage, the deceased first plaintiff was working as a Government Teacher at Kumbakonam and her husband/first defendant was working in ICF,



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Indian Railways at Chennai. The second plaintiff/V.Radhesh Kumar and the third plaintiff/V. Vasumathi and the second defendant/V. Ramesh Kumar are the two sons and a daughter were born out of wedlock of the deceased first plaintiff and the first defendant. The third defendant Balakumar and one Vijayanthi mala were born to the first defendant with one Renuga. The said Renuga is the younger sister of the deceased first plaintiff.

22. It is the specific case of the plaintiffs that due to the illicit relationship between the first defendant and one Renuga, a son and a daughter were born. In order to maintain both the families, the first defendant collected the entire salary from the deceased first plaintiff and used to pay the conveyance charges only to her.

23. It is also specific case of the plaintiff that in the year 1964 the Tamil Nadu Housing Board allotted the suit property to the first



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defendant. At that time, the first defendant was not having sufficient money to pay the sale consideration. At that point of time, the first defendant had assured the plaintiff that the suit property shall be registered in their name jointly. Subsequently, by fraudulently obtained the sale deed registered in his name alone. Though the entire salary transaction was paid by the first defendant from and out of the amount by pledging the first plaintiff's jewel. Further, the first plaintiff's salary was utilized for the construction of the suit property with the Madras Purasawakkam Hindu Janopakara Swaswatha Nidhi was redeemed by the first defendant from and out of contribution made by the first plaintiff and her sons.

24. It is the specific case of the defendants that the first defendant is the absolute the owner of the suit property and he applied for the allotment of suit plot and the same was allotted in his name on 14.08.1970. The first defendant is in possession under lease cum sale



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agreement and subsequently, he paid all the dues from and out of his salary through his employer and obtained a registered sale deed in his name on 04.03.1987.

25. Ex.A1 = Ex.B10 is the sale deed dated 04.03.1987 stands in the name of the first defendant executed by the Tamil Nadu Housing Board. Ex.A2 is the pass book stands in the name of the first defendant in respect of the suit property. A perusal of Ex.A2 shows that the passbook was opened for payment of Rs.3,924/- for twenty months installments. there is no mention the name of the deceased first plaintiff in Ex.A2. A perusal of Ex.A5, first plaintiff's marriage invitation shows that the marriage was was solemnized on 30.10.1961. Ex.A7 is the settlement deed dated 01.02.2007 executed by the first defendant in favour third defendant. Similarly the settlement deed dated 11.01.2012 in favour of the second defendant and another settlement deed in favour of third defendant also reveals under Ex.A8 and Ex.A9.



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26. Admittedly, during pendency of the suit, the first plaintiff died, she did not enter into the witness box. The second plaintiff himself examined as PW1 to establish the case of the deceased first plaintiff. PW1, in his cross examination, he has deposed that his mother was purchased the property in her name in Teacher's Colony and the said property was divided and settled in favour of the second and third plaintiffs. PW1 also stated that the suit schedule plot was allotted to his father/first defendant. At that time, PW1 was aged about 6 years. He admits that after payment of installments, the Housing Board executed the sale deed in favour of his father. The suit schedule property is in the name of first defendant and the first defendant gave settlement deed in favour of the second and third defendants in the year 2007 and 2012. PW1 also admits that the deceased first plaintiff gave a settlement deed in favour of the third plaintiff in the year 1997 and also gave another settlement deed in his favour in the year 1999. After execution of

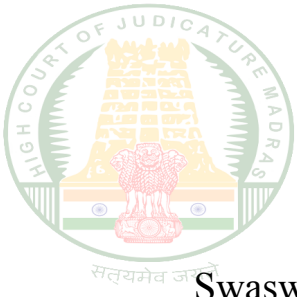


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settlement deed by his mother, his father executed the settlement deed in favour of the other legal heirs who were not given the share. From the evidence of PW1, which reveals that after the first plaintiff executed a settlement deed with regard to the property stands in her name in favour of second and third plaintiff and thereafter, the father/first defendant executed settlement deed in favour of remaining legal heirs.

27. According to the plaintiffs, the first plaintiff has repaid the loan which was obtained from Madras Purasawakkam Hindu Janopakara Swaswatha Nidhi and the same was obtained for the improvement of the property. Exs.A10 to A12 mortgage deeds were executed by the first defendant in the year 1987, 1988 and 1995 respectively. Ex.A12 mortgage deed was executed by the first defendant along with his wife/deceased first plaintiff. A perusal of the Exs.A10 and 11 shows that the name of the first plaintiff was not found. In this regard, DW1 in his evidence stated that Madras Purasawakkam Hindu Janopakara



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Swaswatha Nidhi requested the first defendant to include the name of the first plaintiff and hence, her name was included. Since the property came to be mortgaged in third time. For that reason, the name of the first plaintiff was included.

