

THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 07.01.2026

Judgment pronounced on : 30.03.2026

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THE HON'BLE MR. JUSTICE P.B.BALAJI

A.S.Nos.448 & 496 of 2022
& CMP.Nos.16161 to 16163 of 2022
& CMP.No.18030 of 2022

A.S.No.448 of 2022:

R.Ravikumar

.. Appellant

Vs.

R.Nagaraj (Deceased)
1.N.Rajalakshmi
2.N.Kishore
3.N.Premkumar
4.Sujatha
5.T.R.Gnanavel
6.The Sub Registrar,
Avadi Sub Registrar Office,
Avadi, Chennai – 600 054.
7.The District Collector,
Thiruvallur District,
Thiruvallur.

.. Respondents

Prayer in A.S.No.448 of 2022: Appeal Suit filed under Order XLI Rule 1 and Section 96 of CPC, to set aside the judgment and decree passed in O.S.No.250 of 2015 on the file of the II Additional District and Sessions Judge, Thiruvallur, Poonamallee dated 13.06.2022.



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For Appellant : Mr.S.Mukunth
Senior Counsel
for Mr.K.Balaji

For Respondents : Mr.S.Anburaja for RR1 to 3
Ms.G.Sumithra for R4
Mr.R.Thiagarajan for R5
Mr.G.Nanmaran
Special Government Pleader for RR6 & 7

A.S.No.496 of 2022:

R.Nagaraj (Died)

1.Rajalakshmi

2.Kishore

3.Premkumar

.. Appellants

Vs.

1.R.Ravikumar

2.Sujatha

3.T.R.Gnanavel

4.The Sub Registrar,
Avadi Sub Registrar Office,
Avadi, Thiruvallur District.

5.The District Collector,
Thiruvallur District,
Thiruvallur.

.. Respondents

Prayer in A.S.No.496 of 2022: Appeal Suit filed under Order XLI Rule 1 and Section 96 of CPC, to set aside the judgment and decree passed in O.S.No.250 of 2015 on the file of the II Additional District and Sessions Judge, Thiruvallur, Poonamallee dated 13.06.2022.

For Appellants : Mr.S.Anburaja

For Respondents : Mr.S.Mukunth



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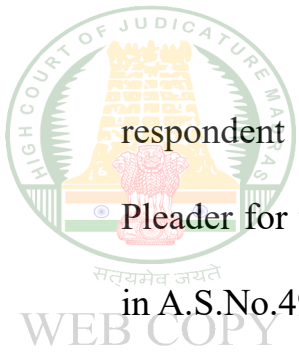
Senior Counsel
for Mr.K.Balaji for R1
Ms.G.Sumithra for R2
Mr.R.Thiagarajan for R3
Mr.G.Nanmaran
Special Government Pleader for RR4 & 5

COMMON JUDGMENT

A.S.No.448 of 2002 arises out of the judgment and decree in O.S.No.250 of 2015, on the file of the II Additional District and Sessions Judge, Tiruvallur. This appeal is at the instance of the 1st defendant, challenging the decree of the trial Court.

2.A.S.No.496 of 2002 is at the instance of the legal representatives of the plaintiff in the very same suit, non-suiting the plaintiff to the relief of partition and permanent injunction. Thus, it can be seen that the 1st defendant was sailing with the plaintiff before the trial Court and hence, he is also aggrieved by the dismissal of the suit for partition.

3.I have heard Mr.S.Mukunth, Senior Counsel for Mr.K.Balaji, learned counsel for the appellant in A.S.No.448 of 2022 and 1st respondent in A.S.No.496 of 2022; Mr.S.Anbu Raja, learned counsel for the appellants in A.S.No.496 of 2022 and respondents 1 to 3 in A.S.No.448 of 2022; Ms.G.Sumithra, learned counsel for the 4th respondent in A.S.No.448 of 2022 and 2nd respondent in A.S.No.496 of 2022; Mr.R.Thiagarajan, learned counsel for the 5th respondent in A.S.No.448 of 2022 and 3rd



respondent in A.S.No.496 of 2022 and Mr.G.Nanmaran, learned Special Government Pleader for the respondents 6 and 7 in A.S.No.448 of 2022 and the respondents 4 and 5 in A.S.No.496 of 2022.

