BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Judgment	Date of Pronouncing the Judgment
15.10.2025	10.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

A.S.(MD)No.53 of 2017
and
C.M.P.(MD)No.3272 of 2017

1.Chitra
2.R.Vasanthi
3.S.Kalaiselvi ... Appellants / Plaintiffs

vs.

1.Paramasivam
2.P.Ganesan ... Respondents / Defendants

PRAYER : Appeal Suit filed under Section 96 Civil Procedure Code against the judgment and decree dated 02.11.2016 passed in O.S.No.132 of 2014, on the file of Principal District Court, Tiruchirappalli.

For Appellants : Mrs.AL.Ganthimathi
Senior Counsel
for Mr.C.Mahadevan

For Respondents : Mr.Raguvaran Gopalan

JUDGMENT

C.V.KARTHIKEYAN, J.

The plaintiffs in O.S.No.132 of 2014 on the file of the Principal District Court at Tiruchirappalli are the appellants herein. The suit was filed by them seeking partition and separate possession of 3/5 share in the suit properties, along with costs of the suit. It is pertinent to note that the plaintiffs are the daughters of the first defendant and sisters of the second defendant.

2. The defendants appeared and contested the plaintiffs' claim for partition and separate possession. By judgment dated 02.11.2016, the suit was dismissed, necessitating the filing of the present Appeal Suit.

O.S.No.132 of 2014 [Principal District Court at Tiruchirappalli]:-

3. The plaintiffs contended that the properties mentioned in the schedule to the plaint had been purchased by the first and second defendants from a corpus generated by the cash received in lieu of the relinquishment of interest by the plaintiffs' father in ancestral properties. They contended that the properties were purchased solely from the monies available from the ancestral corpus fund and in the name of the plaintiffs' mother. It was further contended that the entire properties vested with the first defendant.

3.1. The plaintiffs also contended that they, along with the defendants (their father and brother), constituted a Hindu Undivided Family, and since the properties had not been partitioned, they were entitled to an undivided 3/5 share in the suit properties. They claimed to be co-owners in joint possession of the suit properties.

3.2. It was further stated that a portion of the properties purchased in the name of the mother had been settled in favour of the second defendant by a registered deed dated 27.12.2004. The first defendant had also executed settlement deeds in favour of the second defendant with respect to other portions of the properties, dated 11.07.2007 and 03.02.2014. The plaintiffs contended that all these settlement deeds were void *ab initio*. Accordingly, they ignored the settlement deeds and claimed partition and separate possession of 3/5 share in the suit properties.

4. The defendants filed a written statement denying and disputing the plaintiffs' claim and right to seek partition. They contended that the plaintiffs do not constitute a Joint Hindu Family with the defendants. It was further stated that the settlement deeds had been properly attested and registered in accordance with law, and that there was no joint family nucleus or corpus from which the properties had been purchased.

4.1. It was stated that the first defendant worked as a Motor Mechanic at TVS Motor Company in Trichy till 1970, after which, he ran an automobile workshop in Chinthamani, Trichy. He also purchased a lorry to operate a transport business from the profits of his business, and from these earnings, he purchased the first item of the suit property on 17.06.1982. He subsequently operated a Water Service Station on this property. The second defendant, after completing his studies, assisted the first defendant in the transport business and service station operations. Several vehicles were later purchased by the second defendant to expand the transport business, and it was from the income of this business that the suit properties were acquired.

4.2. It was further stated that the first plaintiff was married in 1982, the second plaintiff was married in 1984, and the third plaintiff was married in 1994, and that gold jewellery and other Stridhana articles had been given to each plaintiff. Although the partition deed mentioned payment of Rs.10,000/- in lieu of relinquishment of rights in ancestral properties, the first defendant asserted that this amount was neither paid nor received.

4.3. The defendants reiterated that all the properties had been purchased solely from the self-earnings of the first and second defendants and, therefore, prayed for dismissal of the suit.

5. On the basis of the above pleadings, the following issues were framed:-

"(i) Whether Paramasivam and Ganesan and the plaintiffs constituted the joint family?

(ii) Whether the subsequent purchases were made in the name of Rajamani and Ganesan from the income derived from the common properties?

(iii) Whether the settlement deeds dated 27.12.2004 and 11.07.2007 have not been binding upon the plaintiffs?

(iv) Whether the properties purchased by Paramasivam are also to be treated as joint family property?

(v) Whether the payment of Court fee paid is improper?

(vi) Whether the plaintiffs are entitled to 3/5th share in the suit properties?

(vii) To what relief the plaintiffs are entitled to?"

