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SA No. 487 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-02-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

**SA No. 487 of 2016
and C.M.P. No.8340 of 2016**

Smt. Jothi W/o mathiyalagan,
Old.No.40, School Street,
Nolambur, Ambattur Taluk,
Tiruvallur District.

..Appellant(s)

Vs

1.Dinakaran
2.Anandan
3.Parthiban
4.Ruth
5.C. Bhandan
6.M.S. Vijayakumar
7.G. Sreemathi
8.R. Nagarajan
9.Babu Naidu
10.S.T. Rajan
11.Hema T. Rajan
12.R. Pattu
13.Duraisamy
14.M. Uma
15.Sathiyarayanan
16.Jayakumar
17.Anthony
18.Muthukumaran
19.S. Vellaiswamy S/O SONAIMUTHU
[R19 impleaded as party respondent vide court
order dated 12/04/2019 made in cmp.no.7664 of
2018 in sa.no.487 of 2016(VBDJ)
20.D.Sumathi W/o.Desikamani,
21.K.Karnan S/o.Kaliyan,
22.C.N.Manimegalai W/o.Karnan,
[R20 to 22 are impleaded as party respondent vide
court order dated 25/07/2025 made in
CMP.nos.16720 and 16728 of 2025 (KBJ)



..Respondent(s)

PRAYER: The Second Appeal has been filed under 100 of Code of Civil Procedure as against the judgment and decree dated 25.08.2014 made in A.S. No.4 of 2013 on the file of the Principal District Judge, Poonamallee confirming the judgment and decree dated 19.03.2010 made in O.S. No.9 of 2004 on the file of the Subordinate Judge, Poonamallee.

For Appellant(s):	Mr. R.Thamaraiselvan
For Respondent(s):	R1 to R3 – Served – No appearance
	R5, R9 to R13, R15, R17 and R18 – Not ready
	R7 – Exparte.
	M/s.Sudha Ramalingam [For R6, R8 And R16]
	M/s Devaraj Mahesh - R14
	M/s. D. Rajendran [For R20 To 22]
	R19 – Mr. T. Saravanan
	R4 – died.

JUDGMENT

The Second Appeal has been preferred as against the decree and judgment passed by the Principal District Judge, Tiruvallur in A.S. No.4 of 2013 dated 25.08.2014, wherein the appellant herein, being the Plaintiff, has filed a Suit in O.S. No.9 of 2004 on the file of the Subordinate Judge, Poonamallee for the reliefs of partition and permanent injunction and the said Suit was dismissed. Aggrieved by the said decree and judgment, the Plaintiff has preferred an appeal in A.S. No.4 of 2013 on the file of the Principal District Judge, Tiruvallur and the First Appellate Court also dismissed the appeal by confirming the judgment and decree passed by the trial Court. Aggrieved by the said decree and judgment, the Plaintiff has preferred this second appeal.



2. The *case of the Plaintiff before the trial Court* is that the 1st defendant is the mother of the Plaintiff. The defendants 2 to 4 are brothers of the Plaintiff.

The 5th defendant is the aunt of the Plaintiff. The Plaintiff and the defendants are the legal heirs of one Chandran. The Plaintiff's grant father owned a property in Survey No.219 and 214 and the same have been sub-divided. Thereafter, the properties were partitioned among the Plaintiff's father and grand mother and the Plaintiff's father's sister. As per the said partition, the 'A' schedule property was allotted to the Plaintiff's grand mother Alamelu Ammal. The 'B' schedule property was allotted to the Plaintiff's father and 'C' schedule property was allotted to the Plaintiff's father's sister, i.e., the 5th defendant herein, through a Partition Deed dated 29.06.1989. The Plaintiff's grand mother Alamelu Ammal died. The Plaintiff and the defendants 1 to 5 are the legal representatives of the deceased Alamelu Ammal. Therefore, the 'A' and 'B' properties are available for partition between the Plaintiff and the defendants. The Plaintiff is entitled to 1/10 share in 'A' Schedule property and 1/5 share in 'B' schedule property. The 1 to 4 defendants are each entitled to 1/10 share and the 5th respondent is entitled to 5/10 share over the 'A' schedule property. The Plaintiff demanded the defendants for partition, but they refused for the same. The Plaintiff and the defendants are in joint possession and enjoyment of the properties. The Tamil Nadu Housing Board had acquired some properties belong to the Plaintiff's father, grand mother and aunt, the 5th defendant for public purpose. For which, the Tamil Nadu Housing Board had paid a



