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S.A.No.140 of 2016
and C.M.P No.2828 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2026

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

S.A.No.140 of 2016
and C.M.P. No.2828 of 2016

- 1.Rajammal
- 2.R. Vasudevan
- 3.Bhuvaneshwari
- 4.Pushpa @ Thamizhselvi
- 5.Rajeshwari

... Appellants

VS

- 1.Rajammal
- 2.Kuttiyammal
- 3.Lakshmi
- 4.Shenbagam
- 5.V.C.Chinnadurai (Died)
- 6.Seenivasan
- 7.Padma
- 8.Jothi
- 9.Ramu
- 10.Lakshmi
- 11.Rajkumar
- 12.Kamala
- 13.C.Srinivasan
- 14.Umadevi
- 15.Maheswari
- 16.C.Venkatesa Perumal
- 17.Indira
- 18.Maheswaran

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19.Sumathi

.... Respondents

(R5 died, RR12 to 19 brought on record as legal heirs of the deceased R5 vide court order dated 01.04.2022 made in CMP Nos. 5486, 5488 & 5489 of 2022 in SA No.140 of 2016)

Prayer: Second Appeal filed under Section 100 CPC, 1908 against the decree and judgment dated 01.07.2015 passed in A.S. No.23 of 2013, on the file of the Principal District Judge, Vellore, Vellore District, upholding the decree and judgment dated 26.11.2012 passed in O.S.No.102 of 1991, on the file of the Subordinate Court, Tirupattur, Vellore District.

For Appellants : Mr.Venkateswara Rao, Senior Counsel
for P.Raja,

For R4 : Mr.T.M.Hariharan

JUDGMENT

This second appeal has been preferred as against the judgment and decree dated 01.07.2015 passed by the learned Principal District Judge, Vellore, in A.S.No.23 of 2013. The appellants are the defendants 3 to 7. The respondents 1 to 3 herein have filed the main suit for partition as against the respondents 4 to 11 and the appellants herein. The Trial Court partly decreed the suit in respect of 'A' schedule property excluding Item No.10 declaring that the plaintiffs and defendants 9 to 14 are entitled to 1/8 share in 'A' schedule property excluding Item No.10 and dismissed

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the suit in respect of 'B & C' schedule properties. Aggrieved by the said decree and judgment, the defendants 3 to 8 have preferred an appeal in A.S.No.23 of 2013 on the file of the Principal District Court, Vellore and the said appeal was dismissed by confirming the decree and judgment passed by the Trial Court. Aggrieved by the said decree and judgment, the present second appeal has been preferred by the defendants 3 to 7.

2. For the sake of convenience, the parties are referred to as per their rank in the Trial Court and at appropriate places, their rank in the present second appeal would also be indicated.

3. The brief averments of the plaint are as follows :

3.1. 'A' & 'B' schedule suit properties belonged to one V.C.Raju Gounder and the said properties are his self acquired properties and he was in possession and enjoyment of the properties till his death. He died intestate on 09.10.1979 leaving behind his legal heirs to succeed the estate. The said Raju Gounder had two wives, first wife namely, Singarammal. The first defendant is the daughter of Raju Gounder, born



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through the first wife Singarammal. While so, during the subsistence of first marriage, the said Raju Gounder married the third defendant as second wife. The defendants 4 to 8 were born to Raju Gounder through the second wife / third defendant. The second defendant is the mother of Raju Gounder. Raju Gounder died leaving behind him the first defendant's mother, Singarammal, the first defendant Shenbagam. His daughter first defendant and defendants 4 to 8 as his legal heirs and all of them are equally each entitled to 1/8 share. The first defendant's mother Singarammal died intestate on 23.09.1989 leaving behind the first defendant as his sole legal heir and thereby the first defendant is entitled to 2/8 share in the suit properties. The third defendant who is the second wife of Raju Gounder is not entitled to any share.

