

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
23.03.2026PRONOUNCED ON
05.06.2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

AS No. 363 of 2015

1.Muniyammal

2.Sevvanthi

3.Kalaimani

4.Manikandan

... Appellants

Vs

1.Yuvaraj

2.Rajammal

3.Parvathi

4.Rukkammal

5.Kantha

...Respondents

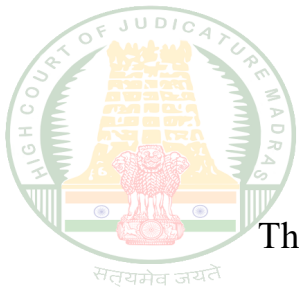
PRAYER:- First Appeal filed under Section 96 of the Code of Civil Procedure, to set aside the Judgement and decree dated 21.04.2015 made in O.S.No.58 of 2012 on the file of the Additional District Judge, Dharmapuri.

For Appellant(s):

Mr.C.Munuswamy

For Respondent(s):

Mr.T.Dhanasekaran for
Mr.V.R.Anna Gandhi for RR1 to 5

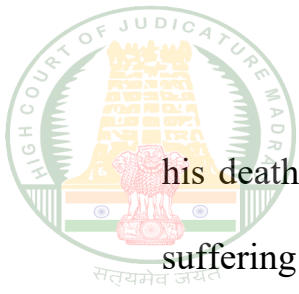


JUDGMENT

The present first appeal has been filed seeking to set aside the decree and judgement dated 21.04.2015 made in the O.S. No. 58 of 2012 on the Learned Additional District, Dharmapuri

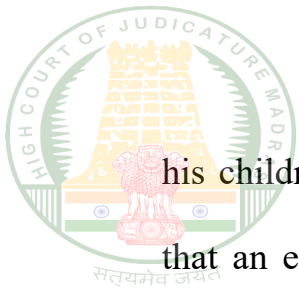
2. The case of the plaintiffs is that the suit properties originally belonged to one Appunu @ Ramasamy as ancestral properties obtained by him pursuant to a family partition effected among himself and his brothers. The said Appunu @ Ramasamy had two sons, namely Ponnusamy and the first defendant Mr.Yuvaraj and three daughters who have been impleaded as Defendants 2 to 4. The first plaintiff Mrs.Muniyammal is the widow of the deceased Ponnusamy, while Plaintiffs 2 to 4 are their children. The fifth defendant Kantha is the daughter of the second defendant Mrs.Rajammal and is also the wife of the first defendant Mr.Yuvaraj.

3. According to the plaintiffs, the suit properties were jointly cultivated and enjoyed by the family during the lifetime of Appunu @ Ramasamy. However, Ponnusamy had contracted a love marriage with the first plaintiff against the wishes of his father, resulting in strained relations between them. Owing to such family discord, Ponnusamy and the first plaintiff lived separately in a portion of the joint family property. It is the further case of the plaintiffs that Ponnusamy suffered from serious ailments for nearly 10 to 15 years prior to



his death and was under continuous medical treatment. He was certified to be suffering from 100% permanent disability and was also mentally affected, requiring constant care and supervision. Ponnusamy passed away on 02.07.2008, leaving behind the plaintiffs as his legal heirs. The plaintiffs allege that, taking advantage of the physical and mental condition of Ponnusamy, the defendants conspired to deprive him and his legal heirs of their lawful share in the suit properties. According to them, the defendants had created fraudulent and fabricated documents with a view to exclude Ponnusamy and his descendants from their rightful inheritance. The plaintiffs would further contend that Appunu @ Ramasamy died about six years prior to the institution of the suit and that, even thereafter, the parties continued to enjoy the suit properties jointly without any partition.

4. It was only subsequently that the plaintiffs came to know of certain documents which were allegedly created by the defendants to appropriate the suit properties for themselves. Therefore the first plaintiff repeatedly requested the first defendant, through village elders, to effect partition and allot the plaintiffs' legitimate share in the suit properties. Since such requests yielded no result, the plaintiffs sent a legal notice dated 09.04.2012 to the first defendant demanding partition. In response, the first defendant sent a reply notice dated 23.12.2012, wherein he claimed that an oral partition had already taken place in the year 1994 among the family members, namely, Appunu @ Ramasamy and



