



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 629 of 2025 &

CMP.Nos.21927 & 21928 of 2025

1. Rajalakshmi
W/o. Late. Sriramaiya
Mudhukuruki Village and Post, Berigai Via,
Hosur Taluk, Krishnagiri District.
Munivenkatamma (Deceased)
2. Dilip Kumar
S/o. Sriramaiya
Mudhukuruki Village and Post, Berigai Via,
Hosur Taluk, Krishnagiri District.
3. Sunil Kumar
S/o. Sriramaiya
Mudhukuruki Village and Post, Berigai Via,
Hosur Taluk, Krishnagiri District.
4. Midhin Kumar
S/o. Sriramaiya
Mudhukuruki Village and Post, Berigai Via,
Hosur Taluk, Krishnagiri District.
5. Padmavathi
W/o. Venkatappa Sandashwari Tiffin Center,
Rajivgandhi Road, Jeragangahalli Village,
Kanakapura Main Road, Bangalore 25
Chandhrasekar (Deceased)
6. Sneha
D/o. Chandrasekar
No. 147, P.S.R. Building, Chikka Banasavadi,
3rd Cross, Near Batta Show Room, Dodda
Banisavadi Post, Bangalore 43



7. Rakesh
S/o. Chandrasekar
No. 147, P.S.R. Building, Chikka Banasavadi,
3rd Cross, Near Batta Show Room, Dodda
Banisavadi Post, Bangalore 43

8. Anitha
W/o. Chandrasekar
No. 306, 3rd Cross, Gmain HRBR Layout,
Bangalore

..Appellant(s)

Vs

1. Rukmaniyamma
W/o. Sankarappa
No. 325/18, 3rd Cross Street, Babusab Palya,
Kallanyan Nagar Post, Bangalore 47
2. Sankar Reddy
S/o. Late. Munusamyappa Reddy, Door No.
663/A, 13th Cross, Sector 01, HSR Layout,
Bangalore 560034
3. A.M. Marisamy
S/o. Late. Munichikkaiya
Agragaram Village and Post, Baakuir Hubli,
Bangalore South Taluk, Bangalore 34
4. E.Venkateshappa
S/o. Late. Erappa
Mudhukurukki Village and Post, Hosur Taluk,
Krishnagiri Dist.
5. Ramachindrappa
S/o. late.S.S. Narayana Gowda
Sokkapuram Village, Kudisathanapalli Post,
Hosur Taluk, Krishnagiri Dist.
6. Basappa
S/o. Anumanthappa
S.Thattanapalli Village, Mudhukurukki Post,
Hosur Taluk, Krishnagiri Dist.



7. Narayanappa
S/o. Anumanthappa
S.Thattanapalli Village, Mudhukurukki Post,
Hosur Taluk, Krishnagiri Dist.
8. E.Venkateshappa
S/o. Anumanthappa
S.Thattanapalli Village, Mudhukurukki Post,
Hosur Taluk, Krishnagiri Dist.
9. Mukunth Srinivas Valvekar
S/o. Late. Srinivas Pandurang Valvekar
No. 1041, Sopa Aastar, Vijaya Bank Colony,
Iyappa Swami Kovil Opposite, Plagahalli Post,
Bangalore 560 076, Karnataka
10. Ashwini Mukunth Valvekar
W/o. Late. Srinivas Pandurang Valvekar
No. 1041, Sopa Aastar, Vijaya Bank Colony,
Iyappa Swami Kovil Opposite, Plagahalli Post,
Bangalore 560 076, Karnataka
11. Parvathammal
W/o. Eerappaa
No. 25, Sri Swagath Dharshini, Kanakapura
Main Road, Elsanahalli Village, Saraki Post,
Bangalore 78

..Respondent(s)

Prayer : Second Appeal filed under section 100 of Code of Civil Procedure to set aside the Judgment and Decree made in A.S No. 39 of 2019 dated 05.04.2025 on the file of the Additional District Judge at Hosur in confirming the Judgment and Decree made in OS No. 81 of 2008 dated 09.03.2016 on the file of the Subordinate Judge at Hosur by allowing the present Second Appeal.

For Appellant(s): Mr.R.Jayaprakash

For Respondent(s): Mr.J.James – R1

Mr.Vimal B.Crimson – R11



JUDGMENT

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Challenging the concurrent findings of the Courts below, the defendants 1 to 6 and 8 to 10 have filed the present Second Appeal.

2. The plaintiff had filed the suit for partition and for allotment of 7/36th share in the suit properties to the plaintiff and for separate possession, for permanent injunction restraining the defendants from creating any encumbrance of the suit properties and for declaration to declare that the sale deeds dated 23.12.1996, 03.10.2005, 20.01.2006, 12.07.2007 and 14.06.2012 as null and void.

