



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 758 of 2025

AND

CMP NO. 6135 OF 2025,CMP NO. 6137 OF 2025

1. Krishnaveni

W/o. Kumaresan, No.5/124, Vadivu
Nagar, Makkinampatti Village, Pollachi
Taluk, Coimbatore District.

Appellant(s)

Vs

1. V Jayaraman

S/o. Late Varadaraja Chettiar,
D.No.1/211, Anna Street, Thippampatti
Village, Pollachi Taluk, Coimbatore
District.

2.Saraswathi

W/o. Late Varadaraj Chettiar, No.1/211,
Anna Street, Thippampatti Village,
Pollachi Taluk, Coimbatore District.

3.Kanagarathinam

W/o. Dinakarajan, No.167/10,
Sigander Basha Street, Gandhi Nagar,
Udumalaipet Town, Udumalaipet Taluk,
Tiruppur District.

4.Saradammal

W/o. Late Prathapan, No.5/128, Vadivu
Nagar, Makkinampatti Village, Pollachi
Taluk, Coimbatore District.

5.The Branch Manager

Canara Bank, Pollachi Branch, Pollachi
Town and Taluk, Coimbatore District.



Respondent(s)

CMA No. 758 of 2025

PRAYER

To set aside the order and decree dated 10.12.2024, made in IA No.2 of 2024 in OS No.796 of 2024 on the file of IV Additional District Judge, Coimbatore.

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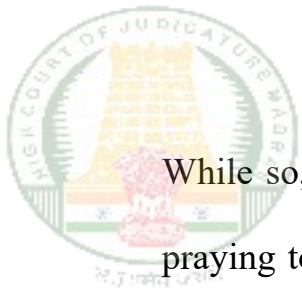
For Appellant(s): A.Gouthaman

For Respondent(s): Mr.V.Raghavachari Seior
Counsel For M/s.Ark Law
Associates For R1
Mr.R.Bharathkumar For R2 To
R4 R5 - No Appearance

ORDER

This Civil Miscellaneous Appeal has been filed seeking to set aside the order and decree dated 10.12.2024, made in IA No.2 of 2024 in OS No.796 of 2024 on the file of IV Additional District Judge, Coimbatore.

2. The appellant herein filed suit in OS No. 796 of 2014 on the file of the IV Additional District Judge, Coimbatore, against respondents herein(first respondent is her brother, respondents 2 to 4 are her sisters and fifth respondent is the Branch Manager, Canara Bank, Pollachi Branch), to cancel the relinquishment deed dated 25.10.2021, vide document No. 11069/2021, which said to be executed by the appellant and her sisters/respondent 2 to 4 in favour of the first respondent as Null and Void and also prayed to divide the suit schedule property into five equal shares along with other consequential relief.



While so, the appellant herein filed I.A No. 2 of 2024 in OS No. 796 of 2014 praying to grant an order of interim injunction, restraining the first respondent, his men, his agents, from alienating the plaint schedule mentioned properties pending disposal of the suit.

3. The said application was contested by the respondents by filing counter/objections. On hearing both sides, the Trial Court dismissed the said application. Aggrieved by the same, the appellant preferred this Civil Miscellaneous Appeal.

4. The brief facts of the case:

The first respondent is brother of the appellant, Second respondent is mother of the appellant, 3 & 4 respondents are sisters of the first respondent. All were legal heirs of one Varatharaja Chettiar. The appellant claiming that suit properties originally belongs to one Ayyavu Chettiaar, who purchased the suit schedule properties through several sale deeds and he derived title to the portion of the suit schedule properties by way of partition deed. In the year, 1966 the said Ayyavu Chettiar died leaving behind Varatharaj Chettiar/father of appellant as his only legal heir, who possessed and enjoyed the entire suit properties till his demise. After his demise, as legal heirs, the appellant and respondents 1 to 4 are entitled to 1/5 share each in suit schedule properties and they were in joint possession of the suit properties and the first respondent was sharing the income of the suit properties with the petitioner and the respondents 2 to 4. In the meantime, the appellant demanded partition. The first respondent is a politician



who occupied key post in legislative assembly from Pollachi constituency for near about 20 years. Taking advantage of the position, the appellant by colluding with other respondents obtained signature in the document by misrepresenting as if it is partition deed. Further, he gave false promise that he would give the copy of the document while handing over the possession. Later, while she obtaining encumbrance certificate, she came to know that document signed on 25.10.2021 is relinquishment deed not partition deed. Since, the appellant is having equal right over the suit properties, the question of relinquishment of her right without any consideration from the first respondent did not arise. After issuing notice, the appellant has come forward with the suit in O.S.No.796 of 2014.