3.2. During the pendency of the suit, the second defendant died on 19.09.2002. The plaintiffs and the defendants 9 to 14 were impleaded as legal heirs of the first defendant. The 'A' schedule properties were purchased by Raju Gounder in his own name and 'B' schedule properties were purchased by Raju Gounder with his own funds in the name of the fourth defendant. The said properties also blended with Joint Family



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properties and enjoyed along with 'A' schedule properties. After the death of Raju Gounder, the defendants 3 and 4 have been in possession and enjoyment of the 'A and B' schedule properties, realized the income therefrom. Out of the income from 'A' schedule properties, the third defendant purchased the 'C' schedule properties and thereby all the suit properties are Joint Family properties. The second defendant Killiammal executed a registered Will dated 09.05.1997, bequeathing her undivided 1/8 share in favour of the plaintiffs. Therefore, the plaintiffs are jointly entitled to 1/8 share in the suit properties. As per the order passed by this Court in IA No.210 of 2008 dated 06.01.2009, the plaintiff in OS No.102 of 1991 was transposed as first defendant and original defendants 8, 9 and 11 are transposed as plaintiffs in the main suit. Therefore, the plaintiffs filed the suit claiming their share over the suit properties.

4. The brief averments of the written statement filed by the second defendant are as follows:

The suit is not maintainable and the same is liable to be dismissed. The plaintiff is put to strict proof of all the averments made in the plaint



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except those that are specifically admitted herein. The second defendant is the legally wedded wife of late Raju Gounder and their marriage was solemnized in the year 1966, as per Hindu Rites and Customs with the consent of first wife of Singarammal. Since Raju Gounder had no male issues, his first wife Singarammal induced her husband to marry the second defendant and she only performed the marriage between Raju Gounder and the second defendant. The defendants 3 to 7 born to the second defendant through Raju Gounder and they are legitimate children to the deceased Raju Gounder. Therefore, the defendants 2 to 7 are entitled to share over the properties of deceased Raju Gounder. The deceased Raju Gounder was doing jaggery business and he died intestate on 09.10.1979 and he was the 'Karthā' of the joint family.

4.1. The 'A and B' schedule properties are not joint family properties of Raju Gounder. The plaintiffs' mother Singarammal died in the year 1989 intestate. The plaintiff and the defendants 3 to 7 have succeeded to estate of the deceased Singarammal. The Item Nos.1 to 8 of 'A' schedule properties are the properties acquired by the deceased Raju Gounder out of his income from jaggery business and he constructed a



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house in Item No.5 of the plaint 'A' schedule properties in the year 1977 & 1978. The second defendant's husband Raju Gounder entered into an agreement with one C.N.Rajagopal for purchase of property in S.No.241 through an agreement dated 21.11.1962 and paid an advance under the agreement. The said Raju Gounder paid the balance sale consideration of Rs.5,500/- and got sale deed in the name of this wife on 21.11.1962. Therefore, the sale deed in the name of his wife Singarammal was executed as Benami. Subsequently the said Singarammal executed the settlement deed in favour of her husband to an extent 0.90 cents in the said S.No.241 through settlement deed dated 17.04.1967. Therefore, the entire extent was in his possession, except S.No.241 belongs to Raju Gounder i.e. Item No.4 of the 'A' schedule property. Raju Gounder was enjoying the entire properties situated in S.F.No.241 and after his demise it has been continuous possession and enjoyment of the second defendant and her sons.

4.2. The 'B' schedule properties are self acquired properties of the third defendant and not the self acquired properties of Raju Gounder. The 'B' schedule properties was purchased by the second defendant out of her



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own funds in the name of the third defendant who was minor son. She had started business in the year 1980 and became partner in the finance corporation in the year 1974 and out of the income derived from her business, she purchased the property in the name of her son. The 'B' schedule properties are self acquired properties of the 2nd defendant. The 'B' schedule properties are not in joint possession and enjoyment of the plaintiffs and the defendants as alleged in the plaint. The 'C' schedule properties are self acquired properties of the second defendant purchased out of her own income. Therefore, the second defendant along with her son are in possession and enjoyment of the suit 'B' and 'C' schedule properties and the plaintiffs are not in joint possession and enjoyment of the suit schedule properties. Therefore, the suit is liable to be dismissed.