3. The case of the plaintiff is that the suit properties are ancestral properties and the first defendant, plaintiff, Sri Ramayya, defendants 6 to 8 are jointly enjoying the properties. The said Sri Ramayya died on 17.04.2006 and his legal heirs are the defendants 2 to 5. The 9th and 10th defendants are the legal heirs of the deceased 8th defendant. During the life time of the said Sri Ramayya, he acted as a kartha of the joint family properties and managed the suit properties and gave magasool to the plaintiff. After his demise, the defendants 1 to 10 had refused to give magasool to the plaintiff and hence, the plaintiff filed the suit for partition. Further the first defendant refused to partition the suit properties and the defendants 1 to 10 have sold the suit



properties to the defendants 11 to 17. Hence, the plaintiff has filed the suit for aforesaid reliefs.

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4. It is the contention of the defendants 1, 2, 6, 8 to 10 that the suit properties are not joint family properties and the plaintiff is not in possession of the suit property. The sale deeds were executed only for the purpose of the marriage of the plaintiff's daughter and therefore the said documents bind the plaintiff and the defendants are in possession and enjoyment of the suit properties and the plaintiff has no share in the suit properties.

5. It is the contention of the defendants 9 and 10 that some of the properties were sold with the consent and knowledge of the plaintiff. The contention of the defendants 11 and 12 is that the plaintiff was given share in the joint family properties before 35 years when she was married and therefore, the plaintiff is not entitled to any share in the suit property. It is the contention of the defendants 18 and 19 is that they had purchased the property from the defendants 1 to 5 for valid sale consideration and they are bonafide purchasers and therefore, the sale deed binds the plaintiff. Hence, the defendants sought for dismissal of the suit as the suit is not maintainable.

6. On the basis of the above pleadings, the trial Court framed the following issues :



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1. Whether the suit properties are joint family properties as stating by the plaintiff in the plaint?

2. Whether there is no partition between the parties in respect of the suit properties?

3. Whether the plaintiff is entitled to a share in the suit properties, if so, how much she is entitled to?

4. To what other relief, the parties are entitled?

Additional Issues :

1. Whether the defendants 18 and 19 are bonafide purchasers?

2. Whether the plaintiff is entitled to the declaration that the sale deeds are null and void as prayed for?

7. During the course of trial, on the side of the plaintiff, P.W.1 was examined and Ex.A1 to A10 were marked. On the side of the defendants, no witness was examined, only Ex.B.1 has been marked on their side.

8. The appellants are the defendants 1 to 6 and 8 to 10 in the suit. The 8th appellant is the legal heir of the 8th defendant. Before the trial Court, the appellants have not appeared and they remained exparte. In the suit, preliminary decree for partition with respect to certain properties has been granted in favour of the plaintiff. Aggrieved over the same, the defendants have



filed the appeal in A.S.No.39 of 2019, wherein, the defendants had sought to adduce additional evidence, more particularly to produce the release deed said to have been executed by the plaintiff and others and also sought for permission to give additional evidence, which has not been permitted by the first appellate Court on the ground that they had not produced those documents before the trial Court and they had not assigned any reason for non production of the same before the trial Court. Aggrieved over the same, now the present Second Appeal has been filed.

9. The learned counsel appearing for the appellants would argue that due to lack of communication, they have not appeared before the trial Court and therefore, they are not able to produce the document. Hence, they sought for filing additional evidence before the first appellate Court. He would further submit that they are having good defence in the suit and the sale of the property is with the consent of the plaintiff and the defendants 11 to 19 are bonafide purchasers of the property.

10. It is the contention of the learned counsel appearing for the first respondent/plaintiff that possession of the property has not been taken and the defendants have not entered into the box and adduced any evidence and they had marked only one document Ex.B.1 on their side. He would further contend that though sufficient opportunity has been given to the appellants, they had not



adduced any evidence. Hence, prayed for dismissal of the Second Appeal.

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11. Considering the facts and circumstances of the case and to avoid multiplicity of proceedings and to give one more opportunity to the appellants, this Court is inclined to remand this matter to the trial Court and the trial Court shall give an opportunity to the appellants and record evidence on either side afresh and dispose of the suit in O.S.No.81 of 2008 within a period of three months from the date of receipt of a copy of this Order.

12. With the above observations, this Second Appeal is disposed of and the suit in O.S.No.81 of 2008 is remanded to the trial Court on condition that the appellant shall pay costs of Rs.30,000/- [Rupees thirty thousand only] to the first respondent counsel or/plaintiff within a period of one month. No costs. Consequently, connected miscellaneous petitions are closed.

26-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

vrc

To,

1. The Subordinate Judge, Hosur.
2. The Additional District Judge, Hosur.
3. The Section Officer,
VR Section, High Court, Madras.



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T.V.THAMILSELVI, J.

VRC

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