4.Pleadings:

The plaint in brief:

(a) The suit property was originally belonging to the plaintiff's father, C.Raghavan. It was his absolute property, he having purchased the same out of his self acquisition, on 15.03.1975. The plaintiff's father put up construction of a house and was in enjoyment as absolute owner, till his demise. The 1st defendant is the son and the 2nd defendant is the daughter of the said late C.Raghavan, who died intestate on 12.12.1995. On the date of demise of C.Raghavan, his wife Mohana, the plaintiff and defendants 1 and 2 succeeded to his interest. Subsequently, his wife Mohana died intestate on 18.05.2012. The plaintiff and the defendants 1 and 2 are in joint possession and enjoyment of the house. Being a co-sharer, the plaintiff is entitled to 1/3rd share over the suit property.

(b) The 2nd defendant was given in marriage in the year 1993. Her marriage was not a happy marriage and hence, she came to Avadi and lived with her mother in the suit property. She was very much attached with the plaintiff's mother and she lived with the plaintiff and the 1st defendant. For convenient enjoyment, the plaintiff, in January 2015,



requested the defendants 1 and 2 for an amicable partition. The defendants 1 and 2 denied the share of the plaintiff. This necessitated the plaintiff to apply for Encumbrance Certificate on 26.10.2015. The plaintiff came to know that the 2nd defendant had sold the suit property to the 3rd defendant, without any independent right to deal with the property. Earlier on 30.06.2010, the 2nd defendant, misusing the innocence and gullibility of her mother, created a settlement deed in her favour, based on which, she has alienated the property in 2015. The mother never disclosed the factum of the settlement deed to the plaintiff or the 1st defendant. The document is the handy work of the 2nd defendant and it is a void document. The plaintiff and the defendants 1 and 2 are in joint possession and enjoyment of the suit property. The 3rd defendant, taking advantage of the sale in his favour, is attempting to alienate the suit property. An attempt was also made on 03.12.2025, which has been resisted with hue and cry by the plaintiff. The plaintiff has also given his objections to the 4th defendant, the Sub Registrar concerned. The plaintiff therefore prays for partition and also for permanent injunction to restrain the 3rd defendant from encumbering the suit property.

5. Written statement filed by the 1st defendant:

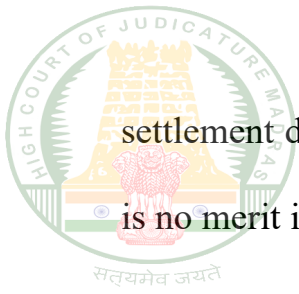
The 1st defendant admits the relationship between the parties. The 1st defendant is having equal share in the suit property and the 2nd defendant has no independent or individual right to sell the property to the 3rd defendant, without the consent and knowledge of the 1st defendant. The mother herself did not have any individual right to



settle the property to the 2nd defendant. The alleged settlement deed in favour of the 2nd defendant is null and void and consequent sale deed in favour of the 3rd defendant is also null and void. The 1st defendant is entitled to 1/3rd share.

6. Written statement of the 2nd defendant:

The relationship between the parties is admitted. The suit properties are grama natham properties and self acquired properties of the 2nd defendant's mother Mohana, who constructed a building and was in possession and enjoyment for more than 30 years, paying house tax to Avadi Municipality in her name and also electricity charges to the Electricity Board. The 2nd defendant had every right to deal with the property and the settlement deed in favour of the 2nd defendant is unimpeachable. It is true that the marriage of the 2nd defendant failed and she came back to her mother and was residing with the mother. She took care of her mother till her mother's death. It was only out of love and affection that the mother executed the settlement deed in favour of the 2nd defendant. The plaintiff and the 1st defendant have no right and they were fully aware of the settlement deed in favour of the 2nd defendant. The father of the plaintiff and the defendants 1 and 2 was working in Heavy Vehicles Factory, Avadi, and he died in harness in the year 1995. His job was given to the 1st defendant. The 1st defendant also demanded Rs.10 lakhs from the 2nd defendant. The 2nd defendant agreed to pay and also paid the said amount to the 1st defendant by selling a property at Kayarampettai for Rs.7 lakhs and by pledging the suit property for Rs.3 lakhs. This was even prior to the



settlement deed being executed in favour of the 2nd defendant by the mother. Thus, there is no merit in the claim for partition.

