



S.A.(MD)No.217 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.07.2025

CORAM

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

S.A.(MD)No.217 of 2025
and
C.M.P.(MD)No.8010 of 2025

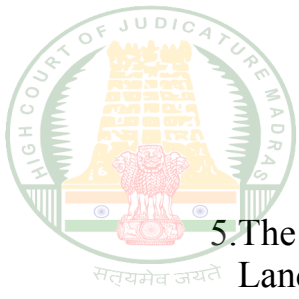
1.Sumathi
2.Deepankumar
3.Anandkumar

... Appellants/Appellants/
Plaintiffs

VS

1.N.Marappan
2.M.Gunasekaran
3.The State of Tamil Nadu,
represented by the District Collector,
Collectorate Complex,
Thanthonimalai,
Karur Taluk,
Karur District.

4.The District Revenue Officer,
Collectorate Complex,
Thanthonimalai,
Karur Taluk,
Karur District.



S.A.(MD)No.217 of 2025

5. The Special Tahsildar,
Land Acquisition,
NH-67, Karur to Kovai Section,
Thanthonimalai,
Karur-639 005.

...Respondents/Respondents/
Defendants

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, against the judgment and decree dated 28.01.2025 in A.S.No.19 of 2016, on the file of the Additional Subordinate Judge, Karur, confirming the judgment and decree dated 21.04.2016, in O.S.No.579 of 2009, on the file of the Principal District Munsif, Karur.

For Appellant : Mr.M.P.Srivignesh

For Respondents : Ms.K.Abiya
for R.1 and R.2
: Mr.B.Saravanan
Additional Government Pleader
for R.3 to R.5

JUDGMENT

The plaintiffs are before this Court on appeal.

2. The Second Appeal is filed challenging the judgment and decree, dated 28.01.2025 in A.S.No.19 of 2016, on the file of the Additional Subordinate Court, Karur, confirming the judgment and decree dated



S.A.(MD)No.217 of 2025

21.04.2016 in O.S.No.579 of 2009, on the file of the Principal District
Munsif Court, Karur.

3. For the sake of convenience, the parties are referred to as per the
litigative status before the trial Court.

4. According to the plaintiffs, the suit property originally belonged to
one Marayee Ammal, having purchased through a sale deed dated
29.11.1979. She had put up a house in the year 1980 and has been in
possession and enjoyment of the suit property. Marayee Ammal died on
25.05.1991 leaving behind her husband K.Marappan and two sons –
M.Kanagaraj and M.Selvaraj as her Class-I legal heirs to succeed to her
estate. After the death of Marayee Ammal, the legal heirs inherited 1/3rd
share each in the suit property. It is the further case of the plaintiffs that the
husband of the first plaintiff and the father of the plaintiffs 2 and 3 –
M.Kanagaraj, who is one of the sons of Marayee Ammal, died on
02.07.2004 and therefore, the 1/3rd share in the suit property inherited by
M.Kanagaraj were subsequently inherited by the plaintiffs as Class-I legal
heirs.



S.A.(MD)No.217 of 2025

WEB COPY

5. It is the further case of the plaintiffs that after the death of M.Kanagaraj, the plaintiffs were in joint possession and enjoyment of the suit property along with other legal heirs of Marappan and M.Selvaraj. The husband of Marayee Ammal, who inherited 1/3rd share, also died on 07.11.2008. According to the plaintiffs, since Marappan died, his son Selvaraj and other pre-deceased son M.Kanagaraj are entitled to succeed his estate and further since the other son M.Selvaraj also died as a bachelor on 03.08.2009, the plaintiffs herein, who are the legal heirs of M.Kanagaraj are entitled to 1/3rd share of M.Selvaraj and also 1/3rd share of K.Marappan. A portion of the property was acquired by the defendants 3 to 5 for the purpose of NH-67 Karur to Coimbatore road. It came to the knowledge of the plaintiffs that the compensation in respect of the portion of land acquired was to be disbursed and the second defendant was approaching the authorities to get compensation in respect of 2/3rd shares in the suit property, by relying on a sale deed dated 22.12.2008. According to the plaintiffs, the documents relied on by the second defendant is fabricated and created.