compensation amount of Rs.6,43,663/-. The Plaintiff and the defendants are entitled to $\frac{1}{2}$ share in the compensation amount. The Plaintiff is entitled to $\frac{1}{5}$ share from and out of $\frac{1}{3}$ share due to the Plaintiff's father. At the time of apportionment of compensation amount, the Plaintiff was the minor and without permission of the Court, the share of the minor was withdrawn. The 1st defendant appointed one Thiruveedhi as her Power Agent, without the consent of the Plaintiff. As a Power Agent, the said Thiruveedhi sold the property belongs to the Plaintiff's father, in which, he has no right to sell. Since the properties are joint family properties, the 1st defendant has no right to give power to sell the joint family properties. The Plaintiff and the defendants are in joint possession and enjoyment of the properties. Therefore, the Plaintiff filed a Suit for partition and for permanent injunction restraining the defendants from alienating the properties.

3. The *case of the defendants before the trial Court* is that the relationship between the parties are admitted. The grand father of the Plaintiff and the defendants namely Murugan owned property in S.F Nos.219 and 214 and the said properties were also divided between Chandran, Alamelu Ammal and Ruth, through a Partition Deed dated 29.06.1989. The said Alamelu Ammal died on 14.01.2003 and the Plaintiff and the defendants are legal representatives of the deceased Alamelu Ammal. In fact, the said Alamelu Ammal, during her life time, sold the properties to third parties and no



properties left by her for division among the legal heirs. Therefore, the allegation that 'A' and 'B' schedule properties are available for partition is unsustainable. The Plaintiff married one Mathialagan in the year 1998 and the defendants spent money for the performance of Plaintiff's marriage. It is true that Tamil Nadu Housing Board acquired some properties and the Plaintiff has received her share of compensation and now she cannot question about the apportionment of compensation. It is true that one Thiruveethi was appointed as Power of Attorney Agent. The 1st defendant has dealt with the lands as elder member of the joint family and the sale proceeds were used for the benefit of the joint family and not for any bad or unlawful purpose. After sale of the properties, the 1st defendant purchased land in the name of the Plaintiff and the defendants 2 to 4 through separate Sale Deeds dated 07.03.1990, an extent of 9.22 cents of land was purchased in the name of the Plaintiff and the 1st defendant. Now the said land patta was granted to the Plaintiff and she is under enjoyment of the said land. On the date of purchase through the said Sale deed, the Plaintiff was aged about 6 years and the 1st defendant had no source of income to purchase the said property and through sale proceeds of the family properties only, the Plaintiff had purchased the said land in her name and the 1st defendant's name. The Plaintiff and the defendants are not in joint possession and enjoyment of the property. Therefore, payment of Court fee is not correct. The alleged demands for the partition by the Plaintiff are false. Since the properties were sold through Power Agent, the purchasers are also proper and



necessary parties to decide the Suit. Without impleading them, the Suit is bad for non-joinder of parties. Therefore, the Suit is liable to be dismissed.

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4. Based on the above said pleadings and after hearing both sides, the trial Court has framed the following *issues and additional issues*:

Issues:

a. Whether the Plaintiff is entitled to reliefs as prayed for in the Plaint?

b. Is it true that the deceased Alamelu Ammal had acquired property through partition in respect of 'A' Schedule property and had already sold the same, thereby the contention of the defendants that the Plaintiff is not entitled to the relief of partition?

c. Is it true that the contention of the defendants that the 5th defendant has no right over the 'A' schedule property?

d. Is it true that the contention of the defendants that the Plaintiff is not entitled to any relief in respect of the properties?

e. To what other reliefs, the Plaintiff is entitled to?

Additional Issues:

When the Plaintiff was a minor, whether the Sale deed was executed by the mother of the Plaintiff, is binding on the Plaintiff or not?

5. Before the trial Court, on the side of the Plaintiff, PW1 was examined and Ex.A.1 to Ex.A.3 were marked. On the side of the defendants,



DW1 to DW3 were examined and Ex.B.1 to Ex.B.29 documents were marked.