6. During the trial, the first plaintiff examined herself as P.W.1 and marked Exhibits A1 to A11. These included:

(i) The sale deed in favour of the first defendant dated 17.06.1982 [Ex.A2];

(ii) The certified copy of the partition deed dated 27.02.1992 [Ex.A3];

(iii) The certified copy of the sale deed in favour of the mother dated 05.07.2000 [Ex.A4];

(iv) The certified copies of the settlement deeds in favour of the second defendant dated 27.12.2004 [Ex.A6], 11.07.2007 [Ex.A7], and 03.02.2014 [Ex.A9]; and

(v) The certified copy of the sale deed in favour of the second defendant dated 02.09.2009 [Ex.A8].

6.1. On the defendants' side, the first defendant examined himself as D.W.1 and marked Exhibits B1 to B23. These included:

(i) Letters from the Income Tax Department [Exs.B4 and B5];

(ii) Certified copies of sale deeds executed by the first defendant [Exs.B7 and B8];

(iii) Cash bills for the purchase of a motor by the first defendant [Ex.B10];

(iv) Receipts for the purchase of service station articles [Exs.B12 and B13];

(v) Certified copies of sale deeds in favour of the second defendant [Exs.B17 and B18]; and

(vi) Documents relating to the registration of vehicles by the Road Transport Authority, Trichy [Exs.B19 - B23].

7. On the basis of the oral and documentary evidence adduced, and after considering the pleadings, the learned Trial Judge, Tiruchirappalli, first examined Issue No.(iv). The learned Trial Judge concluded that the first defendant had produced documents showing that even prior to Ex.A3 (Partition Deed), he had sufficient independent income from his employment at TVS Motor Company and from running a cargo service. It was noted that the plaintiffs had not pleaded that the first defendant had no income prior to the partition deed.

7.1. The learned Trial Judge rejected the plaintiffs' contention that the income from the property at Thondamandurai Village had been used by the first defendant to purchase the property under Ex.A2. The learned Trial Judge held that the properties purchased in the name of the first defendant were not joint family properties.

7.2.The learned Trial Judge then considered Issue No.(ii) and found that the properties in the names of the mother and the second defendant were purchased solely from the income derived from the business and, therefore, could not be classified as joint family properties. It was specifically held that the properties acquired under Exs.A2, A4, and A8 are the individual properties of the first defendant, his wife Rajamani, and the second defendant, respectively. Consequently, they had every right to execute the settlement deeds under Exs.A6, A7, and A9 in favour of the second defendant.

7.3. The learned Trial Judge also examined the issue of Court fees, noting that the plaintiffs were not co-owners of the properties and were not members of the undivided Joint Hindu Family. Therefore, even the Court fees paid under Section 37(2) of the Tamil Nadu Court-Fees and Suit Valuation Act, 1955, was not correct.

7.4. In view of these findings, the suit was dismissed.

A.S.(MD)No.53 of 2017:-

8. Aggrieved by the said judgment and decree, the plaintiffs have preferred the present Appeal Suit.

9. The learned Senior Counsel for the appellants challenged the findings of the learned Trial Judge that the plaintiffs did not constitute a Joint Hindu Family with the respondents / defendants. The learned Senior Counsel further contended that the Trial Judge's finding that the properties had been purchased prior to the partition deed in 1982 was factually incorrect. The learned Senior Counsel argued that the plaintiffs were entitled to be considered as members of the Joint Hindu

Family and, therefore, should have been granted partition and separate possession.

9.1. It was further argued that a sum of Rs.10,000/- had been paid to the first respondent in lieu of his relinquishment of rights in the joint family properties, as reflected in the partition deed marked Ex.A3. The learned Senior Counsel submitted that this sum formed the source from which the properties had been purchased. Consequently, as daughters in the family, the appellants should be treated as members of the Joint Hindu Family and entitled to a share in the properties. On this basis, it was contended that the reasoning of the learned Trial Judge was incorrect and that the suit should be decreed in their favour.

10. The learned counsel for the respondents, however, contested the claims of the appellants. He highlighted the evidence adduced, stating that the first respondent had joined TVS Motor Company in 1960 and continued there till 1970. He further pointed out that the first respondent later ran an Automobile Workshop at Chinthamani, Trichy, and had purchased heavy and light motor vehicles for transport purposes.

10.1. It was also submitted that the second respondent had assisted in the business, contributing to its operations and enabling profits to be earned. The learned counsel contended that the properties had been purchased entirely from this income and, therefore, the appellants could not claim partition as a matter of right. He further submitted that the learned Trial Judge had correctly adjudicated the issues and, on this basis, the suit ought to be dismissed.

11. We have carefully considered the arguments advanced and perused the material records.

12. The following points arise for consideration:-

(i) Whether the learned Trial Judge had properly adjudicated the source from which the suit properties were purchased?; and

(ii) Whether the learned Trial Judge had correctly held that the properties were not joint family properties, and that the appellants were not members of the undivided joint family, and therefore, were not entitled to seek partition and separate possession of the suit properties?

