



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	28.10.2025
Pronounced on	02.02.2026

CORAM

THE HON'BLE DR.JUSTICE R.N.MANJULA

CS No. 66 of 2013

1. Mr. K. P. Jayaram,

S/o late. Krishna Pillai,

2.Mrs Shobha Jayaram

Rep By Her Husband And Power Agent

Mr K.P Jayaram, [POA dt.21.11.2012-

both permanent residents of

No.194, Jalan Rahman Merur, Selangore,

Malaysia-417850 And Now At Ag-13,

4th Avenue, Shanthi Colony, Anna

Nagar, Chennai-40

Plaintiffs

Vs

1. M/s. Radha Exports India Pvt

Ltd Rep By Its Managing Director

Mr M Krishnan,



'G', 2nd Flr, 12, State Bank St. Mount
Road, Chennai -600 002.

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2.Mr. M. Krishnan

S/o.Mr.Murugaian,

3.Mrs Radha Gouri

W/o Mr.Murugaian,
2 And 3 Are Residing At No.1-D 1st
Floor Gee GeeMinar, 23/15 College
Road, Nungambakkam, Chennai 6

Defendants

PRAYER: The plaint is filed under Order IV, Rule 1 and Order XXIV Rule 1 of the Original side Rules and order VII, Rule 1 of Civil Procedure Code,

(a) declaring that the 2nd Plaintiff is the absolute owner and for recovery of the possession of the House property bearing Door No.33, 2nd Street, Gill Nagar, Choolaimedu, Chennai-600 094, more fully described in the schedule hereunder;

b) declaring that the Sale Deed dated 06.07.2007, registered as Document No.2558 of 2007 in the Office of the Sub-Registrar, Kodambakkam in favour of the 1 defendant, is null and void and unenforceable in law;

(c) permanent injunction: restraining the defendants from alienating or encumbering the Plaint Schedule property;



(d) directing the contesting defendants to pay the plaintiffs' cost of the suit

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For Plaintiffs: Mr.T.V.Vineeth Kumar

For Defendants: Mr.R.V.R.Deenadayalan

JUDGMENT

The suit has been filed seeking relief of declaration that the 2nd plaintiff is the absolute owner of the suit property and to declare the sale deed dated 06.07.2007 executed in favour of the 1st defendant by the 2nd plaintiff is null and void and for a permanent injunction restraining the defendants from alienating or encumbering the Plaintiff suit scheduled properties.

2.The short facts pleaded by the plaintiff in the plaint are as follows:

The plaintiffs are non-residential Indians. The second plaintiff is the wife of the first plaintiff. The 1st plaintiff, with an intention to settle down in India, came to India in the year 1999, and thereafter, with the money earned by him in the business which is run in India, he purchased a dwelling house, which is the suit property, through a sale deed dated 8.4.1999 executed by one Abdul Hameed s/o Zackriah. During January 2005, the 1st plaintiff received a legal notice from LG Household & Healthcare Ltd, Korea, stating that the contract between the 1st plaintiff and LG Household & Healthcare Ltd, Korea, is null and void; the



president who had signed the contract are working-level officers, and they do not have any authority to sign the contract.

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2.1. The first plaintiff has filed a case against LG Household & Healthcare Ltd, Korea, and the same is pending. While the plaintiffs were in India, they came into contact with the defendants 2 and 3 through the vendor of the plaint schedule property. The 1st plaintiff became very close to the 2nd defendant and trusted him blindly. The 2nd and 3rd defendants started to take undue advantage of the trust and borrowed money on various occasions for purchasing a residential flat and for investment in the 1st defendant company. The 2nd and 3rd defendants have totally borrowed a sum of Rs.2,20,00,000/- from the plaintiffs. A sum of Rs.50,00,000/- has been borrowed through a cheque dated 1.11.2002 drawn on HSBC Bank, Chennai, and a sum of Rs.1,70,00,000/- has been borrowed as per the details shown under:

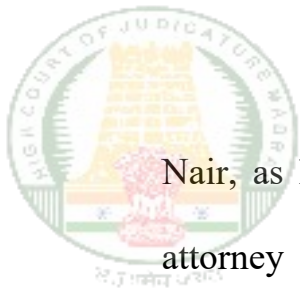
<i>Sl. No</i>	<i>Cheque No.</i>	<i>Date</i>	<i>Drawn on</i>	<i>Amount</i>
1	005865	06.01.2003	HSBC Bank	25,00,000/-
2	841264	01.03.2003	Punjab National Bank	50,00,000/-
3	011145	07.08.2003	Indian Overseas Bank	25,00,000/-
4	829107	13.08.2003	Indian Overseas Bank	25,00,000/-



<i>Sl. No</i>	<i>Cheque No.</i>	<i>Date</i>	<i>Drawn on</i>	<i>Amount</i>
5	829112	12.09.2003	Indian Overseas Bank	35,00,000/-
			TOTAL	1,70,00,000/-

2.2.Out of the above Rs.1,70,00,000/- the defendants 2 and 3 paid an amount of Rs.21,00,000/- towards interest and profit share. When the plaintiffs pressed for the money back, the 2nd and 3rd defendants evaded by giving various reasons. As per the request made by the defendants 2 and 3, the 2nd plaintiff created a mortgage deposit of title deeds of the 2nd plaintiff's property in favour of the Standard Chartered Bank for a tune of Rs.1,00,00,000/-. Though the 2nd and 3rd defendants had borrowed the above sum, they did not repay it, and hence the plaintiff could not get back the title deeds from the bank. The money was utilised by the 1st defendant business, and the plaintiffs reserved their rights to initiate separate proceedings in respect of the said amount. They are also given to understand that the 2nd plaintiff is a shareholder in the 1st defendant's company and the money is safe.

2.3.As the first plaintiff could not come to India, the 2nd plaintiff executed a power of attorney deed on 12.07.2007 by appointing her father, N. Sukumaran



Nair, as her power of attorney to deal with the suit property, and the power of attorney was adjudicated in the office of the sub-registrar, Kodambakkam, Chennai, on 4.7.2007. Despite the 2nd plaintiff took efforts to sell the suit property, it could not be done in view of the cheating acts of the defendants 2 and 3. Even the house belonging to the plaintiffs was also shown by the defendants 2 and 3 as their house to their son-in-law, and on the pretext of holding the marriage of the daughter of the defendants 2 and 3, they occupied the suit property as well.

2.4. On the pretext of making arrangements to sell the house, the 2nd and 3rd defendants were only preventing the same. When the plaintiffs came to India, during May 2012, they found that the name board of the house was changed from 'Shabari' to 'Radha GouriIllum'. The plaintiffs came to know that the defendants 2 and 3 even looted the valuables in the house, and they have executed a fraudulent sale deed dated 6.7.2007 in favour of the 1st defendant's company. After the plaintiffs went to Dubai, the father of the 2nd plaintiff was staying alone in the house. The 2nd and 3rd defendants were insisting the plaintiffs to sign an affidavit by saying that they are the papers to be submitted to the Income Tax Department. The plaintiffs refused to sign the papers and later came to know that their signatures had been forged by the defendants 2 and 3. The sale amount is said to have been paid for the sale deed dated 6.7.2007, which has also been stripped off by the defendants 2 and 3.



2.5. On verification, the plaintiffs also came to know that the defendants have leased the suit schedule properties to the third parties for more than Rs.1,30,000/- per month. As of now the plaintiff does not have any permanent place to reside in India. And hence, the plaintiffs have filed this suit for a declaration that the 2nd plaintiff is the absolute owner of the suit property along with the relief of recovery of possession and also to declare the sale deed dated 06.07.2007 as null and void as against the plaintiffs along with a consequential permanent injunction.

3. The case of the defendants is that the sale deed dated 06.07.2007 was executed by the power agent of the 2nd plaintiff, namely her father, in a sound state of mind for a valuable sale consideration as requested by the plaintiffs. Now the suit claim has been made on that basis after 15 years, which is barred by limitation. It is false to state that the plaintiff did not have the knowledge of the sale deed. No doubt the suit itself is an afterthought; hence, the suit should be dismissed.

