



WEB COPY

AS No. 201 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 20-02-2026**

CORAM

**THE HON'BLE MR JUSTICE N. SATHISH KUMAR**

**AND**

**THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN**

**AS No. 201 of 2021**

**and**

**CMP Nos.9377 & 9378 of 2021**

V.Ramakrishnan  
S/o V.Sengama Naidu,

..Appellant(s)

Vs

1. Kulasekhar  
S/o Late Ramachandra Naidu,
2. Padmanabhulu  
S/o Late Ramachandra Naidu,
3. Nageswar Rao  
S/o Late Ramachnadra Naidu,
4. Mcrennett Foods (p) Ltd  
Rep By Its General Manager,  
Mr.K.Raman, No.A-9, II Avenue,  
Anna Nagar, Chennai 600 102
5. Anusuya  
W/o K.Kesavalu,



6. Mohana  
W/o Mohan Naidu,

7. K.Kesavalu  
S/o Munusamy Naidu,

8. Haripriya  
Rep By Her Power Agent K.Kesavalu

9. A.Ramesh  
S/o S.Asthivel,

10.M.Srimanthani  
W/o S.Murukesu,

..Respondent(s)

This appeal has been filed under Order 41 Rule 1 r/w. Section 96 of CPC to set aside the judgment and decree dated 18-01-2021 made in OS.No.34 of 2010 on the file of the Honble IV Additional District Court, Thiruvallur at Ponneri.

For Appellant(s): Mr.S.Vijayakumar,  
S.C.,  
for Krishnasamy R.

For Respondent(s): Ms.L.Sweety,  
for R4

Mr. V.G.Baskaran  
For R 9

R1 to R3, R5 to R8 & R10- No appearance



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AS No. 201 of 2



## **JUDGMENT**

**(Judgment of the Court was delivered by V.Lakshminarayanan J.)**

The appellant is the third defendant in the suit. He assails the judgment and decree of the learned IV Additional District Judge, Tiruvallur at Ponneri, in O.S.No.34 of 2010 dated 18.01.2021.

2. For the sake of convenience, the parties are referred to as plaintiffs and defendants.

3. The plaintiffs 1 to 3 and defendants 1 and 2 are the children of one late Ramachandra Naidu. The 5<sup>th</sup> defendant is the daughter of the first defendant, the granddaughter of Ramachandra Naidu. She was arrayed as a party, as the first defendant had executed a settlement deed in her favour. The 4<sup>th</sup> plaintiff and the 3<sup>rd</sup> defendant are the purchasers of the suit schedule property from the plaintiffs, and the fifth defendant, respectively.



4. The case of the plaintiffs is that there existed a coparcenary between Ramachandra Naidu and his three sons, plaintiffs 1 to 3. Ramachandra Naidu had acquired several movable and immovable properties by way of survivorship, as well as through deeds of settlement. Ramachandra Naidu died intestate on 29.05.1982, leaving behind plaintiffs 1 to 3, defendants 1 and 2 and his wife, one Jeevarathinam Ammal, as his legal heirs. On the death of Ramachandra Naidu, the plaintiffs claimed that their father's 1/24th share in the coparcenary devolved on his legal heirs. Jeevarathinam Ammal passed away intestate on 17.10.1989, leaving the plaintiffs 1 to 3 and defendants 1 and 2 as her heirs. Hence, her share in the suit property also devolved equally amongst her children.

5. The plaintiffs claimed that the defendants 1 and 2, being female members, had been residing with their respective families away from the suit village. The first defendant, in order to settle the matter amicably, received a sum of Rs.15 lakhs in full quit of her claim over the properties. However, the first defendant Anusuya claimed that she was allotted the suit properties by way of a Koorchit entered into between the parties soon after the death of Ramachandra Naidu on 27.02.1987. On the strength of the Koorchit, she executed a settlement deed in favour of her daughter, Haripriya, on 05.04.2007. In turn, Haripriya, sold the property to the third defendant by way of a



registered sale deed dated 11.01.2010. The plaintiffs denied the execution of the Koorchit and urged that, even if one such document existed, it was a rank forgery. Since the first defendant had chosen to deal with the property, they impleaded the purchaser as the third defendant.