The trial Court, after evaluating the oral and documentary evidences adduced on both sides, ***dismissed the Suit through a decree and judgment dated 19.03.2010.*** Aggrieved by the said decree and judgment, the Plaitniff has preferred an appeal Suit in ***A.S. No.4 of 2013 on the file of the Principal District Judge, Tiruvallur*** on various grounds.

6. The First Appellate Court framed the following ***points for determination:***

(i)Whether the Plaintiff is entitled to share in both A and B Schedule property as claimed?

(ii)Whether 'A' Schedule property was sold by Late Alamelu Ammal who is the grand mother of the Plaintiff even during her life time?

(iii)Whether the sale made by the Plaintiff's mother, the 1st defendant in the Suit is for legal necessity?

(iv)Whether the judgment and decree of the learned Sub Judge, Poonamallee is legally sustainable in law?

7. After hearing both sides and perusing the records including the judgment and decree passed by the trial Court, ***the First Appellate Court dismissed the appeal 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 Plaintiff.

8. At the time admitting the second appeal, this Court has formulated the following *substantial questions of law*:

a. Whether the judgment and decree of the Lower Court are in contravention of Section 8(2) of the Hindu Minority and Guardianship Act, 1956?

b. Whether the judgment and decree of the Lower Court are in derogation of the law laid down by the Hon'ble Apex Court in Saroj vs. Sunder Singh and others [2013 (15) SCC 727].

c. Whether the Lower Court was right in holding that a subsequent purchase of a property in the name of the appellant / Plaintiff would replace the lawful share of the appellant / Plaintiff in her late father's property?

9. For the sake of convenience and brevity, 'the parties' hereinafter will be referred to as per their status / ranking in the Trial Court.

10. The learned counsel appearing for the appellant would submit that the Plaintiff has filed the Suit for the relief of partition in respect of the joint family properties. Originally the properties belonged to the grand father of the Plaintiff and thereafter, the grand mother, father and her paternal aunt, had



partitioned the properties through a Partition Deed dated 29.06.1989. The 'A' Schedule property was allotted to the grand mother of the Plaintiff, the 'B' Schedule property was allotted to the father of the Plaintiff and 'C' Schedule property was allotted to the paternal aunt of the Plaintiff, who is the 5th defendant herein. The 1st defendant is the mother of the Plaintiff. The defendants 2 to 4 are the brothers of the Plaintiff. The grand mother of the Plaintiff died intestate leaving behind the Plaintiff and the defendants as her legal heirs and thereby, the Plaintiff and the defendants are entitled to share over the property of the deceased grand mother in respect of 'A' Schedule property. The Plaintiff's father died intestate leaving behind the Plaintiff and the defendants 1 to 4 to succeed his estate and thereby, the Plaintiff and the defendants 1 to 4 are entitled to share over the 'B' Schedule property. When the Plaintiff demanded for partition, the defendants refused for partition, and therefore, the Plaintiff has filed a Suit. In order prove the case of the Plaintiff, she has examined PW1 and marked Ex.P.1 to Ex.A.3. On the side of the defendants, DW1 to DW3 were examined and Ex.B.1 to Ex.B.29 documents were marked. The Plaintiff's side evidences clearly proved the Plaintiff's case, but the trial Court failed to consider the evidences adduced on the side of the Plaintiff and erroneously dismissed the Suit. The 1st defendant sold the property of the minor without obtaining order of the Court and the 1st defendant has no right to sell the property of the minor. Therefore, the Sale Deed executed by the 1st defendant in respect of the share of the minor, is not binding upon her.



10.1. The Courts below have failed to consider the same. The trial Court held that the appellant / Plaintiff was 27 years old at the time of filing the Suit, whereas the Plaintiff was aged only about 20 years, as she was born in the year 1983 and the Suit was filed in the year 2004. But the Courts below failed to consider the same. The Courts below failed to consider the oral and documentary evidences adduced by the Plaintiff. The Courts below failed to consider that the 1st defendant sold the property without permission of the Court in respect of the share of the minor. As per law laid down by the Hon'ble Supreme Court in *Saroj v. Sunder Singh and others reported in (2013) 15 SCC 727*, once when the share of a daughter has become definite upon death of her father, the mother, as a natural guardian shall not sell the share of the daughter without previous permission of the Court. Therefore, the sale itself is void. The Courts below failed to consider the same and dismissed the Suit erroneously. Therefore, the decree and judgments passed by the Courts below are liable to be set aside.

