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SA No. 314 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-03-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

SA No. 314 of 2020

P.Sathyamoorthy
S/o Pannerselvam
N.24, Pilliyar Koil St.,
Poonamallee Village And Post,
Chennai 56.

..Appellant(s)

Vs

1. Rajeshwari, W/o Pannersselvam
2. Dasaradhan, S/o Paneerselvam
Both Respondents are residing At
No 4/14, First Main Road,
Thirumal Nagar
Poonamallee Village And Post,
Chennai 56.

..Respondent(s)

Prayer: Second Appeal filed under Section 100 of CPC to set aside the Judgement and Decree in A.S.No.21/2018, on the file of the II Additional District and Sessions Court, Tiruvallur at Poonamallee dated 31.10.2019 confirming the Judgment and Decree in O.S.No.1/2009, on the file of the Subordinate Court Poonamallee dated 25.01.2018.

For Appellant(s):

Ms.V.Srimathi

For Respondent(s):

M/s.P.B.Ramanujam & Associates



JUDGMENT

The unsuccessful plaintiff is the appellant herein. The appellant filed a suit for partition claiming 1/3 share in the suit property and the same was dismissed by the Trial Court. The findings of the Trial Court were affirmed by the first appellate Court. Challenging the concurrent findings of the courts below, the appellant/plaintiff has come before this court.

2. According to the appellant/plaintiff, the first defendant is his mother and the 2nd defendant is his brother. According to the plaintiff, the suit property was purchased by his deceased father Panneerselvam, in the name of his mother, the first defendant, by utilising the funds generated by selling the ancestral properties. Therefore, according to him, the suit property acquired character of ancestral property. Thus, he claimed 1/3 share in the suit property. It is further stated by the plaintiff that, the first defendant executed a settlement deed in favour of the 2nd defendant, settling the entire property, however, according to the plaintiff, the settlement deed will not binding his 1/3 share. Therefore, instant suit has been filed by the plaintiff seeking partition as mentioned above.

3. The first defendant filed a written statement and contended that the suit property was purchased by her by selling her jewels. The averments made in



the plaint that the suit property was purchased by selling the ancestral properties had been specifically denied. It was also stated that the building in the suit property was raised in the year 1986 from the chit amount of the first defendant and also out of contribution by the 2nd defendant by selling jewels. Thus, it was the case of the first defendant that the suit property is the self acquired property of the first defendant and she had every right to execute the settlement deed in favour of her son, the 2nd defendant. On these pleadings, the defendants seek dismissal of the suit.

4. Before the Trial Court, the plaintiff was examined as PW1 and five documents were marked as Ex.A1 to Ex.A5. On the side of the defendants, the first defendant was examined as DW1 and 7 documents were marked as Ex.B1 to Ex.B7.

5. The trial court on appreciation of oral and documentary evidence on record, came to the conclusion that the plaintiff failed to prove that the suit property was purchased out of joint family funds and dismissed the suit. Aggrieved by the same, the plaintiff preferred an appeal in A.S.No.21 of 2018 on the file of II Additional District Judge, Thiruvallur at Poonamallee. The first appellate court affirmed the findings of the Trial Court. Aggrieved by the concurrent findings of the courts below, the plaintiff has come before this court.



6. At the time of admission, this court formulated the following substantial questions of law.

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i) Whether the lower appellate court was right in dismissing I.A.Nos.1 and 2 of 2019 seeking amendment of the plaint, more so, when it was challenged that the properties proposed to be added are ancestral properties of the family?

ii) Whether the lower appellate court was right in concluding that the plaintiff has not established that the property that was purchased in the name of the first defendant was not for the benefit of the family?

7. The learned counsel for the appellant/plaintiff would vehemently contend that the suit property was purchased in the name of the first defendant out of joint family funds by selling the ancestral properties and therefore, it should be treated as the property purchased for the benefit of the family. The learned counsel further submits that before the first appellate court, the plaintiff filed two amendment applications in I.A.Nos.1 and 2 of 2019 seeking amendment of plaint to include certain ancestral properties and also to produce additional documents and the first appellate court on an erroneous view, dismissed those applications.

8. The plaintiff, though pleaded in the plaint that the sale consideration for purchasing the suit property in the name of first defendant was from and out of funds generated by the sale of ancestral property, in order to substantiate the said plea, the plaintiff has not produced any oral and documentary evidence.



Only evidence available on record in support of the said plea is the interested testimony of the plaintiff as PW1. In the absence of any documentary evidence to show that the ancestral properties were sold and out of the funds generated by the said sale, the suit property was purchased in the name of first defendant, the Courts below are justified in rejecting the prayer for partition.

9. In order to over come the lacuna in evidence, the plaintiff filed applications before the first appellate court seeking permission for production of four documents as additional evidence. In I.A.No.3 of 2019 the plaintiff produced the following 4 documents:

- i) Copy of the Registered sale deed dated 25.05.1984 executed by Gnanasundari to Pannerselvam.
- ii) Copy of Registered settlement dated 24.04.1984 executed by Hanumantharaya Gounder to Pannerselvam.
- (iii) Copy of sale deed dated 03.12.1996 by Pannerselvam to Chinnasamy.
- (iv) Copy of sale deed dated 22.03.2001 executed by Pannerselvam to Raju.

10. A perusal of the same would indicate that the first document is the sale deed dated 25.05.1984 executed by one Gnanasundari in favour of Panneerselvam/ plaintiff's father. The 2nd document is a settlement deed dated 24.04.1989 executed by Hanumantharaya gounder to Panneerselvam. The sale deed and the settlement deed in favour of Panneerselvam will not help the plaintiff to prove that the ancestral properties were sold and out of the funds



generated by the same, suit property was purchased. The third document produced by the plaintiff is a sale deed dated 03.12.1996 executed by Panneerselvam in favour of Chinnasamy. The 4th document is a sale deed dated 22.03.2001 executed by Panneerselvam in favour of Raju. The document Nos.3 and 4 are subsequent to the sale deed Ex.A1 executed in favour of the first defendant. Therefore, out of funds generated by subsequent sale, the suit property could not have been purchased in the name of first defendant in the year 1987. Therefore, the documents 3 and 4 are also not helpful to support the case of the plaintiff.

11. The documents No.1 and 2 will not help the plaintiff to establish that the properties sought to be included by way of amendment are the ancestral properties. The sale deed in favour of Panneerselvam and another property acquired by Panneerselvam by virtue of settlement deed can only be considered as separate property, unless there is evidence to show that those properties were acquired out of sale proceeds of the ancestral property. In such circumstances, there is no evidence available on record to show that the properties sought to be introduced by way of amendment are ancestral property. As mentioned earlier, all the four documents produced by the plaintiff will not help to prove that the suit property was purchased out of sale proceeds of ancestral properties. The first appellate court rightly appreciated the said position and rejected the petitions filed by the plaintiff before it seeking production of additional



evidence and amendment of plaint.

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12. In view of the discussion made earlier, both the contentions raised by the appellant are not appealable to this court. The substantial questions of law framed at the time of admission are answered against the appellant.

13. Accordingly, the second appeal stands dismissed, affirming the concurrent findings of the courts below. There shall be no order as to costs.

13-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. The II Additional District and Sessions Judge,
Tiruvallur at Poonamallee.

2. The Subordinate Judge, Poonamallee .



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S.SOUNTHAR, J.

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