6. The plaintiffs further urged that they had alienated the property in favour of the fourth plaintiff by way of two registered sale deeds dated 12.12.2007 and 24.03.2008. The fourth plaintiff urged that under the strength of the sale deed, he had also taken possession of the property and has been in enjoyment thereof. Since the demands of the first defendant and the third defendant were unlawful and it was not possible for them to continue in possession of the suit property jointly, they came forth with the suit seeking the following reliefs :

*a) for preliminary decree for partition and separate possession of plaintiffs 108/120<sup>th</sup> share of suit properties*

*b) to pass a final decree by appointing an advocate/commissioner to divide the suit properties by metes and bounds as per the preliminary decree, all the plaintiffs share so divided and to put the plaintiffs in possession of properties so allotted through court and to deliver the schedule "A" of suit properties to the fourth plaintiff in equity.*



*c) for a permanent injunction restraining the third defendant his men, agents and servants from doing any act of waste in the suit properties.*

*d) for a permanent injunction restraining the third defendant from alienating or creating any kind of encumbrance over the suit properties*

*e) to declare the said Koorchit dated 27.02.1987 relied upon by the defendants as null and void and not admissible as evidence.*

*f) to declare the settlement deed registered as document No.4190/2007 with SRO, Ponneri made by the first respondent/petitioner to her daughter, the fifth respondent/defendant as null and void.*

*g) to declare the sale deed 11.01.2010 extended 1<sup>st</sup> defendant to the third defendant registered No.107 with SRO Ponneri as null and void.*

7. Summons were served on the defendants.

8. The second defendant concurred with the stand that a sum of Rs.15 lakhs had been paid to the first defendant in full quit of her claims, and also stated that the plaintiffs 1 to 3 had sold the “A” schedule property to the fourth plaintiff, and that the fourth plaintiff was in possession and enjoyment of the same. She voiced the plea of the plaintiffs and stated that the Koorchit dated 27.02.1987 is a non-existent document, and disputed the truth, validity, and



execution of the same. She also added that the first defendant does not have the right to settle the property in favour of her daughter Haripriya. Hence, she pleaded the sale deed executed by the Haripriya in favour of the third defendant is null and void. . She added that she is an unnecessary party to the suit as no cause of action survives against her.

9. The first defendant filed a separate written statement. She admitted the relationship between the parties and the date of death of their parents. She pleaded that she got the “A” schedule property as per the Koorchit dated 27.02.1987, and that on the strength of the same, she had executed a settlement deed in favour of her daughter on 05.04.2007. She further added that her daughter sold the property to the third defendant on 11.01.2010. She stated that she never received any money for her share in the properties from the plaintiffs 1 to 3 and that the suit had been presented with a mischievous intention to deceive the first defendant, as the plaintiffs 1 to 3 were well aware of the execution of the Koorchit Dated 27.02.1987.

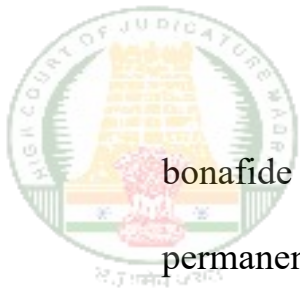
10. She stated that the attempt of the fourth plaintiff to stake a claim through the plaintiffs 1 to 3 is erroneous. She also pointed out that between the parties, several revenue proceedings had taken place as regards the mutation of



patta. To substantiate this plea, the first defendant pleaded that the Revenue Divisional Officer, Ponneri, had after conducting an enquiry, passed an order on 15.12.2009, stating that the first defendant and the plaintiffs have signed the koorchit and issued patta in the name of the fifth defendant. Finally, she urged that there is absolutely no merits in the suit and it may be dismissed, as the “A” schedule property belongs to her absolutely on the basis of Koorchit.

11. The third defendant filed a written statement. He too admitted to the relationship between the parties. He also pleaded that the properties were divided orally between the legal heirs of Ramachandra Naidu, and that the same was reduced into writing in the Koorchit dated 27.02.1987. He urged that even before the sale deeds were created in favour of the fourth plaintiff, the first defendant had executed a settlement deed in favour of her daughter, Haripriya, who had become the owner thereof. Haripriya had transferred the property in his favour through her father & General Power of Attorney holder, Kesavalu Naidu, the fourth defendant.