4. On the basis of the above pleadings, the following issues have been framed:

i. *Whether the suit filed by the plaintiffs is not barred by limitation?*



- ii. *Whether the sale deed dated 06.07.2007, registered as Document No.2558 of 2007 is not valid and supported by consideration as mentioned in the sale Deed?*
- iii. *Whether the sale Deed dated 06.07.2007, registered as Document No.2558 of 2007 before the Sub Registrar, Kodambakkam executed by the plaintiffs through their Power Agent in favour of the Defendants has been obtained through fraud or coercion entitling the Plaintiffs to seek a declaration that the said Sale Deed is null and void and unenforceable in law?*
- iv. *Whether the Plaintiff is able to substantiate the statement of accounts showing the circuitous transactions by the defendants with respect to the sale of the Schedule property?*
- v. *Whether the 1st plaintiff's father in law N.SukumaranNair who was ailing from acute cancer is aware of the sale Deed or is he in a physical and mental state of mind to execute any document?*
- vi. *To what other reliefs the plaintiffs are entitled to ?*

5. During the course of the trial, on the side of the plaintiff, three witnesses have been examined as PW.1 to 3 and Ex.P1 to P15 were marked. On the side of the defendants one witness was examined as D.W.1 and Ex.P32 to 38 were marked. On the side of the Bank, three witnesses were examined as CW.1 to CW.3 and Ex.P16 to P31 were marked.

6. The learned counsel for the plaintiff submitted that the limitation starts from the date of knowledge. The suit has been filed within three years from the date when the plaintiff came to know about the fraudulent act of the defendants and hence it is not barred by limitation. Ex.P10 would show how the amounts are deposited and withdrawn from the account of the second plaintiff. The second plaintiff did not receive any sale consideration for the impugned sale deed Ex.P6



and hence it is not supported by consideration. The plaintiff has proved the fraud committed by the defendants by examining three witnesses and producing Ex.P1 to

P38. If the father of the second plaintiff Sugumara Nair was aware of the sale deed, he would have operated the bank account also by himself. So the alleged execution of the sale deed by Sukumaran Nair itself is doubtful as he was undergoing Chemotherapy during the relevant point of time.

6.1. The suit property was mortgaged by the second plaintiff for the first defendant's company and in the absence of the second plaintiff, the forged letter Ex.P25, the second defendant in collusion with the Standard Chartered Bank took back the title deeds and executed the sale deed. Ex.P34 is a mail communication between the second defendant and the plaintiff and from which it can be known that the second defendant did not disclose about the sale deed to the plaintiffs. Hence the plaintiffs could get the knowledge only in the year 2012 as stated in the plaint. The sale consideration mentioned in Ex.P32-sale agreement is contradictory to the averments made in the sale deed. A criminal case has been registered in this regard in Cr.No.219 of 2022 against the defendants and P.W.2 Saravanan for fraud and on the complaint given by the first plaintiff, an FIR has been registered and it is produced as Ex.P32. After investigation, charge sheet has also been filed and the trial is pending against P.W.2, second defendant and third defendant. The first



plaintiff alone has played fraud and he had cheated many persons by using distributorship of LGHHL. Ex.P6 Sale deed is a sham and nominal document.

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6.2. The plaintiff has stated that the sale deed has been obtained by force from the Power of Attorney. She had also stated that the sale deed is a fraudulent one and the same was obtained by impersonation. Such pleas made by the plaintiff are mutually contradictory. Without the second plaintiff's signature the defendants managed to get the release of the title deed from the Standard Chartered Bank where the second plaintiff has deposited the title deeds as security for the loan obtained for the first defendant's business. The second plaintiff's cheques have been used to withdraw money from the bank by the defendants.