S.A.(MD)No.217 of 2025

6. It is the further case of the plaintiffs that the sale deed has been executed, based on the power of attorney deed alleged to have been executed on 26.09.2008 by K.Marappan and M.Selvaraj. Since K.Marappan died on 07.11.2008 itself, the sale deed having been executed only on 22.12.2008, admittedly, when K.Marappan was not alive, the sale deed executed is void. Hence, the plaintiffs have come with this suit seeking for declaration to declare the documents as null and void and also for permanent injunction for possession and to restrain the authorities from disbursing the compensation.

7. The second defendant resisted the suit by filing written statement contending that the power attorney deed dated 26.09.2008 executed in favour of the first defendant and subsequently the sale executed in favour of the second defendant on 22.12.2008 are genuine and valid documents. It is the case of the second defendant that even prior to the registration of these documents, the acquisition had been notified and in fact the second defendant had only purchased undivided shares from Marappan and Selvaraj. According to the second defendant, Marappan and Selvaraj who are co-sharers of the suit property having inherited $2/3^{\text{rd}}$ shares of Marayee



S.A.(MD)No.217 of 2025

Ammal, had executed the power of attorney on 26.09.2008 in favour of the first defendant, pursuant to which, the property has been sold in favour of the second defendant on 22.12.2008. When the plaintiffs are having 1/3rd share in the suit property, they are only entitled to seek for partition of their share in the suit property and the present suit filed by them is not maintainable.

8. The fifth defendant – official respondent filed a separate written statement submitting that they are not required parties, as there is no cause of action against them in the suit and the fifth defendant undertook that he will act in accordance with the decision to be rendered in the suit.

9. During trial, the first plaintiff examined herself as P.W.1 and one Ganesan and Sampath as P.W.2 and P.W.3 respectively and marked exhibits A.1 to A.21. On the side of the defendants, the first defendant examined himself as D.W.1 and examined five other witnesses as D.W.2 to D.W.6 and marked Exs.B.1 to B.8. Three documents were also marked through witnesses as Exs.X.1 to X.3.



S.A.(MD)No.217 of 2025

10. The trial Court, after considering the oral and documentary evidences, partly decreed the suit holding that the sale deed executed in Ex.B.5 in respect to the share of the property of K.Marappan, by relying on the power of attorney deed in Ex.B.3 is not valid, but however declined the relief in respect of the portion of the property that was conveyed in respect of shares of Selvaraj. The trial Court also found that the second defendant – purchaser is entitled to only get 1/3rd share from out of compensation amount from the official defendants. On appeal, the lower appellate Court concurred with the decision arrived at by the trial Court and on coming to the conclusion that since only K.Marappan died, the power of attorney executed by the other son Selvaraj would not get affected and thereby the sale executed in respect of the other person is valid. The first appellate Court has also relied on a decision of a Division Bench of this Court in coming to the conclusion that the power of attorney executed will not automatically get cancelled on the death of one of the principals, when it has been executed jointly by many persons and the termination will necessarily be dependent on the facts and circumstances of each case. Aggrieved by the concurrent finding of the facts, the plaintiffs have preferred the above Second Appeal.



S.A.(MD)No.217 of 2025

WEB COPY

11. The learned Counsel appearing for the appellants argued that when the power of attorney in Ex.B.3 was jointly executed by K.Marappan and Selvaraj, on the death of K.Marappan on 07.11.2008, the power of attorney gets terminated and therefore, the sale deed executed in Ex.B.5 in favour of the second defendant, admittedly after the death of K.Marappan, is void, as the power of attorney executed was not valid on the date of sale. The learned Counsel further contended that the sale was not a bonafide transaction and in fact, on knowing about the death of K.Marappan, the first defendant had for name sake, executed a sale deed in favour of his own son – second defendant, which would not give any right to the second defendant, as the sale itself is sham and nominal.