5. Based on the above said pleadings and after hearing both sides and perusing the records, the Trial Court framed the following issues and additional issues :

(1) “Whether it is true that A and B schedule properties are the joint family properties and the plaintiffs father Raji Gounder was it



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'Karthi'?

(2) Whether the plaintiffs mother Singarammal was the legally wedded wife of Raji Gounder ?

(3) Whether it is true that during the lifetime of Singarammal, Raji Gounder had married the 2nd defendant Rajammal as 2nd wife and whether the marriage is void ?

(4) Whether the suit A schedule properties were purchased by Raji Gounder in his name ?

(5) Whether the B schedule properties were purchased by Raji Gounder in the name of 3rd defendant Vasu Devan from his funds ?

(6) Whether the defendants 2 and 3 Rajammal and Vasu Devan who have were in possession of A and B schedule properties and enjoyed income from the same ?

(7) Whether it is true that from the income derived from the A schedule properties the 2nd defendant Rajammal had purchased C schedule properties ?

(8) Whether the plaintiff is entitled for 1/4 share in ABC schedule



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(9)Whether the plaintiff is entitled for 1/4 share in ABC schedule properties?

(10)Whether it is true that 3.59 acres in S.No.341 was not included in A schedule property ?

(11)Whether Raji Gounder is liable to discharge Rs.1,00,000/- as debt borrowed for the welfare of his family ?

(12)Whether after the demise of Raji Gounder his debts were discharged by the 2nd defendant Rajammal ?

(13)Whether the B schedule properties are the self acquired properties of 1st defendant purchased by the 2nd defendant in the name of 3rd defendant ?

(14)Whether the C schedule item in the suit properties are the self acquired properties of 2nd defendant Rajammal ?

(15)Whether it is true that the plaintiffs are not entitled for share in the B and C schedule properties ?

(16)Whether the share claimed in the suit in respect of A schedule



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is not correct ?

(17)Whether the 2nd and 3rd defendants and other defendants are entitled for share in A schedule properties ?

(18)Whether the suit is not maintainable ?

(19)To what other relief ?

5.1. On 12.07.2004, the following additional issues were framed as follows :

(1)Whether the alleged Will dated 09.05.1997 said to have been executed by Killiammal ?

(2)Whether the defendants 8, 9 and 11 are entitled to share of D1 in terms of the alleged Will dated 09.05.1997 ?

5.2. On 09.01.2011, the following additional issues were framed as follows:

(1)Whether the plaintiffs 1 to 3 and 1st defendant are entitled to claim 1/8 share in the suit properties?



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5.3. On 06.08.2012, the following additional issues were framed as follows:

(1) Whether item 10 of A schedule belongs to Singarammal and after her demise the 1st defendant is entitled to succeed to the entire property ?”

6. In order to prove the case before the Trial Court, on the side of plaintiffs, PW1 to PW5 were examined and marked Ex.A1. On the side of the defendants, DW1 to DW4 were examined and marked Exs.B1 to Ex.B89.

7. After analysing the evidence on both sides, the Trial Court partly decreed the suit and passed preliminary decree declaring that the plaintiffs and the defendants 9 to 14 are entitled for 1/8th share in common in 'A' schedule properties excluding Item No.10. The first defendant is entitled to 2/8 share in 'A' schedule properties excluding Item No.10 in 'A' schedule properties. The defendants 4, 5, 6, 7 & 8 are entitled for each 1/8 share in 'A' schedule properties except Item No.10.