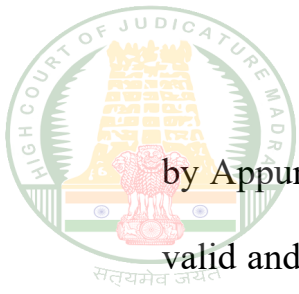
his children, in the presence of village elders. The defendants further asserted that an extent of 1312½ sq. ft. had been gifted to the Kottur Milk Producers Cooperative Society on 08.06.2000 based on a registered partition deed bearing Document No.998 of 1993 executed among Appunu @ Ramasamy and his brothers. The plaintiffs categorically deny the aforesaid claims and contend that the same are false, frivolous. Accordingly, the plaintiffs had instituted the present suit for partition and separate possession of their share in the suit properties. The plaintiffs have also specifically challenged the Settlement Deed dated 18.03.2005, registered as Document No.484 of 2005, alleged to have been executed in favour of the fifth defendant Kantha. According to the plaintiffs, the said settlement deed is fraudulent and was brought into existence without their knowledge, solely with the intention of depriving the Plaintiff of their lawful share in that respective Suit Property.

5.The first defendant, in his written statement, denied all the allegations of fraud, conspiracy, undue influence and fabrication levelled by the plaintiffs. It is submitted that the suit properties originally fell to the exclusive share of Appunu @ Ramasamy under a registered Partition Deed dated 16.06.1993 executed among himself and his brothers. Thereafter, the suit properties were jointly enjoyed by Appunu @ Ramasamy, Ponnusamy, the plaintiffs and Defendants 1 to 4 only for a brief period. The defendants would contend that Ponnusamy, who was employed as the Secretary of the Kottur Milk Producers



Cooperative Society and he had an independent source of income. It is averred that there was continuous discord between Ponnusamy and his father, viz., Appunu @ Ramasamy and therefore Ponnusamy had repeatedly demanded partition of the joint family properties. Further the daughters namely, the Defendants 2 to 4, who had not been provided with sufficient stridhana at the time of their marriages, were also entitled to their respective shares in the joint family properties. Owing to the aforesaid circumstances an oral partition was effected in the year 1994 in the presence of village elders. The defendants would further contend that, pursuant to the said oral partition, the suit properties were divided among Appunu @ Ramasamy, Ponnusamy and Defendants 1 to 4, and each of them was put in possession of their respective shares. Thereafter, the parties allegedly enjoyed their allotted portions separately, paid land revenue in their individual names and exercised absolute ownership over the properties allotted to them.

6. It is the specific case of the defendants that the property allotted to Ponnusamy in the oral partition was subsequently sold by him on 04.11.2004 in favour of one Prabhakaran in order to meet his medical and family expenses. Since the said Prabhakaran has not been impleaded as a party to the present proceedings, the defendants contend that the suit is bad for non-joinder of a necessary party and is liable to be dismissed on that ground alone. The defendants further contend that the Settlement Deed dated 18.03.2005, executed



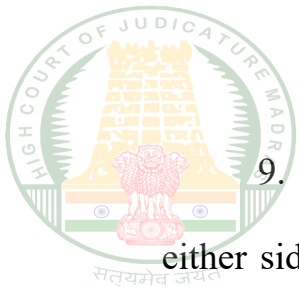
by Appunu @ Ramasamy in favour of the fifth defendant, his granddaughter, is valid and binding in law as the property covered under the said settlement deed had been allotted to Appunu @ Ramasamy in the oral partition of 1994 and was his absolute property. The defendants also raised objections regarding the maintainability of the suit, contending that, the suit is bad for non-joinder of the necessary party, namely Prabhakaran and the suit properties have been undervalued and the court fee paid is insufficient. Therefore, on the basis of the aforesaid pleadings and contentions, the defendants sought dismissal of the suit with costs.

7. On the aforesaid pleadings, the following issues were framed for consideration and determination by the Court:

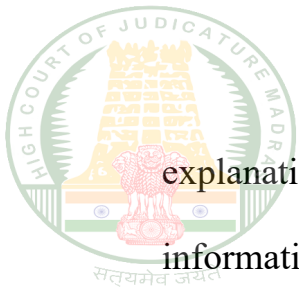
1. Whether the plaintiffs are entitled to partition of the suit properties in 24/60 shares as prayed for?

2. To what other reliefs, if any, are the plaintiffs entitled?

8. On the plaintiffs' side, three witnesses were examined as PW1, PW2, and PW3, and documents were marked as Exhibits A1 to A13. On the defendants' side, four witnesses were examined as DW1 to DW4, and documents were marked as Exhibits B1 to B8.