7. The learned counsel for the defendants submitted that the suit property belongs to the second plaintiff who executed Power of Attorney in favour of his father Sukumara Nair who has executed a sale deed in favour of the first defendant company. The second and third defendants are the Directors of the said company. Hence the first plaintiff has got no role in the said transaction. If the second plaintiff claims that the property has been purchased by her, the first plaintiff is an unnecessary party. The suit for declaration based on fraud must be filed within three years but the suit has been instituted only after 5 1/2 years and hence the suit itself is barred by limitation. The plea that the discovery was made only in the



month of May, 2012 is false. The power of attorney of the second plaintiff who is her father is completely aware of the transaction. The second plaintiff in her capacity as the Director of the first defendant company had mortgaged the same property with the Standard Chartered Bank. On 23.06.2007 she wrote to the Bank Manager seeking an NOC to sell the property to the first defendant which was duly issued on 02.07.2007. The plaintiff themselves alleged that the dispossession happened in the year 2010 and hence they had the full knowledge even prior to the year 2010 and hence the suit is barred by limitation.

7.1. P.W.2's evidence is eschewed by this Court as he did not attend for cross-examination. The alleged Power of Attorney executed by the second plaintiff in favour of the first plaintiff is not marked. Even the document has been executed in Malaysia and Notarised by notary public, Power of Attorney certificate was not found. The first plaintiff has not produced any power of attorney issued by the second plaintiff to represent on behalf of the second plaintiff. The plaintiff has taken contradictory pleas by pleading in the plaint that the sale deed Ex.P6 has been obtained by forgery through impersonation.

7.2. It is also pleaded that the Power of Attorney was forced to execute the sale deed and that it is a fraudulent one. Such pleas are mutually contradictory. The consideration for the sale has been paid only through bank transactions, and hence



the plaintiff cannot state that the sale deed is a sham and nominal one and that it is not supported by consideration. Even assuming that there was any fraud by stealing the cheques of the 2nd plaintiff, the 2nd plaintiff would have cross-examined the witness about the alleged stolen cheques and given a police complaint immediately, instead of waiting until the filing of the suit. The complaint given by the plaintiffs on 21.11.2012 has been closed as false. The plaintiff has not proved any fraud or cheating in respect of the sale deed dated 06.07.2007, marked as Ex.P6, which is true and valid and has been duly executed.

Discussion:

8. The suit property belonged to the 2nd plaintiff. The plaintiffs 1 and 2 are husband and wife. The 2nd plaintiff did not come to the box to be examined herself as a witness. She has filed the suit claiming a serious relief to declare that the sale deed dated 06.07.2007 (Ex.P6) allegedly executed by her is not valid and to declare the same as null and void. The plaintiffs and the defendants are not strangers and they have acquaintance with each other. Even in the plaint, it is stated that the plaintiffs came into contact with the defendants 2 and 3 through the vendors of the plaint schedule property, Mr. Abdul Hameed Sucriya. It is also admitted that they became close to each other. However, it is the contention of the plaintiffs that the defendants 2 and 3 took advantage of the friendship between themselves and borrowed various sums of money from the plaintiffs for purchasing



a residential flat for themselves and for making investments in the 1st defendant company.

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9. The plaintiffs are said to have paid a sum of Rs.1,70,00,000/-, for which the defendants 2 and 3 have paid Rs.21,00,000/- towards interest and profit. It is further alleged that when the plaintiffs put pressure on the defendants 2 and 3 to repay the balance amount, they assured that after finishing their China transaction, they would settle the same. The plaintiffs have further stated that the defendants 2 and 3 were in need of money to clear the transaction with China and hence wanted to raise a loan. In order to help the defendants 2 and 3 for the business transaction involving the 1st defendant, the plaintiffs offered the suit property as security to the Standard Chartered Bank. The 2nd plaintiff created a mortgage by depositing the title deeds with the Standard Chartered Bank on the promise given by the defendants 2 and 3 that they would return the documents after repaying the loan amount within three months, but they did not pay as assured. The defendants did not repay the loan amount of Rs.1,00,00,000/- to clear the mortgage, or return the title deeds.