12. In fine, he pleaded that the entire case of the plaintiffs is a false one and that, the plaintiffs are barred by virtue of the principle of estoppel from claiming any relief in the suit. The third defendant further added that he is a



bonafide purchaser for value without notice. He added that the relief of permanent injunction sought by the plaintiffs cannot be granted against him, with respect to item Nos.1 and 3 and Survey No.11/4-A in item No.2 of “A” schedule, as he is the true owner. He also sought dismissal of the suit.

13. During the pendency of the suit, the defendants 6 and 7 were impleaded as parties, but no relief was sought against them. On the amendment, the third defendant filed an additional written statement, more or less echoing the same pleas as in the original statement.

14. The newly impleaded sixth defendant filed a written statement stating that he had purchased the suit items 1 and 2 in Survey No.12/2 and in Survey No.31/1 to an extent of 37 cents and 1 acre 14 cents respectively, by way of a registered sale deed from the plaintiffs 1 to 3 on 14.09.1995, and on the strength of the said purchase, he had also mutated the revenue records. In addition, he pleaded that, insofar as Item Nos.7,10,11,14 are concerned, he obtained the same by way of sale deed in Document No.319 of 2005 dated 01.02.2005, and also mutated the revenue records. He added that he is in possession and enjoyment of the properties, cultivating the land and continuously raising crops and enjoying the said property.



15. An additional written statement has been filed by the third defendant, who urged that by virtue of the amendment to the Hindu Succession Act in the year 2005, the fact that even though Ramachandra Naidu had died prior to the amendment, his daughters would have a share as coparceners and not merely as the legal heirs of Ramachandra Naidu and Jeevarathinam Ammal. The plea being that the daughters would take equal moieties as the sons. He claimed that in the event, the suit being decreed, his vendor's mother is to allott 1/5th share, which in turn should be allotted to him.

16. On the basis of the pleadings, the learned Trial Judge framed the following issues and additional issues :-

*1. Whether the plaintiffs are having 1/5th share in "A" and "B" schedule properties as prayed for?*

*2. To what other relief?*

**Additional Issues framed on 03.06.2013**

*1. Whether the first defendant received Rs.15 lakhs from 1 to 3 plaintiffs to release her rights over the suit schedule properties ?*

*2. Whether it is true that the first defendant acquired suit schedule properties by way of Koorchit dated 27.02.1987?*

*3. Whether the sale deed pertaining to "A" schedule property executed in favour of the fourth plaintiff is true, valid in the eye of law?*



4. *Whether the fourth defendant is having legal right over the suit schedule properties ?*

5. *Whether the fourth plaintiff is entitled to get permanent injunction against the third defendant as prayed for?*

**Additional Issue framed on 14.06.2018**

1. *Whether the sale deeds dated 14.09.1995 and 01.02.2005 executed by the plaintiffs 1 to 3 in favour of the sixth defendant is true, valid and binding on the plaintiffs?*

**17. The issues already framed are recast as follows:-**

1. *Whether the plaintiffs are entitled to get 1/5 share each in the suit “A” and “B” schedule properties?*

2. *Whether the first defendant released her right over the suit schedule properties after receiving Rs.15 lakhs from 1 to 3 plaintiffs ?*

3. *Whether the plaintiffs are entitled to get declaration as to Koorchi dated 27.02.1987 is null and void?*

4. *Whether the plaintiffs are entitled to get declaration as to declare the settlement deed registered as doc. no.4190/2007 executed by the first defendant in favour of the fifth defendant is null and void?*

5. *Whether the plaintiffs are entitled to get declaration as to sale deed dated 11.01.2010 executed by fifth defendant to the third defendant is null and void?*



6. *Whether the plaintiffs are entitled to get permanent injunction against the third defendant?*

7. *To what other relief?*

18. On the side of the plaintiffs, the General Manager of the fourth plaintiff, on the basis of authorisation under Ex.A1, examined himself as P.W.1 and marked Exs.A1 to A30. On the side of the defendants, the third defendant entered the witness box and examined himself as DW1. The sixth defendant, who is the purchaser from the plaintiffs, examined himself as DW2 . On the side of the defendants Exs.B.1 to B.12 were marked.

19. The learned Trial Judge came to the following conclusions:-

1. Since the Koorchit dated 29.02.1987 had not been produced by either sides, the declaratory relief as regards the koorchit sought by the plaintiffs, did not deserve consideration. Accordingly, that relief was rejected.