11. The learned counsel appearing for the respondents would submit that the Plaintiff has filed the Suit for partition over the 'A' and 'B' schedule properties. The 'A' Schedule property was allotted to the Plaintiff's grand mother and the 'B' Schedule property was allotted to the father of the Plaintiff through a Partition Deed dated 29.06.1989 and the Plaintiff's grand mother herself sold her share of property during her life time and thereby the 'A'



schedule property is not available for partition. As far as the 'B' schedule property is concerned, after the demise of the Plaintiff's father, the 1st defendant / mother of the Plaintiff, sold the said property through a Power Agent to third parties for the benefit of the joint family and the Plaintiff is also a party to the Suit and without challenging the Sale Deed, the Plaintiff has filed the Suit for partition. The mother of the Plaintiff, who is the 1st defendant in the Suit, is entitled to sell the property for the welfare of the family as elder member and kartha of the joint family. Therefore, the Courts below have correctly appreciated the facts and dismissed the Suit.

11.1. After sale of the 'B' schedule property, some properties were purchased by the 1st defendant in the name of the Plaintiff and the 1st defendant. However, the trial Court came to a conclusion that the property was purchased in the name of the minor by the guardian mother through a Sale Deed dated 07.03.1990. From the documents submitted on the side of defendants, they reveal that on various dates through various Sale Deeds, the property allotted through partition to the father of the Plaintiff, was sold and through those sale proceedings and a property was purchased in the name of minor Plaintiff through Ex.B.8 and similarly through Ex.B.5 to Ex.B.7, some properties were purchased in the name of the defendants 2 to 4. Thereby, the properties were sold for the benefit of joint family and the Plaintiff has no locus standi to question about the sale of minor daughter's share. As far as 'A' Schedule property is concerned, the Plaintiff



sought for 1/9 share and through Ex.B.3, Power Deed, the defendants 2 to 4 have purchased properties during the life time of the grand mother of the Plaintiff in respect of 'A' Schedule property. Thereby, the Plaintiff is not entitled to share over the 'A' Schedule property.

11.2. As far as 'B' Schedule property is concerned, the Plaintiff sought for 1/5 share and already the 1st defendant sold the properties and purchased properties in the name of the Plaintiff and the defendants 2 to 4 and 'B' schedule property was sold to third parties and thereby, the Plaintiff is not entitled to share over the Suit properties. The First Appellate Court also rendered findings that 'A' Schedule property was already sold to third parties and the 'B' Schedule property was also sold, through Power Agent, by the 1st defendant. The said Sale Deeds were executed on behalf of the minor, through Power Agent, by the 1st defendant and moreover, after the sale of the said property, some properties were purchased in the name of the Plaintiff and the defendants 2 to 4, thereby the 1st defendant has sold the property for the benefit of joint family and therefore, the Plaintiff is not entitled to any relief and both the Courts have rendered concurrent findings and there is no substantial question of law involved in this case and therefore, the second appeal is liable to be dismissed.



12. This Court heard both sides and perused the entire materials available on record.

13. In this case, relationship of the parties are admitted. According to the Plaintiff, the Plaintiff's grand mother, father and her paternal aunt / 5th defendant had entered into a partition through Partition Deed dated 29.06.1989, through which, 'A' Schedule property was allotted to the grand mother of the Plaintiff, 'B' Schedule property was allotted to the father of the Plaintiff and 'C' Schedule property was allotted to the paternal aunt of the Plaintiff. The 'A' and 'B' schedule properties in the Partition Deed dated 29.06.1989 are the subject properties in the Suit. The Plaintiff is entitled to share over the said 'A' and 'B' schedule properties. According to the defendants, the 'A' Schedule property allotted to the grand mother of the Plaintiff and the defendants 2 to 4, had already been sold to the defendants 2 to 4 by the grand mother of the Plaintiff during her life time. Thereby, the 'A' Schedule property is not available for partition. As far as 'B' Schedule property is concerned, the 1st defendant already sold the same, through Power Agent, for herself and on behalf of the minor sons and daughters and therefore, 'B' schedule property is also not available for partition. Moreover, after sale of the said 'B' Schedule property, the 1st defendant, mother of the Plaintiff, had purchased some properties in the name of the Plaintiff and the defendants 2 to 5. Therefore, the Suit properties are not available for partition.