10. It is also alleged that the defendant had created an NOC given by the Bank and that the defendants had managed to create a sale deed in favour of the 1st defendant company, in respect of the suit property on 06.07.2007. In the



allegations made in the plaint, it appears that the plaintiffs have alleged that the defendants 2 and 3 had created documents by forging the signatures of the plaintiffs and used them for various transactions, including the registration of the sale deed dated 06.07.2007. Ex.P6 is the registered sale deed executed by the power agent of the 2nd plaintiff in favour of the 1st defendant company. Even though the defendants have claimed that they made cheque payments towards the sale consideration of the said property, the plaintiffs have alleged that they are circuitous transactions and that the defendants 2 and 3 have played fraud upon them.

11. The sale deed has been executed on behalf of the 2nd plaintiff through her father, Sukumara Nair, in his capacity as Power Agent. Therefore, there cannot be any basis for the allegation of impersonation or forgery of her signature. So far as the impugned sale deed dated 06.07.2007 is concerned, with regard to the sale consideration, it is shown in the sale deed Ex.P6 that the sale consideration is Rs.1,50,00,000/-, and that the said amount has been paid to the vendor through various bank transactions by way of issuance of cheques, which have been listed in the contents of the sale deed itself.

12. Even though the suit property belonged to the 2nd plaintiff, the 2nd plaintiff did not come to the box to depose evidence about the facts within her



personal knowledge, but her husband, the 1st plaintiff, alone appeared as a witness on behalf of the plaintiffs and examined himself as PW.1. Ex.P2 is the General Power of Attorney executed by the 2nd plaintiff in favour of her father, and the same has been adjudicated in India on 03.07.2007. The photocopy of the Power of Attorney document has been produced as Ex.P2. The plaintiff's father died on 11.08.2009; however, Ex.P6, the sale deed, has been executed on 06.07.2007, within nine days after the Power of Attorney had been executed in his favour.

13. The plaintiffs have stated that the defendants 2 and 3 have become close friends and only in view of the friendship, they had supported defendants 2 and 3 for conducting the 1st defendant company. In reality, the 2nd plaintiff has also held a position of Director in the said company. When PW.1 was confronted on this aspect, he stated in his evidence that she became a Director only after she had given the suit property as collateral security for the loan availed by the 1st defendant, Radha Exports. For the investment made by the 2nd plaintiff in the 1st defendant company, she had also received a sum of Rs.11 lakhs as interest and Rs.10 lakhs as profit at a certain point of time. The same was also admitted by PW.1. If the 2nd plaintiff was merely a financier to the company and not interested in the affairs of the company, she would have restricted herself to receive interest for the amount invested by her. However, the records would show that she had also received a share in the profit. From the above evidence, it can only be presumed



that the 2nd plaintiff had offered the suit property as security for the loan availed by the 1st defendant company only in her capacity as a Director and that she had been receiving interest and profit for the investment made by her.

14. Even though the 1st plaintiff attempted to state that the 1st defendant company had merely projected the 2nd plaintiff as its Director for its own benefit, in reality, the 2nd plaintiff has been deriving profit out of the business, and hence the allegation that the defendants 2 and 3 had projected the 2nd plaintiff as Director of the 1st defendant company for their own benefit cannot be accepted. PW.1 has admitted in his evidence that Ex.P6 had been presented at the Sub-Registrar Office at Kodambakkam for registration and that the photograph of his father-in-law, N. Sugumara Nair, had been affixed and that his identification through his passport was also correct. In fact, Sugumara Nair, who is the father of the 2nd plaintiff, had worked as a Sub-Registrar at Thiruvananthapuram and had retired from service. Therefore, Sugumara Nair cannot be said to have been cheated into executing a document without receiving any sale consideration, that too as a Power Agent for his own daughter.