2. That the properties in the hands of the plaintiffs 1 to 3 and the defendants 1 and 2 are joint family properties and therefore, granted a 1/5th share to each of them as per amended Section 8 of the Hindu Succession Amendment Act, 1956.



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3. Since the first defendant had executed a settlement deed for a joint family property in favour of her daughter, Haripriya, the said settlement deed is null and void and, consequently, the sale deed executed by the Haripriya in favour of the third defendant is also null and void.

4. Finally, she granted the relief of permanent injunction, holding that the third defendant is not entitled to cause waste or create encumbrance over the property.

20. Aggrieved by the same, the third defendant alone has preferred the present appeal.

21. Summons were served on the parties. We have heard Mr.S.Vjayakumar, learned Senior Counsel for Mr.R.Krishnaswamy and Ms.L.Sweety, for fourth respondent and Mr.V.G.Baskaran, for ninth respondent. We have applied our minds to the facts of the case.



22. It is only the purchaser, who is on appeal. None of the sharers, namely, plaintiffs 1 to 3 and defendants 1 and 2, have troubled themselves to enter appearance in this appeal. We are narrating this fact, in order to show that the litigation today is only between the purchaser from the plaintiffs, and the purchaser from the first defendant.

**23. The following points arise for consideration in this appeal:-**

*1. Whether the Trial Court was correct in granting the relief of declaration that the settlement deed and sale deed are null and void?*

*2. Whether it was right in granting the relief of permanent injunction against the appellant/third defendant ?*

24. A reading of the pleadings and evidences points out that the property has been admitted to be a joint family property.

25. Insofar as the source of title between the plaintiffs 1 to 3 and defendants 1 and 2 is concerned, there is no dispute. It is admitted that the property was originally a joint family property consisting of the deceased

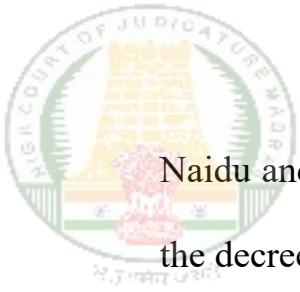


Ramachandra Naidu and his sons, namely, plaintiffs 1 to 3. The suit itself came to be presented after the commencement of amended Section 6 of the Hindu Succession Act, 39 of 2005. We need not strain much on the applicability of the Act to the facts of the present case, since the issue has already been settled by the judgment of the Supreme Court in ***Vineeta Sharma Vs. Rakesh Sharma, AIR 2020 SC 3717***. It has been, *inter alia*, held that:

- i) A daughter becomes a coparcener by birth and hence, this right is not dependant on the death or survival of others,
- ii) For a female to claim a share, it is not necessary for her father to see alive on 09.09.2005,
- iii) The amendment act acts retroactively.

There being no registered partition or through division by Court, the proviso to the amended Section 6 will also not apply. Once we arrive at this conclusion, we have to confirm the finding that the plaintiffs 1 to 3 and the defendants 1 and 2 would each be entitled to a 1/5 share.

26. When the existence of the joint family, after the amendment to the Hindu Succession Act, has been proved by the parties, we do not find any error in the finding of the learned judge that each of the legal heirs of Ramachandra



Naidu and Jeevarathinam Ammal are entitled to 1/5th share. Hence, Clause-I of the decree stands confirmed.

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27. Insofar as the 1/5th share that fell to the first defendant is concerned, the plaintiffs had stated that the first defendant had given up her claim after receipt of a sum of Rs.15 lakhs. However, the Trial Judge, in paragraph 23 of the judgment, has come to the conclusion that plaintiffs 1 to 3 have failed to prove, by way of any satisfactory evidence of the payment of Rs.15 lakhs and the consequent release by the first defendant of her share in the property. Exs.A1 to A30 also do not point out that any document had been executed by the first defendant relinquishing her right. When no records have been produced to prove the alleged relinquishment, that finding by the trial Court too deserves to be confirmed. Accordingly, it is confirmed.

28. We now move to the next issue, which has aggrieved the third defendant and has led to filing of this appeal.

29. The learned Trial Judge has come to the conclusion that the execution of the settlement deed by the first defendant in favour of her daughter is null and void, based on the fact that the suit property being a joint family property.

