



WEB COPY

A.S.No.620 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2026

CORAM

THE HONOURABLE MR . JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

A.S.No.620 of 2023

&

C.M.P.No.21480 of 2023

Presentation Convent
No.1253, Periya Kadai Street
Coimbatore Town, Coimbatore

... Appellant

Versus

- 1.Somasundaram
2. Gajalakshmi
3. Soundarrajan
4. Parameswari
5. Kumari
- 6.Prabavathi
7. Mala
- 8.Uma Maheswari
9. Darani
10. Malarkodi
11. Selvamani
12. Kamala
13. Geetha
14. Thara
15. Srinivasan

1/8



A.S.No.620 of 2023

16. Kaliraj
- Rambai (Died)
17. Mala
18. Kala
19. G.Venkatesan
20. Saraswathy
- 21.K.Prabavathi
22. Chandrasekaran S.Siva
23. S.Ramu
24. Thatshyani
25. Rajalakshmi
26. Manjula
27. Balasundaram
28. Santhanalakshmi
- 29.Sethuraman

... Respondents

[R8 died R21 to R24 are brought on record as LR's of deceased R8 vide Court order dated 12.02.2025 made in C.M.P.No.3641, 3644 and 3647 of 2026 in A.S.No.620 of 2023]

[R4 died, R25 to R29 are brought on record as LR's of deceased R4 vide order dated 20.02.2026 made in C.M.P.No.5041 of 2026 in A.S.No.620 of 2023]

First Appeal filed under Section 96 of CPC to set aside the judgment and decree dated 10.03.2023 in O.S.No.280 of 2009 on the file of Additional District Court, Kancheepuram at Chengalpet.

For Appellant : Mr.R.Subramanian

For Respondents : Mr.S.Sarathkumar
for R25 to R29
R1 to R3, R8 to R10, R12 to R14 -
No Appearance
R4 – Died

RR5, 6, & 7 Unserved (No such person)

R11, 15 to 20-Given up



A.S.No.620 of 2023

JUDGMENT

(Judgment of the Court was made by **N.SATHISH KUMAR, J.**)

The eighth defendant, who was the purchaser of the property from the Defendants 1 and 2, is before this Court challenging the finding of the trial Court holding that the sale deeds dated 12.04.2006 as null and void and not binding on the plaintiffs in respect of their shares is concerned.

2. The following facts are necessary for disposal of this appeal:

The suit property originally belong to one Dhanabakyammal. She died intestate leaving behind three sons and four daughters. Defendants 1 and 2 and 4th Plaintiff and 8th plaintiff are the surviving sons and daughters of said Dhanabakyammal. Plaintiffs 1 to 3 and Defendants 3 to 5 are the legal heirs of Jagadeeshwari, another daughter of Dhanabakyammal. It is their contention that Defendants 1 and 2, who were in enjoyment of the property without the consent of other sharers, sold the property to 7th and 8th defendants stating that they are the only legal heirs and executed the Power of Attorney in favour of one P.Alagarsamy. They dealt with the property in favour of the 7th and 8th defendants. Hence the plaintiffs being the sharers filed a suit seeking preliminary decree besides challenging the documents executed by Defendants 1 and 2. Defendants 2 to 7 and 10 to 13 remained

3/8



A.S.No.620 of 2023

ex parte. 8th defendant, who is the purchaser, alone contested the suit.

According to him, he has purchased the property from Defendants 1 and 2.

In fact Defendants 1 and 2 were in possession of the properties and he has purchased the property on 12.04.2007 and 09.05.2007 from Power of Attorney of Defendants 1 and 2 and he is the *bonafide* purchaser. The 8th defendant has also taken the plea of non-joinder of necessary parties.

3. Based on the above pleadings, following issues were framed.

i) *Whether the plaintiff is entitled for the relief of declaration as prayed under suit Reliefs “A” and “B”?*

ii) *Whether the plaintiff is entitled for the relief of Preliminary decree for partition and recovery of possession as prayed?*

Iii) *Whether the suit is bad for non-joinder of necessary parties?*

iv) *Whether correct Court fee paid by the plaintiffs?*

v) *To what other reliefs?*

4. Before the Tribunal, on the side of the plaintiffs, 8th plaintiff was examined as PW1 and Exs.A1 to A7 were marked and on the side of the defendants, 8th defendant was examined as DW1 and Exs.B1 to B4 were marked.



A.S.No.620 of 2023

5. On appreciation both oral and documentary evidence adduced by the parties, the trial Court granted a preliminary decree for division of the property into 84 equal shares and granted 53 share in favour of the plaintiffs. While granting preliminary decree, the trial Court also set aside the sale deeds dated 09.05.2007 and 12.04.2006 executed in favour of 7th and 8th defendants as null and void. Challenging the said judgment and decree, the 8th defendant has filed the present appeal.

6. The main contention of the learned counsel for appellant Mr.R.Subramanian is that the trial Court ought not to have held the sale deeds to null and void and on the other hand, trial Court ought to have held that the sales will not be binding on the shares of plaintiffs and other sharers and only on that ground he challenges the finding of the trial Court.

7. We heard the learned counsel for the respondents.

8. In the light of the above submissions, the only point that arises for consideration is, *whether finding of the trial Court declaring the entire sale deed executed by DWs 1 and 2 in favour of 7th and 8th defendant as void document is correct in the eye of law?*



A.S.No.620 of 2023

9. We have perused the entire materials placed before this Court.

WEB COPY

10. It is not in dispute that the property was originally owned by one Dhanabakyammal by virtue of sale deeds dated 24.09.1949 and 25.03.1950 (Exs.A1 and A2). The said Dhanabakyammal died intestate on 09.03.2009 leaving behind her three sons and four daughters. This aspect is also not disputed and the plaintiffs 1 to 3 and defendants 3 to 5 are the legal heirs of one of the daughters. All these facts are not in dispute. Admittedly, DWs 1 and 2 alone sold the property in favour of the appellant. It is relevant to note that alienation or sale of the undivided share is not prohibited. Any one of the co-owners can deal with his share and sell the property as per Section 44 of the Transfer of Property Act, 1882 for such sale. Only exception is that purchaser cannot seek joint possession. Therefore, the sale made in favour of 7th and 8th defendants by Defendants 1 and 2 cannot be held to be void in entirety. At the most, such sale will not binding only in respect of the shares of other sharers.



A.S.No.620 of 2023

In such view of the matter, this appeal is partly allowed and the finding of the trial Court holding both the sale deeds as *void ab initio* alone is set aside and the finding of the trial Court holding that sale is not binding on the plaintiffs is confirmed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[N.S.K.,J.] [V.L.N.,J.]
20.02.2026

Index: Yes/No
Neutral Citation: Yes
gpa

To

1. The Additional District Court
Kancheepuram at Chengalpet
2. The Section Officer
VR Section
Madras High Court



WEB COPY



A.S.No.620 of 2023
N.SATHISH KUMAR, J.,
AND

V. LAKSHMINARAYANAN, J.,

gpa

A.S.No.620 of 2023

20.02.2026