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The third defendant who is the second wife of Raju Gounder is not entitled for share in the 'A' schedule properties. As far as the Item No.10 of the 'A' schedule properties is concerned, the same is absolutely belongs to the first defendant as sole legal heir of Singarammal. As far as 'B' schedule properties are concerned, the same absolutely belongs to the fourth defendant and the 'C' schedule properties are concerned, the same absolutely belongs to the third defendant. Therefore, the suit was dismissed in respect of the 'B & C' schedule properties and Item No.10 in 'A' schedule properties. Aggrieved by the decree and judgment passed by the Trial Court, the defendants 3 to 8 have preferred an appeal in AS No.23 of 2013 on the file of the Principal District Court, Vellore, on various grounds.

8. The learned Principal District Judge, Vellore, after hearing both sides and perusing the records, framed the following points for determination :

(i) Whether the Item No.10 in 'A' schedule property was purchased by Raju Gounder in favour of Singarammal and whether the above said



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properties are joint family properties of the said Raju Gounder, if it is so whether the appellants are entitled to any parties in those properties?

(ii) Whether the Trial Court's decree and judgment are liable to be set aside ?

9. After hearing both sides and perusing the records, the First Appellate Court dismissed the appeal with cost. Aggrieved by the said decree and judgment of the First Appellate Court, the present second appeal has been preferred by the appellants / defendants 3 to 7.

10. This Court at the time of admitting the second appeal formulated the following substantial questions of law :

(a) "When Section 3(2)(a) of the The Prohibition of Benami Property Transactions Act, 1988 makes it abundantly clear that the purchase of the property, by any person, in the name of his wife or his unmarried daughter, there shall be a presumption, unless the contrary is proved that the said property had been purchased for the benefit, whether the person claiming a title, against the person, in whose name, the property stood, is

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not entitled to lead rebuttal evidence, contrary to such presumption.

(b)When the source of purchase money, for the disputed property had been admitted as one from the husband, to purchase in the name of his wife, can the Court brush aside the other valuable evidence, let in by the person claiming an interest, regarding the possession, the custody of the documents and the conduct and the position of the parties.”

11. Heard Mr.Venkateswara Rao, learned Senior Counsel appearing for the appellants and Mr.T.M.Hariharan, learned counsel appearing for the fourth respondent.

12. The learned counsel appearing for the appellants would submit that these appellants are the defendants 3 to 7 in the main suit. The 'A' schedule properties originally belonged to Raju Gounder who is the husband of the first appellant and father of the appellants 2 to 5 and the 11th respondent. The said Raju Gounder got married with one Singarammal as first wife and the fourth respondent herein is the original plaintiff, she is only daughter born through the first wife to the said Raju

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Gounder. Originally, the suit was filed by the fourth respondent herein, namely, Shenbagam. The respondents 1 to 3 have been transposed as plaintiffs and the original plaintiff was transposed as first defendant. The second defendant, Killiammal is the mother of Raju Gounder. The said Raju Gounder died intestate on 09.10.1979 leaving behind his mother, first wife, his daughter Shenbagam and children born through the second wife, the appellants 2 to 5 and 11th respondent in this appeal as his legal heirs. The 'B' schedule properties are self acquired properties of the third defendant and 'C' schedule properties are self acquired properties of the fourth defendant. However, the plaintiffs, who are the respondents 1 to 3 herein, have claimed that all the properties are self acquired properties of Raju Gounder and the said Raju Gounder purchased the 'B' schedule properties in the name of the third defendant and the 'C' schedule properties in the name of the fourth defendant through his earnings and thereby all properties are self acquired properties.