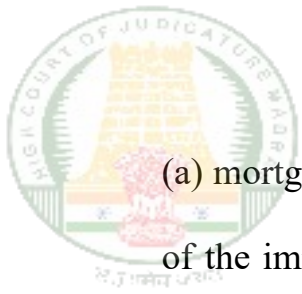


14. The trial Court framed proper issues and after considering the evidences adduced on either side, the trial Court dismissed the Suit by holding that 'A' schedule property was sold during the life time of the grand mother of the Plaintiff and 'B' schedule property, which was allotted to the father of the Plaintiff and the defendants 2 to 4 and the husband of the 1st defendant, was sold by the 1st defendant for the benefit of the joint family and the 1st defendant being the elder member of the joint family, sold the said property, while the Plaintiff was minor and thereafter, the 1st defendant purchased some properties in the name of the Plaintiff and the defendants 2 to 4. While so, the Plaintiff has filed the Suit for the partition of the said 'A' and 'B' schedule properties. Both the properties were already sold and now the said properties are under the possession and enjoyment of third parties. While so, without impleading the said third parties, the Suit cannot be decided effectively. Moreover, the properties were sold for the benefit of the joint family and once the properties partitioned were sold through Sale Deeds, without challenging the said Sale Deeds, the Plaintiff cannot file Suit for partition in respect of the properties which were already sold. Therefore, the Courts below have rendered concurrent findings based on the evidences and sound legal principles. Therefore, there is no illegality or perversity in the judgments and decrees passed by the Courts below and this Court is of the opinion that the Second Appeal has no merits.



15. As far as the *substantial questions of law that “a) Whether the judgment and decree of the Lower Court are in contravention of Section 8(2) of the Hindu Minority and Guardianship Act, 1956?”* is concerned, it is an admitted fact that the subject properties in the Suit are ancestral properties and the Plaintiff’s father and grand mother had share in the said properties. ‘A’ Schedule property was allotted to the grand mother of the Plaintiff and ‘B’ Schedule property was allotted to the father of the Plaintiff. The grand mother of the Plaintiff, during her life time, sold the said ‘A’ Schedule property and therefore, the ‘A’ schedule property is not available for partition. As far as ‘B’ Schedule property is concerned, according to the Plaintiff, she was minor while the said ‘B’ schedule property was sold by executing a Sale Deed by the 1st defendant. According to the 1st defendant, the said Sale Deed was executed on behalf of the 1st defendant and her minor daughters and sons and for the benefit of the joint family and after the sale of the ‘B’ Schedule property, the 1st defendant had purchased some properties in the names of the Plaintiff and the defendants 2 to 4. Therefore, the sale proceeds of ‘B’ schedule property was utilized for the benefit of the joint family. Though the Plaintiff was a minor on the date of sale, according to the Plaintiff, the 1st defendant ought to have obtained permission from the Court in respect of the share of the minor.

15.1. As per Section 8(2) of the Hindu Minority and Guardianship Act, the natural guardian shall not, without the previous permission of the court,—



(a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of the minor; or (b) lease any part of such property for a term exceeding five years or for a term extending more than one year beyond the date on which the minor will attain majority. At the same time, as per Section 12 of the Hindu Minority and Guardianship Act, where a minor has an undivided interest in joint family property and the property is under the management of an adult member of the family, no guardian shall be appointed for the minor in respect of such undivided interest, provided that nothing in this section shall be deemed to affect the jurisdiction of a High Court to appoint a guardian in respect of such interest. Therefore, Section 8 of the Hindu Minority and Guardianship Act is subject to Section 12 of the Hindu Minority and Guardianship Act. While so, as far as the joint family property is concerned, permission of Court is not required. Section 8 of the said Act also states that the natural guardian of a Hindu minor has power, subject to the provisions of this section, to do all acts which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate. Therefore, in this case also, the 1st defendant being a Manager of her joint family had sold the property and the Plaintiff has no locus standi to question the same and without seeking prayer for challenging the Sale Deed. Therefore, the judgments and decrees passed by the Courts below are not in contravention of Section 8(2) of the Hindu Minority and Guardianship Act, 1956.