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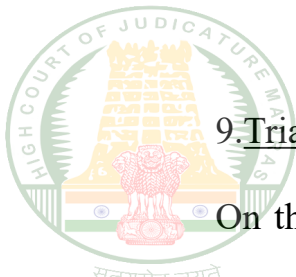
7. Written statement filed by the 3rd defendant in brief:

The suit properties were possessed and enjoyed by the mother of the plaintiff and defendants 1 and 2, absolutely, in her own right until her demise. The mother alone constructed the house and she had every right to execute the settlement deed in favour of the 2nd defendant, from whom the 3rd defendant purchased the suit property. The 3rd defendant has acquired the property for valuable sale consideration and he has been in possession and enjoyment of the same. The valuation of the suit under Section 37(2) of the Court Fees Act is therefore improper, since the plaintiff is admittedly not residing in the suit property and he cannot take benefit of the constructive and joint possession in order to invoke Section 37(2) and pay nominal Court fee.

8. Issues framed by the trial Court:

Based on the pleadings, the following issues have been framed by the trial Court:

1. Whether the suit properties is an ancestral property of the plaintiff and 1 & 2 defendants is true?
2. Whether the plaintiff is entitled for Preliminary decree for 1/3rd share in the suit properties?
3. Whether the plaintiff entitled for permanent injunction against the change of title in the suit properties?
4. To what relief?



9.Trial:

On the side of the plaintiff, P.W.1 to P.W.3 were examined and Ex.A1 to Ex.A3 were marked. On the side of the defendants, D.W.1 to D.W.3 were examined and Ex.B1 to Ex.B16 were marked.

10.Decision of the trial Court:

The trial Court held that the property was the absolute property of the mother, Mohana and that she had every right to deal with the property and the plaintiff was not entitled to claim partition. The trial Court also held that a suit, without seeking the relief of cancellation of the settlement and sale deed in terms of Section 31 of the Specific Relief Act was also not maintainable.

11.Present appeal:

Aggrieved by the dismissal of the suit, the plaintiff has preferred A.S.No.496 of 2022 and the 1st defendant has preferred A.S.No.448 of 2022.

12.Arguments of the learned counsel for the appellant in A.S.No.448 of 2022 and 1st respondent in A.S.No.496 of 2022:

(a) Mr.S.Mukunth, learned Senior Counsel, would invite my attention to the additional documents, which are now sought to be produced in appeal, by way of Order



XLI Rule 27 of CPC in CMP.No.16161 of 2022. The said application is also taken up along with the present appeals.

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(b) The learned Senior Counsel, referring to the additional document, would submit that it clearly established that the father, Raghavan alone was the true owner of the property, having purchased it from the erstwhile owner, who was assigned the same even in the year 1975. He would therefore state that the mother could not have claimed absolute right and title over the suit property and thereafter settled the property in favour of the 2nd defendant, her daughter. The learned Senior Counsel would persuade this Court to entertain the additional documents, as it would assist this Court in analyzing the facts.

(c) According to the learned Senior Counsel, in the plaint, it has been asserted that the father was the owner of the property and only in order to attempt and prove the pleadings, the application for additional evidence is taken out in the appeal. The learned Senior Counsel would also attack the bonafides of the purchaser, stating that the purchaser has not even verified the encumbrance certificate prior to his purchase and both Ex.B4 and Ex.B7 have been applied only in November 2019. Insofar as the settlement deed as well, it is the contention of the learned Senior Counsel that the document is fabricated and brought about only in order to give a colour of a bonafide purchase, having been made by the 3rd defendant.