9. The learned Trial Court, after hearing the submissions made on either side and upon considering the oral and documentary evidence available on record, proceeded to determine the issues framed in the suit. While considering Issue No.1, the learned Trial Court observed that the plaintiffs had failed to disclose the fact that the first plaintiff, along with Appunu @ Ramasamy, had executed a Sale Deed dated 16.11.1994 in favour of one Prabhakaran in respect of a portion of the property allotted to Ponnusamy. The said Sale Deed was marked as Ex.B1. The learned Trial Court noted that Ex.B1 contained recitals referring to the partition among the brothers of Appunu @ Ramasamy in the year 1993, a fact which had been admitted by the first plaintiff. The learned Trial Court further observed that Ex.B1 also had recitals pursuant to the oral partition effected in the year 1994, the property covered under the sale deed had been allotted to the share of Ponnusamy. The document further disclosed that the property was sold for a consideration of Rs.16,800/- to meet the medical expenses of Ponnusamy and the needs of his minor children. Since Ponnusamy was suffering from ill health at the relevant point of time, the first plaintiff had executed the said sale deed on his behalf. Though the first plaintiff denied the recitals relating to the oral partition and contended during her cross-examination and stated that the aforesaid Ex.B1 had been fraudulently executed, the learned Trial Court found that no steps had been taken by her to challenge or cancel Ex.B1 in the manner known to law or within the prescribed time period. The learned Trial Court also took note of the fact that no



explanation had been offered by the plaintiffs chose to not disclose the information regarding to Ex.B1 in their plaint.

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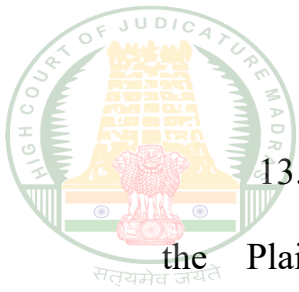
10. The plaintiffs further relied upon the Sale Deed dated 08.06.2000, marked as Ex.A1, executed by Appunu @ Ramasamy, late Ponnusamy and the first defendant in favour of the Kottur Milk Producers Cooperative Society. According to the plaintiffs, if the oral partition alleged by the defendants had in fact taken place in the year 1994, there was no necessity for both Ponnusamy and the first defendant to join Appunu @ Ramasamy in the execution of Ex.A1. Upon a careful examination of Ex.A1, the learned Trial Court rejected the said contention. It was observed that Ex.A1 related to land comprised in Survey No.23/1, in which Appunu @ Ramasamy held a share and which is also described in Ex.B3. The learned Trial Court found that, in order to avoid any future disputes with regard to the said property, Appunu @ Ramasamy and his sons, namely Ponnusamy and the first defendant, had jointly executed Ex.A1. Therefore, the learned Trial Court held that the execution of Ex.A1 did not disprove the oral partition pleaded by the Plaintiffs.

11. The learned Trial Court further held that the Settlement Deed dated 18.03.2005, marked as Ex.B11 which has been executed by Appunu @ Ramasamy in favour of the fifth defendant in respect of the property allotted to his share under the oral partition of the year 1994. Since Appunu @ Ramasamy



had absolute right, title and interest over the said property, he was fully competent to execute the settlement deed in favour of any person of his choice, including the fifth defendant. The learned Trial Court also observed that the plaintiffs had suppressed the material fact regarding the oral partition effected in the year 1994 and had instituted the suit as though the suit properties continued to remain as joint family properties. Therefore the learned Trial Court concluded that the plaintiffs had failed to establish their entitlement to the reliefs sought for in the suit. Accordingly, Issue No.1 was answered against the plaintiffs.

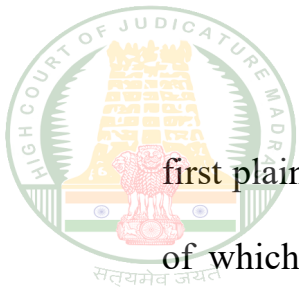
12. Insofar as Issue No.2 is concerned, in light of the above discussion the learned Trial Court held that the plaintiffs were not entitled to the relief of declaration declaring the Settlement Deed dated 18.03.2005 (Ex.B11), executed by Appunu @ Ramasamy in favour of the fifth defendant, as null and void. Accordingly, Issue No.2 was also answered against the plaintiffs. Consequently, by judgment and decree dated 21.04.2015, the learned Trial Court held that the plaintiffs were not entitled to any of the reliefs sought for in the suit and accordingly dismissed the same. Aggrieved by the said judgment and decree, the plaintiffs have preferred the present Appeal Suit before this Court and have arrayed the defendants as respondents herein.