5. The respondents contested the case by filing written statement. While pending suit, the appellant filed an interim application praying to grant order of interim injunction, restraining the first respondent, his men, his agents, from alienating the plaint schedule mentioned properties pending disposal of the suit.

6. The respondents filed counter objections to that application stating that the appellant filed the suit at the instigation of the appellant's husband and she was very well aware about the relinquishment deed, besides her husband also one of the attestor of the deed. She along with other sisters voluntarily come forward to execute the relinquishment deed since he was managing the entire suit properties after demise of his father and also helping the plaintiff and other sisters. While registration, she voluntarily gave full consent and signed the deed



and the family members executed relinquishment deed. But thereafter, by suppressing all the facts, she come forward with present suit with false allegations. Hence, he prayed to dismiss the interim application.

7. On hearing both sides, the Trial Court framed point for consideration whether she is entitled to temporary injunction.

8. Before the Trial Court, it was argued by the plaintiff/appellant that the first respondent is politically influential person; if the relief is not granted that is injunction from alienating the suit property, her right over the property will be defeated. Hence, the learned counsel prayed to maintain status quo. To that effect, he relied on following Judgements rendered by this Court and Apex Court

- I. A. Venkatasubbiah Naidu Vs. S. Chellappan and others.
- ii. Harish Ishwarbhai Patel Vs. Jatin Ishwarbhai Patel and others.
- Iii. Maharwal Khewaji Trust, Fairdkot vs. Baldev Dass.

9. By way of reply, the learned counsel for the first respondent submitted before the trial Court that the appellant/plaintiff come forward with false claim after executing relinquishment deed in favour of her brother knowing fully well about the same. Therefore, if any alienation made *pendente lite* purchaser would take property subject to result of the suit. To that effect, he relied on the following Supreme Court judgements:



I. Ranganayakamma and another Vs. K.S. Prakash (D) by L.Rs. In C.A

No. 3635 of 2008

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ii. Shahida Begum Vs. Ramiza and others reported (2024) 6 MLJ 225

10. On hearing both sides, the Trial Court held that already, the plaintiff gave consent letter to transfer patta in favour of first respondent. Thereafter, only, relinquishment deed was executed. Therefore, the conduct of the petitioner/plaintiff by giving consent to transfer patta in the name of the 1st defendant clearly shows that relinquishment deed would have been executed voluntarily and the material records would not show that any fraud or misrepresentation, threat, coercion on the part of the first respondent in obtaining relinquishment deed; in such circumstances, if any order restraining the first respondent from alienating the suit property to third parties is passed, it would cause more hardship. Even if any property is transferred, it is subject to lis; there is no balance of convenience in favour of the plaintiff. Accordingly, the application was dismissed and order of status quo not extended. Aggrieved by the same, the appellant filed this Civil Miscellaneous Appeal.

11. The learned counsel for the appellant submits that Trial Court committed error in not granting relief to the appellant and it failed to take note of the conduct of the first defendant who is a member of Pollachi legislative assembly for near about 20 years and even now he is an MLA and influential person in that locality. He would have dominated the plaintiff while obtaining

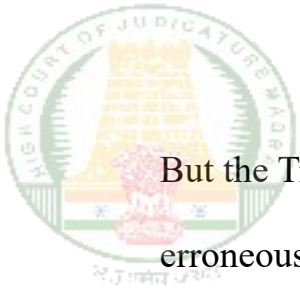


the documents. But the Trial Court ignoring the said aspects, erroneously concluded that relinquishment deed might have been obtained voluntarily. As such, the impugned order is illegal and is liable to be set aside.

12. The learned counsel further pointed out that relinquishment deed under challenge is the main relief sought for in the suit. In such circumstances, the Trial Court ought not to have given findings that said relinquishment deed was not happened by misrepresentation and such finding itself shows that the Trial Court already decided the main issue and it would have direct impact in the result of main suit and on that ground, the findings is liable to be set aside.

13. The learned Trial judge ought not to have given weightage to consent letter said to be given to transfer the patta however, the said purpose is totally different from that of alleged execution of relinquishment deed, which is under challenge. The trial Judge has not properly appreciated the facts and circumstances relating to execution of those documents. Therefore, the findings rendered by the Trial Court is perverse and liable to be set aside.

14. The plaintiff also proves that balance of convenience is in her favour, but the Trial Court failed to take note of the said fact. Further, based on the alleged relinquishment deed, the first respondent obtained loan to the tune of Rs.1.85 crores by mortgaging the suit property. In such circumstances, in future, even if the suit is decreed, she would not be able to realise the fruits of decree.



But the Trial Court failed to appreciate the same, as such, the order impugned, is erroneous and liable to be set aside.