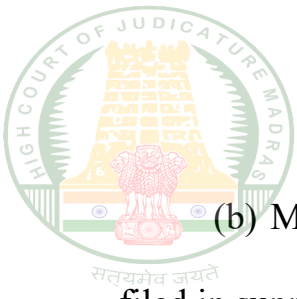
13. Arguments of the learned counsel for the appellant in A.S.No.496 of 2022 and

respondents 1 to 3 in A.S.No.496 of 2022:

Mr.S.Anbu Raja, learned counsel appearing for the appellant in A.S.No.496 of 2022 would also toe the same line of arguments as that of Mr.S.Mukunth, learned Senior Counsel. On the side of the appellants, the decisions of the Hon'ble Supreme Court in *Ramdas Vs. Sitabai and others*, reported in (2009) 7 SCC 444 and decision of this Court in *Ezumalai and others Vs. Venkatesa Gounder*, reported in 2019 (1) CTC 8 have been relied on.

14. Arguments of the learned counsel for the respondents:

(a) Per contra, Ms.G.Sumitha, learned counsel for the 4th respondent in A.S.No.448 of 2022 and 2nd respondent in A.S.No.496 of 2022 would contend that in the absence of a challenge to the settlement deed or the subsequent sale deed, the plaintiff is not entitled to any relief and rightly, the trial Court has non-suited the plaintiff. She would rely on Ex.B14, which is admittedly in the name of the mother, at which point of time, the father was alive. It is therefore her submission that the trial Court was right in concluding that it was the mother's absolute property and she had every right to settle the same in favour of the 2nd defendant, out of love and affection, who in turn, conveyed the property to the 3rd defendant. She would also rely on the evidence of P.W.1, admitting the failure of the marriage of the 2nd defendant, which was one of the primary reasons for the mother to settle the property for the benefit of her daughter.



(b) Ms.Sumithra, learned counsel would also invite my attention to the affidavit filed in support of the application for adducing additional evidence and state that no case is made out, as to why the documents could not be filed before the trial Court, excepting for stating that the documents are important and vital documents to prove the case of the appellant. She would rely on the decision of the Hon'ble Supreme Court in *Mahnoor Fatima Imran and others Vs. Visweswara Infrastructure Private Limited and others*, reported in 2025 SCC Online SC 1062.

15.Mr.R.Thiagarajan, learned counsel appearing for the 5th respondent in A.S.No.448 of 2022 and 3rd respondent in A.S.No.496 of 2022 would state that the 3rd defendant has purchased the property for a valuable sale consideration and admittedly, he has been put in possession and he is in enjoyment of the property. In support of his contention, Mr.R.Thiagarajan, learned counsel would rely on the following decisions:

1.S.Nagalakshmi and others Vs. S.Vijayakumar and another, reported in 2020 SCC Online Mad 4858.

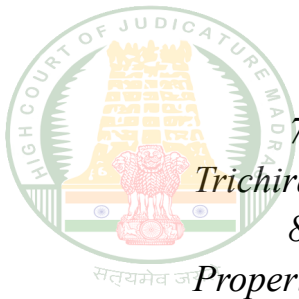
2.Mohammad Hafizullah and others Vs. Javed Akhtar and others, reported in (2015) 5 SCC 650.

3.Muppudathi Pillai Vs. Krishnaswami Pillai and others, reported in AIR 1960 Madras 1.

4.M/s.Kapil Corepacks Private Limited and others Vs. Harbans Lal through L.Rs, reported in AIR 2010 SC 2809.

5.Prem Singh and others Vs. Birbal and others, reported in (2006) 5 SCC 353.

6.Chairman, SEBI Vs. Shriram Mutual Fund and another, reported in (2006) 5 SCC 361.



7.C.Sambandam Vs. The General Manager, South Indian Railway, Trichirapalli, reported in AIR 1953 Madras 54.

8.Deccan Paper Mills Company Limited Vs. Regency Mahavir Properties and others, reported in (2021) 4 SCC 786.

9.Shri Ram and another Vs. I Additional District Judge and others, reported in (2001) 3 SCC 24.

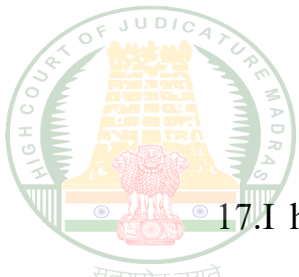
10.Sneh Gupta Vs. Devi Sarup and others, reported in (2009), 6 SCC 194.

11.Abdul Rahim and others Vs. Sk.Abdul Zabbar and others, reported in (2009) 6 SC 160.