12.1. The Trial Court held that 'A' schedule properties except Item No.10 are self acquired properties of Raju Gounder and 'B & C' schedule



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properties are not self acquired properties of Raju Gounder and granted partition only in respect of 'A' schedule properties excluding Item No.10 of the property. The First Appellate Court also confirmed the decree and judgment of the Trial Court. The Item No.10 of the property, in fact, purchased by Raju Gounder in the name of his first wife as Benami and the first wife of Raju Gounder has no any independent income. But the Courts below have failed to discuss about the Benami transactions and erroneously dismissed the suit in respect of Item No.10 of the property. Though the appellants have preferred an appeal as against the properties of 'B & C' schedule properties now they are claiming only right over Item No.10 of the 'A' schedule properties. The First Appellate Court has not framed proper point for determination. As per Order XLI Rule 31 of CPC, the Trial Court had not framed any specific issues in respect of Item No.10 of 'A' schedule properties i.e., it is Benami transaction. The Courts below ought to have framed issues in respect of Benami transaction.

12.2. The First Appellate Court failed to exercise its power under Order XLI Rule 25 of CPC. If the Courts below framed issues in respect



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of Benami Transaction Act, the Court below certainly came to a conclusion and decreed the suit in respect of Item No.10 of 'A' schedule properties. As per Section 3(ii)(a) of The Prohibition of Benami Property Transactions Act, 1988, abundantly clear that the purchase of property, by any person, in the name of his wife or his unmarried daughter, it is always presumed, unless the contrary is proved and the said property had been purchased for the benefit of his wife or the unmarried daughter and hence, when the purchase made by Raju Gounder in the name of his wife can only at the best presumed for the benefit of his wife unless it is rebutted, whereas volume of evidence are available both oral and documentary evidences that it could not be purchased for the benefit of his first wife but he purchased it only for himself and not for others.

12.3. Ex.B14 and Ex.B87 clearly stipulated that the properties have been purchased by the deceased Raju Gounder being the successful bidder in the public auction held by the temple and Ex.B17, it was specifically referred to therein that the purchase money for the said disputed properties came from Raju Gounder only. Therefore, it is clear



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that the purchase money was paid by Raju Gounder and the Courts below failed to consider Ex.B14 which clearly shows that the purchase money being in source came up only from the separate and personal funds of the deceased Raju Gounder. Moreover, Ex.B14 was not at all questioned or challenged by the contesting fourth defendant. DW1, who is the fourth respondent herself, admitted the source of purchase money for the said disputed properties from the said Raju Gounder. Therefore, the appellants and defendants 3 to 7 have proved their case that the entire 'A' schedule properties belongs to Raju Gounder. On the side of the plaintiffs, they examined PW1 to PW5 and only marked one document Ex.A1. However, the defendants examined DW1 to DW4 and DW2 to DW4 have categorically deposed that they also marked Ex.B1 to Ex.B89. The defendants 3 to 8 have categorically proved that the entire 'A' schedule properties including Item No.10 are self acquired properties of the deceased Raju Gounder and all the legal heirs, plaintiffs and the defendants are equally entitled to the said properties except first appellant.



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13. The learned counsel appearing for the respondents would submit that 'A' schedule properties except Item No.10 of the 'A' schedule properties are self acquired properties of Raju Gounder and he purchased the properties in his name and in the name of his 2nd wife sons, defendants 3 & 4. Therefore, all the properties are available for partition. The first respondent being the daughter born through the first wife of Raju Gounder is entitled to share over the properties. As far as Item No.10 of the 'A' schedule properties is concerned, she is exclusively entitled to the properties as the said properties are self acquired properties of her mother Singarammal. The mother of Raju Gounder, Killiammal also executed a Will in favour of the first defendant and thereby the first defendant is entitled to 2/8 share over the properties. The children born to Raju Gounder through the second wife i.e. the defendants 4 to 8 are each entitled to 1/8 share over the properties. Since Killiammal died during the pendency of the proceedings the plaintiffs and the defendants 9 to 14 were impleaded as legal heirs since the second defendant executed a Will in favour of the first defendant the plaintiffs and the defendants 9 to 14 are not entitled to share over the properties. Before the Trial Court, on the side of the plaintiffs, they examined PW1 and PW2 and marked only



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Ex.A1. On the side of the defendants, they examined DW1 to DW4 and marked Ex.B1 to Ex.B89. The Trial Court, after considering the evidence on both sides correctly decreed the suit and dismissed the suit in respect of Item No.10 of the 'A' schedule properties and granted partition in respect of other properties contained in 'A' schedule properties. The First Appellate Court also correctly appreciated the facts and dismissed the appeal after elaborate discussions and there is no perversity or illegality in the order passed by the Courts below and there is no substantial questions of law involved in this case and therefore, the second appeal is liable to be dismissed.