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15. By way of reply, the learned counsel for the 1st respondent submits that after the demise of appellant's father, as an elder member of the family, the first respondent looked after entire family affairs and properties. Since the sisters already got married including the appellant, the first respondent managed the entire suit properties of the sisters and other legal heirs of Varatharaja Chettiar. To manage the affairs of the property, the appellant and her sisters gave consent to transfer patta in the year 1994. Based on that, patta has been transferred in his favour. Ever since, the suit properties were managed by the first respondent. Already, there was unregistered released deed entered into between the parties in the year 1994. Thereafter, the same was converted into registered relinquishment deed in the year 2021 with the consent of appellant and other legal heirs/ his mother and other sisters. Now, at the instigation of appellant/plaintiff's husband, she has come forward with this suit with false claim as well as filed the application for interim injunction and the Trial Court has rightly declined to grant relief in favour of the appellant.

16. It is an admitted fact that the suit schedule properties belongs to Vardharaj Chettiar who died intestate leaving behind the appellant and respondents 1 to 4 as his legal heirs. The appellant is sister of the first respondent, second respondent is his mother, other respondents are his sisters.



The appellant filed the suit to declare the relinquishment deed dated as 25.10.2021 as null and void and for partition in respect of suit schedule properties. The respondents 1 to 4 contested the interim application contending that all the suit properties are joint family properties, their father/Varatharaja Chettiar died intestate, as his legal heir the appellant is entitled to 1/5 share in the suit property. The appellant claiming that when she demanded partition, the first respondent agreed to give property and obtained signature in the document under the guise of partition deed, but later, she came to know that it was relinquishment deed. Hence, the appellant filed the suit. In the meantime, the appellant filed application seeking injunction not to alienate the suit property. Now, the relinquishment deed is under dispute and the plaintiff/appellant is claiming that she has not given any consent to execute the relinquishment deed.

17. But the first respondent stated that she voluntarily gave consent to execute the said relinquishment deed and the same was attested by her husband. Further submits both of them known very well about the deed as he has not made any false representation and also he relied on the consent letter dated 30.12.1994, given by the appellant to transfer patta in favour of the first respondent as well as unregistered release deed. Now, he got valid registered partition deed with the consent of other co-sharers which is a known fact.

18. After obtaining relinquishment deed, the first respondent mortgaged the suit property with Bank/fifth respondent herein and created encumbrance over the suit property. On bare perusal of the recitals of the relinquishment deed,



clearly shows that while executing relinquishment deed, the appellant and other respondents did not receive any consideration. Admittedly, the first respondent is politically influenced person in that locality and he is a member of legislative assembly. It is also an undisputed fact that suit properties are joint family properties. Now, appellant alleged that the relinquishment deed obtained by way of misrepresentation.

19. Heard both sides submissions and perused the records.

20. On considering the submissions made on the side of the appellant, it is transpired that the relinquishment deed was obtained without passing of consideration. So, it requires detailed evidence as to under what circumstances relinquishment deed came into force by examining attestor as well as other witnesses.

21. In the year 1994, there was consent document obtained from all the co-sharers to transfer the patta. Based on that, the Trial judge held that already she gave consent to transfer the patta. But transferring patta is totally different from releasing co-shares's right over the property. Admittedly, the patta is not document of title. When the property is released by way of Release/Relinquishment deed without any consideration, and if subsequently the same is challenged, the validity of the said deed has to be verified through



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detailed evidence. But the Trial Court made an observation that since because she already gave consent to transfer patta, she would have given consent voluntarily and executed the release deed, which observation is erroneous one for the reason that as rightly pointed out by the counsel for the appellant, the main relief sought in the suit would directly hit by the observation made by the Trial judge. Therefore, the same is not permissible and that too without any evidence while disposing the interim application in the suit. Therefore, the findings of the Trial Court is beyond the scope of relief claimed in the petition, as such, is perverse and liable to be set aside.

22. The appellant apprehends that first defendant would create encumbrance and alienate the suit property. It is acceptable one for the reason that after obtaining relinquishment deed, the first respondent mortgaged the suit properties and obtained loan of Rs.1.85 crores. Still title is under dispute. If any further encumbrance is created, it would cause much hardship to the appellant who is claiming 1/5 share in the suit properties. Therefore, balance of convenience is in favour of the appellant and she prima facie proved her claim. As on date, suit property is mortgaged with bank/fifth respondent.

23. Considering all the above aspects and that there is encumbrance already over the suit property, but not to create other encumbrance, this Court is inclined to grant order of status quo till the disposal of suit in O.S.No.796 of



2014 Accordingly, this Civil Miscellaneous Appeal is allowed. No Costs.

Pending petition, if any, is/are closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The IV Additional District Judge, Coimbatore.

2. The Section Officer, V.R Section, High Court, Madras.



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T.V.THAMILSELVI J.
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