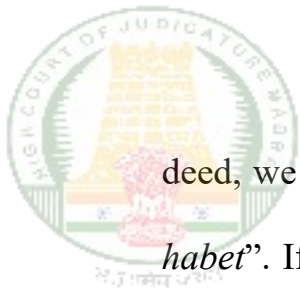


A settlement deed cannot be executed by one coparcener in favour of another coparcener or a third party, in the absence of consent by the other coparceners.

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30. The position of law has been settled by a Division Bench of this Court in ***Sargunam Ammal Vs. Jayarama Padayachi and 4 others, (1994) 1 LW 139.*** Justice M.Srinivasan speaking for himself and Justice Thangamani, held that in Hindu law, there cannot be a gift of coparcenary property of one of the coparceners and such a gift will be void even against the donor. The Bench held that, such a settlement being void altogether, there is no estoppel of other kind of personal bar which precludes the donor from asserting his right to recover the transferred property. If an alienation has to be made by way of a settlement of a coparcenary property, in order to be valid, the same should have consent of the other coparceners. (See, ***Rathinasabapathi Pillai and another Vs. Saraswathi Ammal, (1953) 66 LW 852.*** Having held this position, the next issue is whether the sale deed executed in favour of the appellant could have been held to be invalid.

31. It is not in dispute that the first defendant stands by the settlement. Acting on the settlement, her daughter has alienated the property in favour of the 3<sup>rd</sup> defendant. Had the settlor, the first defendant contested the settlement



deed, we would necessarily have to apply the principle of “*nemo dat quod non habet*”. If the original settlement deed executed by the coparcener, namely, the first defendant, was void, the settlee would have never acquired the legal title in the property. Consequently, the deed executed by the settlee in favour of the appellant would also be legally non-existence.

32. In a partition suit, a Court, on grounds of equity, is entitled to allot the specific portion sold to the third party to the share of the original vendor, namely, the first defendant to protect the purchaser's interest. Such an exercise can be carried out only if it does not prejudice the right of the other coparceners. Hence, we are inclined to modify Clause-V of the decree to the extent that the said declaration will not affect the right of the appellant/third defendant to seek equity at the time of final decree. The third defendant will be entitled to request the Court to allot the share which would be granted to the first defendant in his favour. As far as the first defendant share is concerned, it has to be allotted to her daughter, Haripriya and from Haripriya, in favour of the third defendant.

33. Mr.Vijayakumar urged that the decree for permanent injunction granted against the third defendant would also have to be interfered with, as he



is the absolute owner of the property, since he had purchased the property as aforesaid.

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34. We have to point out here that, though the first defendant claims a right through an alleged Koorchit, dated 27.02.1987, neither the plaintiffs 1 to 3 nor the first defendant have produced the Koorchit before the Trial Court. When the Koorchit has not been produced, the claim of the exclusive title by the third defendant through the first defendant is not sustainable. Once we have concluded that the plaintiffs and the defendants are co-owners, one co-owner would certainly be entitled to seek the relief of permanent injunction restraining the other co-owner from committing any act of waste or otherwise causing prejudice to the property. (see. ***Jahuri Sah and others Vs. Dwarika Prasad Jhunhunwala and others, AIR 1967 SC 109*** and ***Ramesh Chand Ardawatiya Vs. Anil Panjwani, AIR 2003 SC 2508***). Similarly, any alienation of the property pending litigation would only create third-party interest, which would be hit by the doctrine of *lis pendens*. Hence, the relief of permanent injunction insofar as restraining the third defendant not to waste the property, is confirmed.

35. With respect to the alienation, the relief of permanent injunction is modified to the extent that there shall not be any alienation till a final decree is



passed by the Court in the present suit. Since both the fourth plaintiff, as well as the third defendant claim shares in the suit “A” schedule property, at the time of passing of final decree, equities will have to be worked out between the fourth plaintiff and the third defendant. The Court may make an endeavour to allot the property to the extent of the shares that the respective parties have purchased from their sharers.

36. With the above modification, the appeal stands disposed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

**(N.S.K.,J.) (V.L.N.,J.)**

**20-02-2026**

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes

MRP

To

The IV Additional District Court,

Thiruvallur at Ponneri.



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**N.SATHISH KUMAR, J.**  
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