14. This Court heard both sides and perused the records.

15. In this case, originally the suit has been filed by the first defendant namely, Shenbagam and thereafter, the original plaintiff was transposed as first defendant and original defendants 8 to 11 are transposed as plaintiffs in the main suit. It is admitted fact that Raju Gounder is the owner of the properties in 'A' schedule properties except



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Item No.10. According to the plaintiffs, all the properties 'A, B & C' schedule properties are the self acquired properties of Raju Gounder. According to the first defendant, except Item No.10 of 'A' schedule properties, all the properties are self acquired properties of Raju Gounder. According to 3rd and 4th defendants the 'B' schedule properties absolutely belongs to the fourth defendant and 'C' schedule properties absolutely belongs to the third defendant. The 'B' schedule properties was purchased by the third defendant in the name of the fourth defendant who was minor through her own earnings and 'C' schedule properties also purchased by the third defendant through her own earnings. The Courts below have rendered concurrent findings that 'A' schedule properties except Item No.10 are self acquired properties of Raju Gounder and the plaintiffs along with the defendants 9 to 14 are entitled to 1/8 share and the first defendant is entitled to 2/8 share, the defendants 4, 5, 6, 7 & 8 are entitled for each 1/8 share except Item No.10 of the 'A' schedule properties. Since the third defendant is the second wife of Raju Gounder, she is not entitled to any share in 'A' schedule properties. As against the findings of the Trial Court that 'B & C' schedule properties absolutely belongs to the respondents 3 & 4 respectively, have not been challenged by other

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shareholders and now the appellant also confined only to Item No.10 of the 'A' schedule properties. As far as Item No.10 of 'A' schedule properties is concerned, it is admitted fact that the sale deed is in the name of mother of the first defendant namely, Singarammal and the said Singarammal during her lifetime executed a settlement deed in favour of Raju Gounder in respect of one portion of the property. Therefore, Raju Gounder himself admitted that the property is a separate property of Singarammal. Though the sale price was contributed by her husband Raju Gounder, in the sale deed itself there is a recital that the sale amount has been paid by Singarammal in the presence of the Sub Registrar. Even though husband of Singarammal namely, Raju Gounder contributed some money at the time of agreement for advance money, later the sale price was paid by Singarammal and the same has been endorsed in the document i.e sale deed. Therefore the item 10 of the 'A' schedule was purchased by the said Singarammal. Even assuming that the said Raju Gounder purchased the property in the name of his wife Singarammal, once the property is purchased in the name of female, it has to be presumed that it was her self acquired property unless the contrary is proved.



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16. The learned counsel appearing for the appellants mainly relied upon the Benami transactions where there is no pleadings in respect of Benami transactions. Once the husband of Singarammal himself accepted the settlement deed in his favour by his wife, there is no question of Benami transaction would arise and the plaintiffs have no *locus standi* to question about the Benami transactions when the husband of Singarammal himself accepted the settlement deed and title of the property in the name of Singarammal. Therefore, the arguments of the learned counsel are not acceptable to that regard. Since the 10th item of 'A' schedule property is separate property of Singarammal, after her demise, her only daughter first defendant, namely, Shenbagam alone is entitled to that property which is Item No.10 of the 'A' schedule properties. As far as 'B & C' schedule properties are concerned, the available records shows that the 'B' schedule properties stands in the name of the fourth defendant and 'C' schedule properties stands in the name of the third defendant. The third defendant who is the second wife of Raju Gounder and the fourth defendant who is the son of Raju



