

S.A.(MD).No.169 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.04.2025

WEB COPY

CORAM:

THE HON-BLE MR JUSTICE K.K. RAMAKRISHNAN

S.A.(MD)No.169 of 2025
and
C.M.P(MD)No.6460 of 2025

Tmt.Kaliyammal Palaniappan Educational Trust,
represented by its Trustee~cum~Treasurer S.Muthusamy
for himself and on behalf of Trust,
Having office at No.91, Nathamedu,
Veeranampalayam Post,
P.Velur, Namakkal District.

... Appellant

Vs.

1. Jegadheesh
2. Shanthi
3.Kaliyappa Gounder
4.Vijayalakshmi
Subramani (died)
5.Krishnaveni
6.Natarajan
7.A.S.Ravichandran

... Respondents

Prayer: The Second Appeal has been filed under Section 100 of C.P.C, to set aside the Judgment and Decree dated 07.06.2024 passed in A.S.No. 9 of 2019, on the file of the Principal District Judge, Karur by reversing the judgment and decree dated 13.12.2018 made in O.S.No.308 of 2008 on the file of the Principal Subordinate Judge, Karur.

For Appellant

: Mr.K.Suresh



S.A.(MD).No.169 of 2025

WEB COPY

JUDGMENT

This second appeal has been filed to set aside the Judgment and Decree dated 07.06.2024 passed in A.S.No.9 of 2019, on the file of the Principal District Judge, Karur by reversing the judgment and decree dated 13.12.2018, made in O.S.No.308 of 2008, on the file of the Principal Subordinate Judge, Karur.

2.The 4th defendant in the suit in O.S.No.308 of 2008, has filed this appeal challenging the judgment and decree passed in A.S.No.9 of 2019. The 2nd plaintiff, namely, Shanthi married the 3rd defendant in the suit. The 1st plaintiff is their minor son. The 3rd defendant without taking care of the 2nd plaintiff and driven them out from the Matrimonial Home and the 3rd defendant allegedly assaulted the 2nd defendant demanding more dowry and hence, she sustained the injuries and she made a complaint and parted the 3rd defendant and started living separately with minor son. Taking advantage of the same, the 3rd defendant tried to alienate the suit scheduled ancestral property and hence, she issued the paper publication and in spite of that the 4th to 7th defendants purchased the properties affecting the right



S.A.(MD).No.169 of 2025

of the minor son. Therefore, the 2nd plaintiff filed the suit for partition seeking 1/8 share and separate possession in the suit schedule property.

The learned trial Judge partly decreed the suit granting the decree except the property purchased by the 4th to 7th defendants. Challenging the dismissal of her claim in the suit against the defendant Nos.4 to 7, the plaintiff filed an Appeal Suit No.9 of 2019 on the file of the learned Principal District, Karur and the same was allowed and decree also granted against the 4th to 7th defendants with specific finding that the alienation made by the 3rd defendant in favour of the defendant Nos.4 to 7 is not valid to extent of the share of the 1st plaintiff for the reason that the 3rd defendant has no right to sell the property of the minor and no evidence was adduced to prove the said alienation was made for family necessity and welfare of the minor. The minor suit is also within the period of limitation under Section 6 of the Limitation Act.

3.The learned counsel for the appellant would submit that the learned appellate Judge failed to consider that the sale was affected for family necessity and the suit was barred by limitation and seeks to admit the Second Appeal.



S.A.(MD).No.169 of 2025

WEB COPY

4.The learned trial Judge and 1st Appellate Judge have held that the suit scheduled properties are the ancestral joint family properties of 1st plaintiff and 1 to 3 defendants.

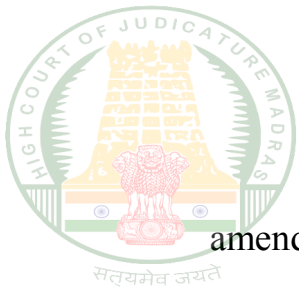
5.The learned trial Judge has found that the sale deed executed by the 3rd defendant in favour of the 4th defendant including the minor 1st plaintiff-s property was made for the welfare of the minor is without any evidence. The learned Appellate Judge as a final court of finding has re~appreciated the evidence and gave categorical finding that the sale was not made for the welfare of the minor. The minor plaintiff and the 2nd plaintiff live separately and there is no evidence adduced to prove that the 3rd defendant was taking care of the minor plaintiff and he contributed any amount for the welfare of the minor who was living with the 2nd plaintiff. No evidence was produced to prove the contribution made by the 3rd defendant for the welfare of the minor and further he has not obtained any permission from the Court. The learned Appellate Judge has analysed the above evidence and found that alienation was not made for the welfare of the minor and same was not binding on the share of the



S.A.(MD).No.169 of 2025

minor plaintiff by setting aside the finding of the learned trial Judge that the sale was binding on the minor. The said finding of the learned Appellate Judge is neither perverse nor suffers any infirmities.

6. During the Court of the First Appeal argument was made on the side of the Appellant-s purchaser about the limitation. It is settled law that no one can alienate the minor property and if any alienation was made without any necessity it is void. In this case, the suit was filed on 17.12.2008 and at that time of the filing suit, he was aged about 6 years. He has filed Amendment Petition on 06.09.2021 to cancel the sale deed executed by the 3rd defendant in favour of 4th defendant and the same was allowed with direction to agitate the issue of limitation at the time of the argument. The learned trial Judge has not addressed the issue of limitation for the reason that the same was has not been raised. But before the learned Appellate Court the said issue was raised. The learned Appellate Judge has rightly found that as per Section 6 of the Limitation Act, the minor plaintiff is entitled to seek for setting aside the voidable transaction within a period of three years from the date of this majority. In this case, minor plaintiff attained majority on 06.04.2020 and filed the



S.A.(MD).No.169 of 2025

amendment petition to cancel the deed on 06.09.2021 and the same was within the period of limitation. Therefore, this Court finds no perversity in the findings of the learned Appellate Judge either on fact or law. Hence, this Court dismisses this appeal at the admission stage itself on the ground that there are no substantial questions of law for admission.

7. Accordingly, this Second Appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

22.04.2025

NCC :yes/No
Index :yes/No
Internet :yes/No

rgm



S.A.(MD).No.169 of 2025

WEB COPY **To**

1. The Principal Subordinate Judge, Karur
2. The Principal District Judge, Karur



WEB COPY



S.A.(MD).No.169 of 2025

K.K. RAMAKRISHNAN, J.

rgm/sbn

S.A.(MD)No.169 of 2025
and
C.M.P(MD)No.6460 of 2025

22.04.2025