13. Before taking up the points framed for determination, it is pertinent to note that during the hearing, we had directed the first respondent to file an affidavit indicating whether he was willing to share any portion of the properties with the appellants. Pursuant to the said direction, the first respondent filed an affidavit reiterating that the properties were purchased entirely out of his own income and that he had no intention of sharing any portion of the suit properties with the appellants.

14. Since the discussion relating to both points framed for consideration overlaps, they are taken up together for determination.

15. The appellants, who are the daughters of the first respondent and sisters of the second respondent, filed the suit seeking partition and separate possession of 3/5 share in the suit schedule properties. Their contention is that the first respondent was a party to a partition deed dated 27.02.1992, marked as Ex.A3. Under the said partition deed, the first respondent received a sum of Rs.10,000/- in consideration of relinquishing his rights in the joint family properties. The appellants claim that the properties mentioned in the suit schedule were purchased using the said amount, and since the source of purchase flowed from the ancestral nucleus, the properties should be construed as joint family properties. Consequently, as daughters, the appellants assert that they are coparceners along with the first and second respondents and are therefore, they are entitled to partition and separate possession of 3/5 share.

16. The first respondent, however, has specifically denied these contentions in his written statement. He stated that he was employed as a Motor Mechanic at T.V.S. Motor Company, Trichy, till 1970 and subsequently, ran an Automobile Workshop in Chinthamani, Trichy. In support of the same, he produced Ex.B1 dated 08.06.1960, a Conduct Certificate issued by the Proprietor of Star Diesel Automobiles and Ex.B2 dated 23.03.1969, an Employee Provident Fund Passbook issued by T.V. Sundaram Iyengar & Sons Pvt. Ltd., Madurai.

17. To further substantiate that he had independent means, he produced Exs.B4 and B5, both dated 27.04.1976, a letter and notice from the Income Tax Department; Ex.B6 dated 22.11.1985 Challans for purchase of materials, Exs.B7 and B8 certified copies of sale deeds executed by him on 03.02.1986, and Ex.B9 invoices relating to purchases made for running a Water Service Station. It is also relevant to note that the appellants marked Ex.A2 dated 17.06.1982, which pertains to the purchase of one of the properties by the first respondent. The first respondent additionally produced Exs.B10 to B13, receipts for the purchase of service station equipment.

18. All these documents clearly establish that the first respondent had ample independent sources of income much prior to the partition deed dated 27.02.1992 (Ex.A3). Therefore, the appellants' contention that the suit properties were purchased with Rs.10,000/- received under the partition deed is untenable. The Trial Court rightly rejected this contention, and this Court concurs in rejecting the said contention.

19. The appellants had also marked Ex.A4, a copy of the sale deed executed in the name of their mother, Rajamani, dated 05.07.2000. This clearly indicates that the suit properties were not joint family properties but were, in fact, the self-acquired properties of the first respondent, who had acquired them out of his own earnings and hard work.

20. It is the specific contention of the first respondent that he had also commenced a transport business in which the second respondent later joined, and that they had purchased vehicles for the operation of this business. In this connection, the first respondent produced Ex.B19, relating to the purchase of a heavy goods vehicle, Exs.B20 and B21, pertaining to the purchase of a light motor vehicle (Taxi) and a Maxi Cab, Ex.B22, for the purchase of another heavy goods vehicle, and Ex.B23, for the purchase of yet another Maxi Cab, all registered in the name of the first respondent. These documents clearly establish that the first respondent was not only possessed with sufficient means to purchase the suit properties but was also engaged in running a business generating regular income and profit.

21. The contention of the appellants that they are members of a coparcenary and that the properties constitute joint family properties necessarily has to be rejected. The properties in question are the self-acquired properties of the first respondent, having been purchased in his name and in the name of his wife, Rajamani. They, therefore, had every right and title to execute the settlement deeds in favour of the second respondent. The appellants have no right to question the authority of the first respondent or their mother, Rajamani, to execute such settlement deeds. These documents also conclusively establish the title of the second respondent.

22. It is thus evident that the suit had been filed more with hope than with conviction. We hold that the learned Trial Judge has correctly appreciated the evidence on record and properly adjudicated the issues, arriving at the correct conclusion that the properties were not joint family properties and that the first respondent had an independent source of income from his business, which enabled him to purchase the suit properties.

23. In view of the findings rendered on both points framed for consideration, we hold that the Appeal Suit necessarily has to fail. Accordingly, the Appeal Suit stands dismissed. However, in view of the close relationship among the parties, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes
NCC : Yes

[C.V.K., J.] & [R.V., J.]
10.11.2025

To

1.The Principal District Judge,
Tiruchirappalli.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

A.S.(MD)No.53 of 2017

C.V.KARTHIKEYAN, J.
and
R.VIJAYAKUMAR, J.

smn2

PRE-DELIVERY JUDGMENT MADE IN A.S.(MD)No.53 of 2017

10.11.2025