12.Katta Sujatha Reddy Vs. Siddamasetty Infra Projects Private Limited, reported in (2023) 1 SCC 355.

13.Patel Kantilal Parshottamdas (Dead) and others Vs. Jitenderkumar Nanjibhai Mistry (Dead) through L.Rs and others, reported in (2017) 13 SCC 529.

16.Relying on the above decisions, the learned counsel would state that when the settlement deed in favour of the 2nd defendant and subsequent sale deed by the 2nd defendant in favour of the 3rd defendant are coming in the way of the plaintiff seeking potential relief, the plaintiff ought to have sought for declaring the said settlement deed and consequent sale deed as null and void. Referring to Section 31 of the Specific Relief Act also r/w Rule 89 of Civil Rules of Practice, it is contended by Mr.R.Thiagarajan that the failure to challenge the said registered documents is fatal to the case of the plaintiff. He would also state that the application to adduce additional documents under Order XLI Rule 27 of CPC is also unsustainable, especially when the appellant has not made out any of the grounds, which are required to be satisfied before any additional documents are permitted to be received, in appeal.



17. I have carefully considered the submissions advanced by the learned Senior Counsel and the learned counsel for the parties.

18. Points for consideration:

Analyzing the arguments advanced, the following points for consideration are framed:

1. Whether application for adducing additional evidence is to be entertained?

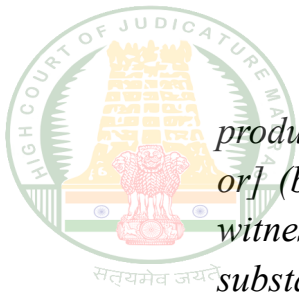
2. Whether the suit for partition simpliciter is maintainable in the absence of a declaratory relief, challenging the settlement deed executed by the mother in favour of the 2nd defendant and the sale deed executed consequently by the 2nd defendant in favour of the 3rd defendant?

19. Points 1 and 2:

Order XLI Rule 27 of Code of Civil Procedure is reproduced hereunder:

“27. Production of additional evidence in Appellate Court.—(1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if— (a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

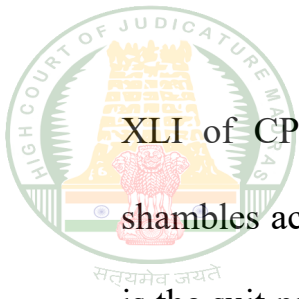
1 [(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be



produced by him at the time when the decree appealed against was passed, or] (b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the Appellate Court may allow such evidence or document to be produced, or witness to be examined. (2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission.

20. It is therefore for the appellant to satisfy the conditions stipulated in Rule 27 of Order XLI before becoming entitled to an order permitting additional documents to be received in the first appeal. As rightly contended by Ms.G.Sumitha and Mr.R.Thiagarajan, the affidavit is totally bereft of any material particulars, much less, the prerequisites of Rule 27 of Order XLI of CPC. Excepting for paragraph No.13 of the affidavit and probably paragraph No.10, there is nothing else stated by the appellant with regard to the additional documents. At paragraph No.10, the appellant only says that after the disposal of the suit, he found the original assignment patta in the name of the erstwhile owner and the original sale deed executed by the erstwhile owner in favour of his father.

21. Admittedly, both the documents, even according to the appellant, are in mutilated condition. The documents are in fact filed in original, along with the CMP. The appellant casually states that after suffering an adverse decree of dismissal in the suit, he checked old records in the almirah and he found these documents. This, in my considered opinion, will not qualify the appellant to take advantage of Rule 27 Order



XLI of CPC and seek production of additional documents. The documents shambles actually and from the sale deed, nothing can be made out as regard whether it is the suit property that has been subject matter of the sale deed or any other property. In any event, when the appellants have not satisfied the requirement of Rule 27, I do not see any merit in the application for receipt of additional documents.