15. When the records would prove that the 2nd plaintiff had given the Power of Attorney to her own father, Sugumara Nair, and that the sale deed Ex.P6 had also been executed by Sugumara Nair, whose identity had been correctly



established through his passport and photograph at the time of registration, the burden would lie on the plaintiffs to disprove the same. The existence of the sale deed Ex.P6 is neither denied, nor the signatures and the presence of Sugumara Nair as Power Agent for the 2nd plaintiff be denied. As per Section 91 of the Indian Evidence Act, when the terms of a contract relating to the disposition of property have been reduced to writing, no evidence shall be given in proof of such terms except the document itself. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in ***Roop Kumar v. Mohan Thedani* reported in (2003) 6 SCC 595**, wherein the scope and object of Section 91 of the Indian Evidence Act has been elaborately explained.

"13. Section 91 relates to evidence of terms of contract, grants and other disposition of properties reduced to form of document. This section merely forbids proving the contents of a writing otherwise than by writing itself; it is covered by the ordinary rule of law of evidence, applicable not merely to solemn writings of the sort named but to others known sometimes as the "best-evidence rule". It is in reality declaring a doctrine of the substantive law, namely, in the case of a written contract, that all proceedings and contemporaneous oral expressions of the thing are merged in the writing or displaced by it. (See Thayer's Preliminary Law on Evidence, p. 397 and p. 398; Phipson's Evidence, 7th Edn., p. 546; Wigmore's Evidence, p. 2406.) It has been best described by Wigmore stating that the rule is in no sense a rule of evidence but a rule of substantive law. It does not exclude certain data because they are for one or another reason untrustworthy or undesirable means of evidencing some fact to be proved. It does not concern a probative mental process - the process of believing one fact on



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*the faith of another. What the rule does is to declare that certain kinds of facts are legally ineffective in the substantive law; and this of course (like any other ruling of substantive law) results in forbidding the fact to be proved at all. But this prohibition of proving it is merely that dramatic aspect of the process of applying the rule of substantive law. When a thing is not to be proved at all the rule of prohibition does not become a rule of evidence merely because it comes into play when the counsel offers to "prove" it or "give evidence" of it; otherwise, any rule of law whatever might be reduced to a rule of evidence. It would become the legitimate progeny of the law of evidence. For the purpose of specific varieties of jural effects - sale, contract etc. there are specific requirements varying according to the subject. On the contrary there are also certain fundamental elements common to all and capable of being generalized. Every jural act may have the following four elements:
(a) the enactment or creation of the act;
(b) its integration or embodiment in a single memorial when desired;
(c) its solemnization or fulfillment of the prescribed forms, if any;
and
(d) the interpretation or application of the act to the external objects affected by it."*

16. In the instant case, the existence of the document has been admitted by the plaintiffs, and in fact, the suit itself has been filed on the allegation that the defendants had played fraud in getting the sale deed Ex.P6 executed. The incidental relationship between the plaintiffs and the defendants 2 and 3 in connection with the business of the 1st defendant alone cannot be a reason to defeat the contents of the registered sale deed Ex.P6.



17. As the plaintiffs have claimed that the above document is invalid, the grounds on which the plaintiffs claim Ex.P6 to be invalid have to be proved in accordance with Section 92 of the Indian Evidence Act by adducing oral and documentary evidence. As stated already, with the evidence of PW.1 himself, it has been proved before the Court that the 2nd plaintiff's power agent and her father, Sugumara Nair, had been to the Sub-Registration Office on the alleged day of execution of Ex.P6 and executed the same by producing documents confirming his identity. There are nearly 27 cheques which have been deposited in the accounts of the 2nd plaintiff, and all those payments have been listed in the sale deed by stating that they were the sale consideration paid for the suit property.

18. The plaintiffs have stated that, despite the amounts given through cheques being credited to the accounts of the 2nd plaintiff, they were withdrawn within a period of 23 days by various individuals by forging the signature of the 2nd plaintiff and by stealing her cheque books. It is alleged by the plaintiffs that Sugumara Nair had been living in the very same property even after executing the sale deed and that the defendants had broken open the door and trespassed into the suit property. It is alleged that only through that course the cheque books and signed documents of the plaintiffs had been stolen by the defendants. It appears to be an unacceptable story of the plaintiffs, especially in the context of the evidence of the plaintiffs themselves. It is alleged by the plaintiffs that the cheque books had



been misused by the defendants 2 and 3 and that the same had been used to withdraw money from the plaintiffs' accounts and redeposit the amounts in the account of the 1st defendant company. However, these facts were not substantiated by the evidence of the plaintiffs.