13. Heard Mr. C.Munuswamy, learned counsel appearing on behalf of the Plaintiffs and Mr.T.Danasekaran learned counsel appearing for Mr.AnnaGandhi appearing on behalf of the respondents 1 to 5

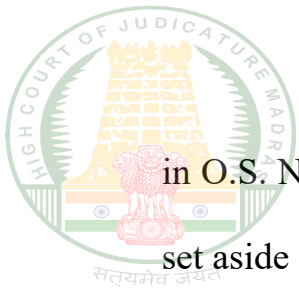
14. The learned counsel appearing for the appellants/plaintiffs would contend that the impugned judgment is contrary to law, the evidence available on record and the probabilities of the case. It is submitted that the learned Trial Judge failed to appreciate that Appunu @ Ramasamy had acquired the suit properties under the registered Partition Deed dated 16.06.1993 and that, thereafter, the properties continued to be enjoyed jointly by his two sons and three daughters. The learned counsel submits that there was no oral partition as alleged by the defendants and the finding of the Trial Court accepting such a plea is unsustainable. The learned counsel would further submit that Ponnusamy, the husband of the first plaintiff, was bedridden for several years and was continuously undergoing treatment for his ailments. In such circumstances, the defendants' case regarding an oral partition allegedly effected in the year 1994 ought not to have been accepted by the Trial Court. It is also contended that the learned Trial Judge failed to properly appreciate the oral and documentary evidence available on record while adjudicating the suit.

15. The learned counsel further submits that the learned Trial Court failed to take into account the fact that Ponnusamy had contracted a marriage with the



first plaintiff against the wishes of his father, Appunu @ Ramasamy, as a result of which he was denied his legitimate share in the ancestral properties. It is further contended that the Settlement Deed dated 18.03.2005 executed in favour of the fifth defendant is null and void and not binding on the plaintiffs as the said document was executed without the knowledge of the plaintiffs and behind their back.

16. The learned counsel would also contend that the learned Trial Judge failed to consider the principles laid down by the Hon'ble Apex Court and this Court relating to succession and devolution of ancestral properties under the Hindu Succession Act. It is submitted that the plaintiffs, being the legal heirs of Ponnusamy, are entitled to succeed to his share in the suit properties. The learned counsel further highlighted the Gift Deed dated 08.06.2000 executed in favour of the Kottur Milk Producers Cooperative Society, wherein Appunu @ Ramasamy, Ponnusamy and the first defendant had jointly executed the document. It is submitted that if the suit properties were indeed the exclusive properties of Appunu @ Ramasamy, there was no necessity for his sons to join in the execution of the said deed. Therefore, the subsequent Settlement Deed dated 18.03.2005, executed solely by Appunu @ Ramasamy in favour of the fifth defendant without the participation of Ponnusamy, cannot be treated as valid and binding upon the plaintiffs. In view of the above facts, the learned counsel prayed that the impugned judgment and decree dated 21.04.2015 passed

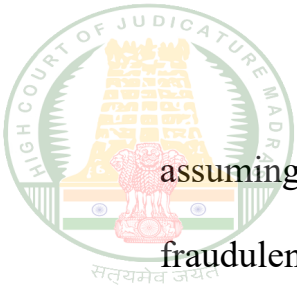


in O.S. No.58 of 2012 by the learned Additional District Judge, Dharmapuri, be set aside and the present Appeal Suit be allowed.

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17. *Per contra*, the learned counsel appearing on behalf of Respondents 1 to 5 would submit that the learned Trial Court had arrived at the correct conclusion upon a proper appreciation of the oral and documentary evidence available on record. The learned counsel would contend that the plaintiffs had failed to establish their claims that the suit properties continued to remain joint family properties. On the contrary, the evidence on record, particularly Ex.B1, clearly establishes that an oral partition had already taken place in the year 1994, pursuant to which the respective shares were allotted to the family members and each of them had been enjoying their allotted portions separately.

18. It is further submitted that the first plaintiff had executed the Sale Deed dated 16.11.1994 (Ex.B1) on behalf of her husband Ponnusamy, owing to his ill health, in respect of the property allotted to his share under the oral partition. The recitals contained in Ex.B1 clearly refer to the oral partition of the year 1994 and disclose that the property was sold to meet the medical expenses of Ponnusamy and the needs of his minor children. The learned counsel would therefore contend that Ex.B1 lends substantial support to the defendants' plea regarding the oral partition. The learned counsel would further submit that the plaintiffs had deliberately suppressed the existence of Ex.B1 in the plaint. Even



assuming that the first plaintiff's contention that Ex.B1 had been obtained fraudulently is accepted, no steps were taken by the plaintiffs to challenge or cancel the said document within the period prescribed by law.