12. It is his further vehement contention that when Marappan and two sons inherited the property of Marayee Ammal, on the death of Marappan and his son Selvaraj, who died as bachelor, the plaintiffs, who are the legal heirs of other pre-deceased son Kanagaraj, are entitled to inherit the shares of Marappan and Selvaraj and thereby, they have become the absolute owners of the entire suit property. It is his further contention that as per the



S.A.(MD)No.217 of 2025

WEB COPY

decision of the Hon'ble Division Bench of this Court, the cancellation of the power of attorney on the death of one of the principals, when executed by several persons, would depend on the individual facts and circumstances of the case and the lower appellate Court had simply by applying the said decision, without ascertaining the facts and circumstances of the present case, has held that the power of attorney would not get terminated and only the conveyance made in respect of the share of K.Marappan would be void and these findings arrived at are perverse and not in consonance with the provisions and the dictum laid down, sought for interference of this Court.

13. Per contra, Ms.K.Abiya, learned Counsel appearing for the respondents 1 and 2 argued that the issue of power of attorney getting cancelled on the death of one of the principals, when executed by jointly by several persons, is *no longer res integra* and the issue has been settled by the decision of the Hon'ble Division Bench of this Court in ***K.A.Meeran Mohideen Vs. Sheik Amjad and others*** reported in **2024(5) CTC 613**, which has been rightly relied on by the lower appellate Court and the Courts below by relying on the same, had in fact held that the sale is valid only in

9/20



S.A.(MD)No.217 of 2025

respect of share of Selvaraj, while declining the sale in respect of the share of K.Marappan, who died prior to the sale deed, as void.

14. The learned Counsel further contended that even in respect of the facts of the present case, even after the sale was executed by the first defendant in favour of the second defendant, the other principal Selvaraj was aware and alive and he never disputed or questioned the transaction and he had only died in the year 2009. It is her further contention that when the admitted shareholder had not disputed the sale, the plaintiffs who are third parties, have no *locus standi* to question the transaction, on mere assumption that they will be entitled to that portion also. As such, the Courts below had rightly arrived at decision, which needs no interference and sought for dismissal of the Second Appeal.

15. Mr.B.Saravanan, learned Additional Government Pleader appearing for the other official respondents submitted that even the compensation amount as directed by the civil Court has not yet been disbursed and any final disbursement will be in pursuant to the decision arrived at by this Court in the Second Appeal.

10/20



S.A.(MD)No.217 of 2025

WEB COPY

16. Heard the rival submissions and perused the materials available on record.

17. Admittedly the suit property belonged to one Marayee Ammal, having purchased through a sale deed dated 29.11.1979 in Ex.A.1. Marayee Ammal had died intestate on 25.05.1991. It is also admitted that Marayee Ammal died leaving behind her husband K.Marappan and two sons namely M.Kanagaraj and M.Selvaraj. There is no dispute between the parties that on the death of Marayee Ammal, her husband and two sons as Class-I legal heirs had inherited $1/3^{\text{rd}}$ share each in the suit property.

18. Marappan and his one son Selvaraj, who had inherited $1/3^{\text{rd}}$ share each, had jointly executed a power of attorney in favour of the first defendant to deal with the suit property. Even though Marappan had inherited $1/3^{\text{rd}}$ share, he had only nominated the first defendant as a power of attorney in respect of $1/2$ share out of $1/3^{\text{rd}}$ share inherited by him, when his son Selvaraj had nominated the first defendant for his entire $1/3^{\text{rd}}$ share,



S.A.(MD)No.217 of 2025

WEB COPY

he had inherited. As such, the first defendant, in view of the power of attorney, was entitled to deal with the property in respect of 1/2 share in the suit property. A perusal of power of attorney in Ex.B.3 reveals that Marappan and Selvaraj had executed the power by authorising the first defendant to enter into sale agreement, execute sale deeds and the entire rights in respect of sale, mortgage and all kinds of conveyance were permitted. Based on the power of attorney deed executed by K.Marappan and M.Selvaraj in Ex.B.3, the first defendant had executed the sale deed in favour of the second defendant on 22.12.2008 in Ex.B.5 for valuable consideration.