15.2. In this context, the learned counsel appearing for the respondents has relied upon the judgment of Hon'ble Supreme Court in ***Dastagirsab vs. Sharanappa alias Shivasharanappa Police Patil (D) by Lrs and others*** reported in 2025 SCC Online SC 1983, wherein the Hon'ble Supreme Court has held in Para 11 as follows:-

“11. Right of a Karta to sell joint family property is well settled.

Karta enjoys wide discretion with regard to existence of legal necessity and in what way such necessity can be fulfilled. Whether legal necessity existed justifying the sale would depend on facts of each case. In [Beereddy Dasaratharami Reddy vs. V. Manjunath & Anr.](#)¹⁰, this Court succinctly elucidated:

[Beereddy Dasaratharami Reddy vs. V. Manjunath & Anr.](#) (2021) 19 SCC 263.

“6. Right of the Karta to execute agreement to sell or sale deed of a joint Hindu family property is settled and is beyond cavil vide several judgments of this Court including [Sri Narayan Bal v. Sridhar Sutar](#) (1996) 8 SCC 54], wherein it has been held that a joint Hindu family is capable of acting through its Karta or adult member of the family in management of the joint Hindu family property. A coparcener who has right to claim a share in the joint Hindu family estate cannot seek injunction against the Karta restraining him from dealing with or entering into a transaction from sale of the joint Hindu family property, albeit post alienation has a right to challenge the alienation if the same is not for legal necessity or for betterment of the estate. Where a Karta has alienated a joint Hindu family property for value either for legal necessity or benefit of the estate it would bind the interest of all undivided members of the family even when they are minors or widows. There are no specific grounds that establish the existence of legal necessity and the existence of legal necessity depends upon facts of each case. The Karta enjoys wide discretion in his decision over existence of legal necessity and as to in what way such necessity can be fulfilled. The exercise of powers given the rights of the Karta on fulfilling the requirement of legal necessity or betterment of the estate is valid and binding on other coparceners.

7. Elucidating the position in Hindu law, this Court in [Kehar Singh v. Nachittar Kaur](#) (2018) 14 SCC 445 has referred to Mulla on Hindu Law and the concept of legal necessity to observe thus: (SCC pp. 449-51, paras 20-21 & 26)



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“20. Mulla in his classic work Hindu Law while dealing with the right of a father to alienate any ancestral property said in [Article 254](#), which reads as under:

‘Article 254

254. Alienation by father.—A Hindu father as such has special powers of alienating coparcenary property, which no other coparcener has. In the exercise of these powers he may:

(1) make a gift of ancestral movable property to the extent mentioned in [Article 223](#), and even of ancestral immovable property to the extent mentioned in [Article 224](#);

(2) sell or mortgage ancestral property, whether movable or immovable, including the interest of his sons, grandsons and great-grandsons therein, for the payment of his own debt, provided the debt was an antecedent debt, and was not incurred for immoral or illegal purposes ([Article 294](#)).’

21. What is legal necessity was also succinctly said by Mulla in [Article 241](#), which reads as under:

‘Article 241

241. What is legal necessity.—The following have been held to be family necessities within the meaning of [Article 240](#):

- (a) payment of government revenue and of debts which are payable out of the family property;
- (b) maintenance of coparceners and of the members of their families;
- (c) marriage expenses of male coparceners, and of the daughters of coparceners;
- (d) performance of the necessary funeral or family ceremonies;
- (e) costs of necessary litigation in recovering or preserving the estate;
- (f) costs of defending the head of the joint family or any other member against a serious criminal charge;
- (g) payment of debts incurred for family business or other necessary purpose. In the case of a manager other than a father, it is not enough to show merely that the debt is a pre-existing debt;

The above are not the only indices for concluding as to whether the alienation was indeed for legal necessity, nor can the enumeration of

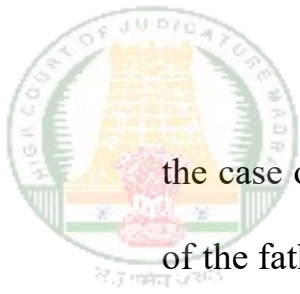


criterion for establishing legal necessity be copious or even predictable. It must therefore depend on the facts of each case. When, therefore, property is sold in order to fulfil tax obligations incurred by a family business, such alienation can be classified as constituting legal necessity.’ (See Hindu Law by Mulla “22nd Edition”). ***