19. One witness was examined as PW.2. Though he had stated facts in his chief affidavit, he did not subject himself to cross-examination and hence his evidence was struck off. PW.3 has stated that he had taken money from the account of the 2nd plaintiff and deposited it into the account of the 1st defendant company on the instruction of one Saravanan. He has also stated that he had taken money from the joint accounts of the 2nd plaintiff and her father on various dates. But he did not take the money at the instance of the defendants 2 and 3. Neither he had deposited the money in the account of the 1st defendant company at the instruction of the defendants 2 and 3.

20. The plaintiffs did not attempt to send the signatures found in Ex.P6 for comparison with other admitted signatures of Sugumara Nair in order to show that Sugumara Nair was not the person who was present on the alleged day of execution of the sale deed Ex.P6. Even though the sale deed Ex.P6 had been executed shortly after the execution of the Power of Attorney in favour of



Sugumara Nair, the plaintiffs denied knowledge of Ex.P6. However, they continued to be in touch with Sugumara Nair.

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21. It is stated by the plaintiffs that Sugumara Nair had been suffering from cancer and that the plaintiffs used to converse with him from abroad. At certain points of time, they even came to India to be with him while he was undergoing treatment for his ailment. Sugumara Nair died in the year 2009. Before his death, he would have definitely informed his daughter, the 2nd plaintiff, about the execution of the sale deed. Hence, it is unbelievable to state that the plaintiffs came to know about the existence of Ex.P6 only in the year 2012 and hence they had filed the suit within three years from the alleged date of knowledge of the sale deed.

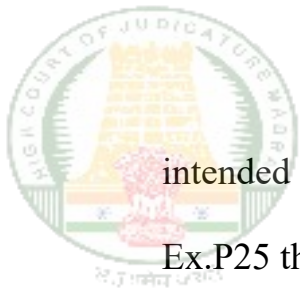
22. As the identity of Sugumara Nair cannot be denied and as he had been to the Sub-Registrar Office on 06.07.2007 to execute Ex.P6, and thereafter continued to be in touch with the plaintiffs on a continuous basis, it cannot be believed that the plaintiffs were unaware of the existence of Ex.P6. As the document had been executed in the year 2007, it was possible for the plaintiffs to know about the transaction immediately through the 2nd plaintiff's father, Sugumara Nair, the Power Agent. Therefore, it is right for the defendants to contend that the suit is barred by limitation, as it was not instituted within three years from the date of



execution of the sale deed. The pleadings made by the plaintiffs that they came to know about the sale deed only in the year 2011 or 2012 have not been satisfactorily proved. As the plaintiffs did not approach the Court within three years from the date of execution of the sale deed Ex.P6, the suit, insofar as the relief of declaration is concerned, is barred by limitation.

23. Even though it is pleaded by the plaintiffs that the defendants 2 and 3 had acted by joining with so many other persons to take money from the 2nd plaintiff's account by forging her signature on her cheques, no criminal action has been initiated against the 2nd defendant or those persons on the said allegation. As stated already, the complaint given by the plaintiffs in the year 2012 was also closed, and the closure report was shown to PW.1. He gave evasive answers as though it had not been informed to him.

24. Apart from the party witnesses, the Court witnesses CW.1 to CW.3 were examined. CW.1, the Regional Head of Standard Chartered Bank, stated in his evidence that the letter dated 23.06.2007 had been issued by the 2nd plaintiff to the Bank. Ex.P24 and Ex.P25 are the letters given by the 2nd plaintiff to the Bank, and through those letters, the 2nd plaintiff had given the suit property as security in her capacity as guarantor for the loan availed by the 1st defendant. As the 2nd plaintiff

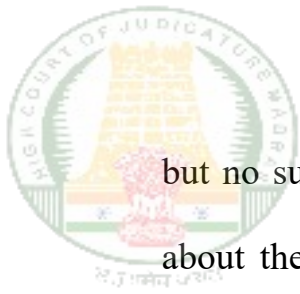


intended to sell the property in the year 2007, she had sent letters Ex.P24 and Ex.P25 through the 1st defendant.