19. K.Marappan, who had executed the power of attorney deed in Ex.B.3, had died on 07.11.2008, admittedly prior to the execution of the sale deed in Ex.B.5. It is the claim of the plaintiffs and also the vehement contention of the learned Counsel for the appellants that since K.Marappan had died on 07.11.2008, the power of attorney executed by him along with his son M.Selvaraj in Ex.B.3 gets terminated and therefore, on the date of execution of the sale deed in Ex.B.5, there was no valid power of attorney



and in such circumstances, the sale deed executed in Ex.B.5 is a void document.

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20. It is now to be seen as to whether the power of attorney that has been executed by several persons will get automatically terminated, on the death of one of the principals. The issue in this regard has been considered by a decision of the Division Bench of this Court in the case of ***K.A.Meeran Mohideen Vs. Sheik Amjad and others*** reported in **2024(5) CTC 613**. The conclusion arrived at in the said decision is extracted hereunder:

*“15. From the precedents discussed above, we will have to necessarily reach the conclusion that a power of attorney deed executed by several persons, which cannot be said to be coupled with interest, is not automatically terminated on the death of one of the principals. The question of termination terminated on the death of one of the principals. The question of termination would necessarily depend on the facts and circumstances of each case. We are aware of the fact that we cannot exhaustively elucidate various circumstances, under which, the power will terminate or survive. We could only lay down broad guidelines. The termination will necessarily be,
(i) dependent on the facts and circumstances of each case.*



(ii) *The intention of the parties at the time of execution of the power which could be gathered either from the recitals in the instrument or from other circumstances that are placed before the Court, will play an important role in the decision making process.*

(iii) *If it is shown that the intention of the parties was that the power was to continue even after death of one of the executants as laid down by the Calcutta High Court in Re Sital Prosad's (supra) and this Court in [Garapati Venkanna's](#) case, (supra), the agency will continue till the object sought to be achieved is complete.*

(iv) *If it is shown that the principals had specific interest, independent of each other, like two joint owners executing a power for sale of the property, if their share is specific, the power will stand terminated in respect of the joint owner who dies. If the interest is unascertainable like that of an interest in the coparcenary of a joint family and the intention is shown to be to survive even after the death of one of the Principal, the termination will not be automatic.*

16. We hasten to add that these are only few instances and the ultimate conclusion would depend upon the evidence that is made available and the recitals in the instrument. If the interest of the deceased principal is separable from that of the surviving



WEB COPY



S.A.(MD)No.217 of 2025

principal's, then, the power would not survive in respect of the deceased principal.

17. Adverting to the question of power coupled with interest if it is demonstrated that the power is coupled with interest, then the termination is governed strictly by [Section 202](#) of the Indian Contract Act, 1872, and in such event, death of one of the principals will not result in termination of the power even with reference to his interest.

18. In fine, we answer the question as follows:

Termination of the power on the death of one of the principals is not automatic. It will depend on the facts and circumstances of each case and the recitals in the document as well as the object that is sought to be achieved.”

21. In view of the above, the termination of the power on the death of one of the principals is not automatic and it will depend on the facts and circumstances of each case and the recitals in the document as well as the object that is to be achieved are to be seen.