19. It is also contended that the plaintiffs did not institute any proceedings for partition during the lifetime of Appunu @ Ramasamy and chose to file the present suit only 6 years after his demise. The learned counsel would additionally submit that Appunu @ Ramasamy had executed the Settlement Deed dated 18.03.2005 (Ex.B11) in favour of his granddaughter, namely the fifth defendant, only in respect of the property that exclusively belonged to him. Being the absolute owner thereof, he was fully entitled to settle the said property in favour of any person of his choice, including the fifth defendant. In view of the foregoing submissions, the learned counsel contended that the impugned judgment does not suffer from any legal or factual infirmity warranting interference by this Court and accordingly prayed for dismissal of the appeal and confirmation of the judgment and decree passed by the learned Trial Court.

20. I have heard the submissions on both sides and have perused the materials available on record.



21. This Court is of the considered view that the following two issues arise for determination in the present appeal.;

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1. Whether the oral partition with respect to the suit schedule properties had already take place ?

2. Whether the the Settlement Deed dated 18.03.2005 (Ex.B11) executed in favour of the fifth defendant is valid ?

22. The primordial contention of the appellants is that no oral partition had taken place between Appunu @ Ramasamy and his children, namely, late Ponnusamy and Defendants 1 to 4. The appellants further contend that the Settlement Deed dated 18.03.2005 (Ex.B11), executed by Appunu @ Ramasamy in favour of his granddaughter, namely, the fifth defendant, in respect of the first item of the suit property, is null and void and not binding upon them. However, a careful scrutiny of the evidence available on record clearly indicates that the suit properties had already been subjected to an oral partition. In this regard, considerable reliance may be placed on the Sale Deed dated 16.11.1994 (Ex.B1) wherein specific recitals are found referring to the oral partition allegedly effected in the year 1994 among Appunu @ Ramasamy and his children. The document further reveals that the property forming the subject matter of Ex.B1 had been allotted to the share of Ponnusamy in the said oral partition and was subsequently conveyed thereunder.



23. A plain reading of Ex.B1 reveals that the first plaintiff had executed the said document on behalf of her husband, Ponnusamy, owing to his ill health, and had conveyed the property allotted to his share under the oral partition in favour of one Prabhakaran. Though the first plaintiff during her cross-examination, asserted that Ex.B1 had been obtained fraudulently, it is pertinent to note that no steps were taken by her for nearly two decades either to seek cancellation of the said Sale Deed or to challenge its validity in a manner known to law. Therefore this court is of the considerable view the suit schedule properties have already undergone the oral partition in the year of 1994 and the Issue No.1 is answered accordingly.

24. Upon a perusal of the Settlement Deed dated 18.03.2005 (Ex.B11) executed in favour of the fifth defendant, this Court is of the considered view that the property covered under the said deed had been acquired by Appunu @ Ramasamy pursuant to the oral partition effected in the year 1994 among himself and his children. Consequently, Appunu @ Ramasamy became the absolute owner of the said property and was fully competent to execute the Settlement Deed in favour of any person of his choice. Hence the Settlement Deed dated 18.03.2005 (Ex.B11) executed in favour of the fifth defendant is valid and the issue No.2 is also answered accordingly.

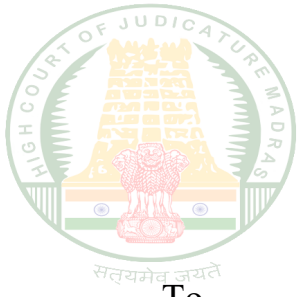


25. In the light of the foregoing discussion and upon an overall appreciation of the oral and documentary evidence available on record, this Court finds no infirmity or illegality in the judgment and decree dated 21.04.2015 passed in O.S. No.58 of 2012 and does not warrant any interference from this Court. Accordingly the present Appeal Suit stands dismissed. No costs

05.06.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To
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1. The Additional District Judge, Dharmapuri
2. The Section Officer,
VR Section,
Madras High Court,
Chennai.



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AS No.363 of 2



K.KUMARESH BABU, J.

PBN

A Pre-delivery judgment made in
AS No. 363 of 2015

05.06.2026