26. Once the factum of existence of legal necessity stood proved, then, in our view, no co-coparcener (son) has a right to challenge the sale made by the karta of his family. The plaintiff being a son was one of the co-coparceners along with his father Pritam Singh. He had no right to challenge such sale in the light of findings of legal necessity being recorded against him. It was more so when the plaintiff failed to prove by any evidence that there was no legal necessity for sale of the suit land or that the evidence adduced by the defendants to prove the factum of existence of legal necessity was either insufficient or irrelevant or no evidence at all.”

Therefore, from the above said judgment the law laid down by the Hon’ble Supreme Court, it is clear that the exercise of powers given the rights of the Karta on fulfilling the requirement of legal necessity or betterment of the estate is valid and binding on other coparceners. Thus the ***1st substantial question of law is answered.***

16. As far as the ***2nd substantial question of law that “Whether the judgment and decree of the Lower Court are in derogation of the law laid down by the Hon’ble Apex Court in Saroj vs. Sunder Singh and others [2013 (15) SCC 727]”*** is concerned, the appellant has relied upon the said judgment in ***Saroj vs. Sunder Singh and others [2013 (15) SCC 727]***, where the Hon’ble Supreme Court held that once when the share of a daughter has become definite upon death of her father, the mother, as a natural guardian shall not sell the share of the daughter without previous permission of the Court. However, in



the case on hand, the properties are joint family properties and after the demise of the father of the Plaintiff, the 1st defendant, who is the mother of the Plaintiff, had sold the share of the minor as the Manager of the joint family and therefore, the said case law will not be applicable to the present facts of the case. If the property of the father of the Plaintiff is his own separate property, then the said case law will be applicable. In the case on hand, the property is not a separate property of the father of the Plaintiff and it is an ancestral joint family property of the Plaintiff and the defendants and thereby, the said case law will not be applicable to the present facts of the case and the decree and judgment passed by the Courts below are not in derogation of the law laid down by the Hon'ble Apex Court in *Saroj vs. Sunder Singh and others* [2013 (15) SCC 727]. Thus, the **2nd substantial question of law is answered.**

17. As far as the 3rd ***substantial questions of law that “Whether the Lower Court was right in holding that a subsequent purchase of a property in the name of the appellant / Plaintiff would replace the lawful share of the appellant / Plaintiff in her late father’s property?”*** is concerned, the 1st defendant sold the property as elder member on behalf of the joint family and in the Sale Deed itself, the name of the Plaintiff and the 1st defendant were mentioned and after the sale of the property, the 1st defendant purchased some properties in the name of the Plaintiff and the defendants 2 to 4 through separate Sale Deeds. The Plaintiff has not filed any Suit for the relief of partition over



the properties, either purchased in her name or purchased in the name of the defendants 2 to 4. Therefore, the question of replacing lawful share of the appellant / Plaintiff in her late father's property would not attract. Once the property was sold by the 'kartha' / 'manager' of a joint family, for the benefit of the joint family the Plaintiff cannot question the said sale, that too without challenging the Sale deed. Therefore, the finding of the Courts below that lawful share of the Plaintiff was replaced by the subsequent purchase of the property, is not correct. However those properties are not the subject matter of the present Suit and the subject property of the Suit i.e., 'B' Schedule property was already sold to third parties and those third party purchasers are not parties to the Suit. This Court already held that the Sale Deed was executed for the benefit of the joint family and thereby, the Plaintiff is not entitled to any relief in respect of 'A' and 'B' Schedule properties. Thus, the 3rd ***substantial question 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 the ***this second appeal has no merits and deserves to be dismissed.***



19. Accordingly, the Second Appeal is dismissed. There shall be no order as to costs. Consequently the connected miscellaneous petition is closed.

24-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MJS

To

1. The Principal District Judge, Tiruvallur.
- 2. The Subordinate Judge, Poonamallee.**



WEB COPY

SA No. 487 of 2



P.DHANABAL, J.

MJS

SA No. 487 of 2016

24-02-2026