22.Further, even before the trial Court, the defendants have exhibited a document to establish that the mother was the owner of the property vide Ex.B14, which is the property tax assessments in the name of the mother. In fact, I find that questions were also put to P.W.1 regarding how he claims that the property was the father's property, for which the plaintiff has stated that there are no documents to establish that the suit property is the property of his father. P.W.2, revenue staff, one John Pandian was examined to establish that the plaintiff had paid property taxes from 1980 to 1990. P.W.2 has not been able to produce the tax receipt register for the said period 1980 to 1990. Ex.B14 series reveals that as early as 1987 – 1988 and as late as in 2014, property tax was collected only in the name of the mother, Mohana. In such circumstances, I do not see any error committed by the trial Court in holding that it was the property of the mother. The trial Court has also rightly found that no evidence whatsoever was let in on the side of the plaintiff to establish that the property was purchased by the father and that he put up construction.



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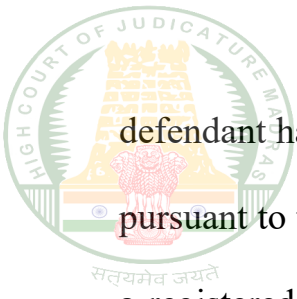
23. Further, as rightly contended by Mr. R. Thiagarajan, the settlement deed executed by the mother and she subsequently claiming absolute right, conveying the property to the 3rd defendant are registered documents, which would certainly impede the right of the plaintiff to seek partition. Under Section 31 of the Specific Relief Act, the plaintiff is obligated to challenge the said registered documents. Admittedly, the same has not been done. Though the 1st defendant has supported the case of the plaintiff, in his cross examination, he admits that the plaintiff was never in possession of the suit property and it was only the 2nd defendant, who was residing there with her mother and taking care of the mother. He even admitted that the property was assessed only in the name of the mother. The 1st defendant also does not deny that he was given compassionate appointment, after the demise of his father. P.W.3, the uncle of both the plaintiff and the defendants 1 and 2 has also stated that Mohana got lands an extent of 1 ½ acres from her parents. Though he deposed that C. Raghavan, the father was paying the property tax, excepting for his oral statement, not a single tax receipt in the name of C. Raghavan has been produced.

24. Thus, having come to Court and being satisfied with merely claiming the relief of partition, without challenging the settlement deed executed by the mother and subsequent sale deed by the 2nd defendant to the 3rd defendant, the plaintiff is not even entitled to any relief. The trial Court has rightly non-suited the plaintiff and even though



much was argued with regard to the alleged oral partition claimed by the 2nd defendant, in pursuance of which, it was agreed that the property would be settled on the 2nd defendant as the 1st defendant was compensated in monetary terms and the plaintiff was given compassionate appointment by the employer of the father, I do not see anything turning on failure of the 2nd defendant to establish the oral partition, since under Ex.B1, which is the property tax collected from the mother, Mohana even as early as in 1980-1981 and also Ex.B14 series for subsequent payments as well in her name and considering that the lands are admittedly grama natham lands, a presumption can safely be drawn that the mother alone was the absolute owner of the property. Once the mother is held to be the owner, she is entitled to settle the property to the 2nd defendant, her daughter to the exclusion of two sons, the plaintiff and the 1st defendant. The subsequent sale deed in favour of the 3rd defendant is also valid and in the absence of challenge to the registered documents, the plaintiff and the 1st defendant cannot be entitled to declaration of any right or share in the property, on the assumption that the property was the father's property.

25. Coming to the decisions, that have been relied on by the learned counsel for the parties, in *Ramdas's case*, the Hon'ble Supreme Court held that a purchaser cannot have a better title when what his vendor had and so long as the property is joint and not partitioned, the appellant is not entitled to get possession and at best the purchaser would be entitled to step into the shoes of his vendor alone. In the present case, however, the 3rd



defendant has produced Ex.B8 for establishing mutation of revenue records in his name, pursuant to the sale deed executed by the 2nd defendant in her favour, that too, by way of a registered document, Ex.B9 for transfer of electricity service connection in her name and also Ex.B10 to Ex.B12, rental agreements to establish possession being with the purchaser. Further, there is also merit in the contention of the learned counsel for the contesting respondents that even the valuation of the suit under Section 37(2) is improper, as the plaintiff was clearly out of not only physical possession, but also constructive possession, to contend that he is in joint possession and take advantage of *ad valorem* fee payable under Section 37(2) was clearly not permissible.