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25. The allegation that Ex.P24 and Ex.P25 were created by the Bank has been stoutly denied by CW.1. Even assuming, for the sake of argument, that Ex.P24 and Ex.P25 were created by the Bank, the plaintiffs would not have remained quiet without giving any police complaint against the Bank. CW.1 further explained in his evidence that the 2nd plaintiff was a Director of the 1st defendant company and that she had mortgaged the immovable property in favour of the Bank as security for the loan availed by the 1st defendant company. Through Ex.P25, the 2nd plaintiff requested the Bank to issue NOC to sell the property subject to the mortgage, and thereafter the NOC was issued by following due procedure. CW.1 has stated that whenever such letters are given, the Bank verifies the signature by comparing it with the specimen signature already available in its records and only thereafter proceeded to process the request and issued approval along with the NOC.

26. So far as Ex.P24 is concerned, it was issued by the Bank in response to Ex.P25 issued by the 2nd plaintiff. Therefore, the authenticity of Ex.P24 has not been denied by the Bank. If the Bank authorities had also taken part in the alleged fraud, the plaintiffs would have lodged complaints against the Bank officials also,



but no such step was taken. CW.2, the Assistant Manager of HSBC Bank, spoke about the cheques marked as Ex.P31. CW.2 categorically stated in his evidence that the cheques in Ex.P31 were issued by the 2nd plaintiff and that the signatures tallied with her admitted signatures. He further stated that it is the practice of the Bank to verify the signature in the cheques with the specimen signature of the account holder available in the Bank records. Therefore, the allegation that the defendants had forged the signature of the 2nd plaintiff in her cheques also fails.

27. The Senior Manager of Canara Bank was examined as CW.3, and he stated in his evidence that from 06.07.2007 to 26.07.2007, nine transactions amounting to a total sum of Rs.77,57,000/- had taken place. The cheques drawn on ING Vysya Bank were cleared through Canara Bank. Even those cheques were accepted for collection only after comparing the signatures with the specimen signatures. Thus, the evidence on record does not establish that the 1st defendant had forged the signatures in the cheque books of the 2nd plaintiff. The evidence only brings out the possibility that the 2nd plaintiff's father, who was the Power Agent, had knowingly sold the suit property in favour of the 1st defendant. Therefore, the allegation of the plaintiffs that the defendants 2 and 3 had stolen the cheques of the 2nd plaintiff by breaking open the door of the suit property stands falsified.



28. The plaintiffs have not proved that the sale deed dated 06.07.2007, marked as Ex.P6, is invalid or not supported by consideration. Hence it can be concluded that the defendants are in possession of the suit property pursuant to the sale deed Ex.P6 and not by breaking open the door. Hence, the suit is also barred by limitation. Further, the evidence on record does not prove that fraud or impersonation had been committed in the execution of the sale deed Ex.P6. Thus, **Issue No.1 is answered against the plaintiffs.**

29. The evidence on record does not show that the sale deed Ex.P6, dated 06.07.2007, is invalid or not supported by consideration. **Hence, Issue Nos.2, 4, and 5 are answered against the plaintiffs.**

30. As the plaintiffs have not proved their case, they are not entitled to the reliefs as prayed for. **Issue No.3 is answered against the plaintiffs.**

31. Considering the circumstances of the case, the plaintiffs are not entitled to any other reliefs. **Thus, Issue No.6 is answered against the plaintiffs.**

32. In the result, **the suit stands dismissed.** No costs.

Index: Yes/No
Speaking order/Non-Speaking Order
Neutral citation: Yes/No
jrs

02.02.2026



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Dr.R.N.MANJULA, J.,

jrs

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