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Gounder born through the second wife are not joint family members and thereby question of joint family properties would not arise. Therefore, the Trial Court had elaborately dealt with the matter and correctly came to a conclusion based on oral and documentary evidences. Though the First Appellate Court had not framed proper point for determination rendered findings that the Trial Court has come to a fair conclusion based on the evidences and declined to interfere with the judgment of the Trial Court. It is true that the judgment of the First Appellate Court is not in consonance with Order XLI Rule 31 of CPC, however rendered findings in respect of the Trial Court and thereby, there is no scope to interfere with the decree and judgment passed by the Court below.

17. As far as substantial questions of law

(a) When Section 3(2)(a) of The Prohibition of Benami Property Transactions Act, 1988, makes it abundantly clear that the purchase of the property, by any person, in the name of his wife or his unmarried daughter, there shall be a presumption, unless the contrary is proved that the said property had been purchased for the benefit, whether the person



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claiming a title, against the person, in whose name, the property stood, is not entitled to lead rebuttal evidence, contrary to such presumption ? is concerned, On perusal of the records it is observed that the Item No.10 of the 'A' schedule properties has been purchased in the name of Singarammal and advance amount was paid by her husband and the remaining sale price amount was paid by Singarammal and the same has been endorsed in the sale deed itself. Therefore, merely because some advance money paid by the husband for purchase of the property to his wife, The Prohibition of Benami Property Transactions Act, 1988 would not attract. Moreover, there are no pleadings in respect of Benami transactions and once Raju Gounder husband of the Singarammal accepted the settlement deed by admitting the title of Singarammal, the plaintiffs who are steps into the shoes of Raju Gounder cannot claim any Benami transactions. Since there are no pleadings in respect of Benami transactions the Courts below have not framed any issues in respect of the Benami transactions. In order to attract the Benami transactions there should be sufficient pleadings. Even as per the pleadings the court unable to infer anything about the Benami transactions. Therefore, Section 3(ii) (a) of The Prohibition of Benami Property Transactions Act, 1988, will

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not be applicable to the present facts of the case. Thus the substantial question of law is answered.

17.1. As far as the substantial question of law

(b) When the source of purchase money, for the disputed property had been admitted as one from the husband, to purchase in the name of his wife, can the Court brush aside the other valuable evidence, let in by the person claiming an interest, regarding the possession, the custody of the documents and the conduct and the position of the parties ? is concerned,

The entire sale price for purchase of the Item No.10 of the 'A' schedule properties was not paid by Raju Gounder and only paid advance amount and remaining amount was paid at the time of sale by Singarammal and the same has been endorsed in the back side of the document. Therefore, source of purchase money for the disputed property has not been entirely paid by Raju gounder. Once the property has been purchased in the name of female, it is her absolute property unless the

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contrary is proved and it is for the person who asserts that it was purchased through funds by other persons has to be proved. But in this case, the competent person to speak about the sharing of sale price is Raju Gounder. But during his lifetime, he has not questioned the title of his wife Singarammal and he himself accepted the gift settlement deed from his 1st wife by admitting the title of his wife Singarammal. Therefore, now the plaintiffs cannot raise question about the Benami transaction. Since the plaintiffs are steps into the shoes of Raju Gounder and the said Raju Gounder himself has not questioned the title of Singarammal, the plaintiffs are not entitled to deny the title of the property in the name of Singarammal. Thus substantial questions of law is answered.

18. In view of the above said discussions and answers to the substantial questions of law, this Court is of the opinion that this second appeal has no merits and deserved to be dismissed.



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19. In the result, this Second Appeal is dismissed. No costs.

Consequently, connected Civil Miscellaneous Petition is closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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To

1. The Principal District Court, Vellore.
2. The Subordinate Court, Tirupattur, Vellore District.
3. The Section Officer, VR Section, High Court, Madras.



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