28. A perusal of ExA2 Pass Book shows that the first defendant had purchased the suit plot by paying salary income through his employer. Ex.A13 is a letter dated 30.06.2011 from Manager, Madras Purasawakkam Hindu Janopakara Swaswatha Nidhi to the first plaintiff. In this regard, PW1 in his cross examination, he has deposed that on the request made by the first plaintiff, a letter given by the said authority and in the said document, no where it was mentioned that the first plaintiff has paid the money and discharged the mortgage. Ex.A16 is the voluntary retirement order stands in the name of the first plaintiff dated 31.10.1990. PW1 in his cross examination he has deposed that his mother got pension only at the rate of Rs.570/- and she has been retired



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from service from 31.03.1990. A perusal of Ex.A16, shows that how much amount she has been received through voluntary retirement was not at all mentioned. The plaintiffs have not chosen to file any other document to show how much amount she had received at that time of voluntary retirement and the same has been contributed to construct the building in the suit property.

29. According to the first plaintiff, the property was purchased through joint nucleus and also construction done through the joint family income. In order to prove the above said facts, the plaintiffs have not chosen to file any documentary evidence and not examined any independent witness. According to the first defendant, the first floor was constructed as per the planning permission dated 28.08.1987 and he has paid the property tax. Ex.B5 is the property tax demand card stands in the name of the first defendant for the year 1987-1995. Ex.B6 is the property tax demand card stands in the name of the first defendant for the



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year 1992 – 2001. Ex.B7 is the property tax demand card stands in the name of the first defendant for the period 1998 – 2007. Ex.B8 is the property tax collection receipts (7 nos) dated 01.02.2018. Ex.B9 is the property tax final order dated 02.11.2000. Ex.B11 is the water tax paid by the first defendant. A perusal of the above said documents shows that the first defendant was in possession and enjoyment of the suit property and paying the property tax, water tax and electricity consumption card throughout from the year 1987 till the execution of settlement deeds in favour of the defendants.

30. PW1, in his evidence, has categorically admitted that the plot was allotted to his father/first defendant and her mother has not taken any steps to include her name along with his father. On account of precaution, his mother's name was added in the mortgage deed.

31. It is pertinent to mention that till her lifetime of the first



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plaintiff, she has not taken any steps as against the Tamil Nadu Housing Board to include her name in the sale deed. The sale deed was executed in the name of the first defendant in the year 1987. Till the filing of the suit, no steps was taken by the first plaintiff, challenging the sale deed stands in the name of the first defendant. Admittedly, the deceased first plaintiff having knowledge about the execution and registration of the sale deed dated 04.03.1987 in favour of the first defendant, has not challenged the same and not filed any police complaint, till filing the present suit filed in the year 2011, beyond the period of limitation.

32. It is the specific case of the deceased first plaintiff that the first defendant had blackmailed and threatened when she questioned the first defendant's relationship with her sister. In this regard, the first plaintiff has not challenged the same or not chosen to lodge any police complaint.

33. PW1 admitted in his evidence that the sale consideration

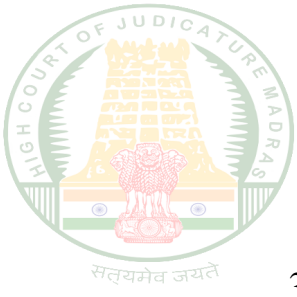


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amount has been paid to the housing board by his father/first defendant from his salary through the first defendant employer and also admitted that his father is the absolute owner of the suit property. From the evidence of PW1, it is clear that the first defendant is the absolute owner of the suit property.

34. The plaintiffs have failed to prove that the suit property was purchased from joint nucleus and from joint family income. The first defendant who purchased the property and enjoyed the property as an absolute owner and executed the settlement deed in favour of the defendants are valid and so the plaintiffs are not entitled for partition. Upon considering the evidence adduced on either side, the Court below rightly given findings and hence there is no reason to interfere with the impugned judgment and decree passed by the trial Court. All the points are answered accordingly.



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35. In the result, the Appeal Suit is dismissed and the judgment and decree passed by the Court below is confirmed. Consequently, connected miscellaneous petition is also dismissed. No costs.

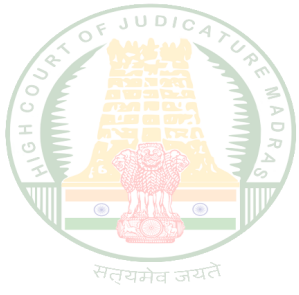
28.08.2025

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Internet; Yes/No

Index: yes/No

Speaking order/Non-speaking order



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M.JOTHIRAMAN,J.

rli

To

The VII Additional City Civil Court, Chennai.

A.S.No.657 of 2019

28.08.2025