22. In the instant case, as referred earlier, the parties had executed the power of attorney in Ex.B.3 by specifically nominating the first defendant to



S.A.(MD)No.217 of 2025

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deal with in respect of the suit property completely authorising him to execute all deeds of conveyances to secure the best interest. Even though K.Marappan died on 07.11.2008 and the sale deed in Ex.B.5 had been executed after the death of K.Marappan, the other principal Selvaraj did not question or dispute the transaction. Here, the other principal Selvaraj had not contended that on the death of his father, the power of attorney gets automatically terminated, but on the other hand, even after the sale deed was executed by the first defendant in favour of the second defendant, the principal Selvaraj had not raised any dispute or challenged the sale executed by the first defendant in favour of the second defendant. When Selvaraj, who had inherited 1/3rd share, had remained silent and had allowed the sale executed in favour of the second defendant without being objected to, the intention of the principal is clear that they were only intended to convey the suit property in favour of the intending purchaser for a fair price. However the fact remains that prior to the execution of sale in favour of the second defendant, K.Marappan had died on 07.11.2008. Admittedly, though the power of attorney executed, in view of the aforesaid decision, would not get automatically terminated in its entirety, but, however since the sale executed

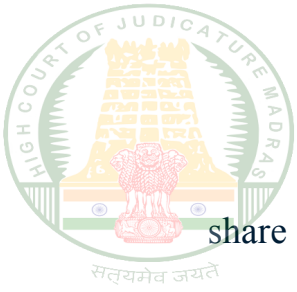


S.A.(MD)No.217 of 2025

in respect of 1/2 share in 1/3rd share belonging to K.Marappan, which was covered in the power of attorney deed in Ex.B.3 after his death, is void.

23. It is to be noted that M.Selvaraj had also died on 03.08.2009 and till his death, he has not complained or disputed the sale executed in favour of the second defendant. Further, the plaintiffs, who had inherited 1/3rd share of Kanagaraj, in view of the death of K.Marappan and the other son Selvaraj having died on 03.08.2009, are entitled to inherit 1/3rd share of K.Marappan also. Thereby the plaintiffs had got right in respect of 2/3rd share in the suit property.

24. The Courts below had rightly appraised these legal aspects and from the facts and circumstances of the present case particularly considering the fact that the other principal Selvaraj till his life time had not disputed or challenged the sale transaction executed in favour of the second defendant, had rightly come to the conclusion that the plaintiffs are entitled for the decree of declaration in respect to the share of K.Marappan conveyed in favour of the second defendant. When the plaintiffs are entitled to 2/3rd share in the suit property, the second defendant who had purchased 1/3rd



S.A.(MD)No.217 of 2025

share of Selvaraj, based on the power of attorney in Ex.B.3, is entitled to have 1/3rd share and that purchase will not get effect in view of the death of K.Marappan. Since a portion of the property had been acquired by the officials defendants, the Courts below had also rightly arrived at a finding that the second defendant would be entitled only to receive 1/3rd share of compensation in lieu of the purchase made by them in Ex.B.5.

25. In view of the above deliberations, this Court does not find any illegality or perversity in the concurrent findings of the facts arrived at by the Courts below. Even though, the Courts below have rendered a finding that the second defendant is entitled to get 1/3rd share of the compensation, an injunction has been granted restraining the official defendants from disbursing 2/3rd share of the compensation amount to the second defendant, thereby even 1/3rd share which is entitled has not been disbursed. It is made clear that in view of the decision arrived at, the plaintiffs will be entitled for 2/3rd share out of compensation and the second defendant would be entitled to 1/3rd share in the compensation, in view of the purchase made by him and the same could be disbursed. The parties are at liberty to seek for partition and separate possession in respect of the suit property.



S.A.(MD)No.217 of 2025

WEB COPY

26. No question of law, much less a substantial question of law arises for consideration in the Second Appeal.

27. With the above observations, the Second Appeal stands dismissed. However, there is no order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

11.07.2025

Internet :Yes/No
Index :Yes/No
NCC :Yes/No
SSL

To

- 1.The Additional Subordinate Court, Karur.
- 2.The Principal District Munsif Court, Karur.
3. The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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S.A.(MD)No.217 of 2025

G.ARUL MURUGAN, J.

SSL

Judgment made in
S.A.(MD)No.217 of 2025

11.07.2025