26.In *Ezumalai's case*, this Court held that any receipt or acknowledgement in respect of payment of consideration relating to creation of declaration or assignment of limitation or extinction of any such right, title or even interest, then such instrument, registration is not mandatory and it is only optional. This decision is relied on in respect of the additional documents, especially the alleged sale deed in favour of the father, which is by way of an unregistered sale deed. However, I have already held that the plaintiff/appellant is not entitled to receipt of additional documents. Therefore, this decisions is of no avail.

27.The decision of the Hon'ble Supreme Court in *Mahnoor Fatima Imran's case*, has been relied on only for the purposes of effect of an unregistered sale deed. For the



same reasons that I have not chosen to place reliance on the decision in *Ezumalai's case*, this decision is also not relevant in view of dismissal of the CMP for additional evidence.

28.The Full Bench of this Court, in *Muppudathi Pillai's case*, held that though a document may not be necessary to be set aside and however when if it is left outstanding, it would be a source of potential mischief, then a party against whom a claim under the said document is made, cannot wait till the document is used against him and has to necessarily challenge the same.

29.In *Prem Singh's case*, the Hon'ble Supreme Court held that under Section 31 of the Specific Relief Act, unless a document is *void ab initio*, it has to be necessarily challenged as a nullity.

30.The Hon'ble Supreme Court in *Deccan Paper Mills's case*, referring to nature, scope and object of proceedings under Section 31 of the Specific Relief Act, held that proceedings under Section 31 are '*in personem*' in nature, regardless of whether the instrument cancellation of which is sought is registered or not and the remedy under Section 31 of the Specific Relief Act is to remove the cloud upon title, by removing a potential danger and that the expression "any person" in Section 31 does not include a third party, but is restricted to a party to the written instrument or any person who can

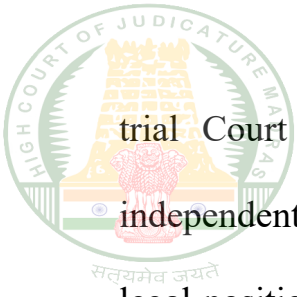


bind such a party. Here, the mother by asserting absolute right and title in the property, has certainly bound the plaintiff and the 1st defendant and therefore, it was absolutely necessary for the plaintiff to seek cancellation of the registered instrument.

31. In *Sneh Gupta's case*, the Hon'ble Supreme Court held that if an order or decree is void or voidable, the same must be set aside and there is no law that where the decree is void, there is no period of limitation for setting aside the same. Here, on the facts of the present case, even in the suit, the documents have not been challenged. Therefore, the claim for partition simpliciter cannot be entertained by the Court and the trial Court has rightly dismissed the suit.

32. In *Abdul Rahim's case*, the Hon'ble Supreme Court held that when the son claimed a gift from his father under Mahomedan law and the son was collecting rents from tenants, it would suffice to hold that the gift had been acted upon, as constructive possession stood with the tenant and the son was collecting rents from the tenants, even during the pre-mutation period.

33. Even applying the ratio laid down in the above cases, I do not find any of them coming to the rescue of the plaintiff for this Court to hold that the suit for partition, without seeking cancellation of the settlement deed and sale deed in favour of the 2nd defendant and 3rd defendant respectively is even maintainable in the first instance. The



trial Court has rightly dismissed the suit and in my considered opinion, independent assessment of oral and documentary evidence and application of the settled legal position of law. I do not see any requirement to interfere with the well considered findings of the trial Court in these appeals. The points are answered against the appellant and in favour of the respondents in both the appeals.

34.Result:

In fine, the Appeal Suits are dismissed with costs. CMP.No.16161 of 2022 is also dismissed. Connected CMP.Nos.16162, 16163 and 18030 of 2022 are closed.

30.03.2026

Neutral Citation Case : Yes / No
Speaking / Non-speaking order
Index : Yes/No
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To

- 1.The II Additional District and Sessions Judge, Tiruvallur.
- 2.The Sub Registrar, Sub Registrar Office, Uthukottai Taluk, Tiruvarur District.



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P.B.BALAJI.J.

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Pre-delivery Judgment made in
A.S.Nos.448 & 496 of 2022
& CMP.Nos.16161 to 16163 of 2022
& CMP.No.18030 of 2022

30.03.2026