



CRP.No.422 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**RESERVED ON :09.12.2025**

**PRONOUNCED ON :08.01.2026**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

CRP.No.422 of 2024  
and CMP.No.2012 of 2024

1.Kannan  
2.V.Balasubramaniam  
3.Thennarasu  
4.Yogalakshmi  
5.Kalaivani  
6.Sridevi

... Petitioners

vs.

1.Santhamani  
2.Poongodi  
3.Saraswathy  
4.Kathiresan  
5.Duraisamy  
6.Ramathal  
7.Gowtham  
8.Rathika

... Respondents

**PRAYER:** Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and final order dated 07.07.2023 passed in I.A.No.314 of 2021 in O.S.No.42 of 2020 on the file of the Additional District Munsif Court, Tiruppur.



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For Petitioners : Mr.S.Mukunth  
Senior Advocate  
for M/s.N.Somasundaar

For Respondents : Mr.K.Myilsamy

## **J U D G M E N T**

The Civil Revision Petition is filed challenging the order passed by the trial Court, dismissing the application filed by the petitioners seeking rejection of the plaint.

2. The respondents herein filed a suit seeking declaration that sale deed with document No.1987 of 2001 registered on the file of Joint Sub Registrar, Gobichettipalayam in favour of defendants 3 to 6 by defendants 1 to 2 was null and void and for consequential declaration regarding invalidity of various documents came into existence subsequent to the first document. The respondent also sought for injunction restraining the defendants from alienating the suit properties.

3. According to the respondents/plaintiffs, the suit property was self acquired property of father of the respondents 1 and 2 and grand father of

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the respondents 3 to 8 namely Velusamy @ Velappan having purchased the same under sale deed dated 24.08.1970. The above said Velusamy, the respondents 1 and 2 and predecessor in interest of other respondents executed a power deed on 04.03.1996 in respect of the suit property in favour of defendants 1 and 2. Subsequently, the Velusamy died on 16.01.2001 leaving behind the respondents herein as his legal representatives. Thereafter, the defendants 1 and 2 executed impugned sale deed in favour of defendants 3 to 6 on 03.12.2001 in their capacity as power agent of Velusamy and respondents. Thereafter, various sale transaction had taken place among the other defendants and on 10.08.2019, the defendants 1 to 6 came to suit property to measure the same, then only plaintiff had taken encumbrance certificate and acquired knowledge about the sale deeds executed by the defendants 1 and 2 in favour of defendants 3 and 6 and the other subsequent documents. Hence, the suit was laid for the above said relief.

4. The petitioners/defendants 7 to 12 filed an application to reject the plaint on the ground that the first prayer in the suit, challenging the sale deed dated 03.12.2001 is barred by limitation and as a consequence other suit



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prayers are also not maintainable. It is further stated that as per the plaintiff's averment, there is no cause of action for challenging the impugned sale deed and therefore, the plaint is liable to be rejected under Order VII Rule 11 (a) (d) of CPC. The trial Court not satisfied with the grounds urged before it and dismissed the application for rejection of the plaint. Aggrieved by the same, the petitioners have come before this Court.

5. The learned Senior Counsel appearing for the petitioner would submit that the first prayer in the plaint, challenging the sale deed dated 03.12.2001 is hopelessly barred by limitation as the suit had been filed nearly after 19 years. It is submitted by him that the petitioners were party to the sale deed dated 03.12.2001 as they are represented by the power agent and hence they cannot plead ignorance of the sale deed and challenge the same after 19 years. It is further stated that if the first prayer in the plaint is rejected, automatically the other prayers seeking invalidity of consequential sale deeds executed by the defendants would also become not maintainable.



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6. The learned counsel also submitted that the averment in the plaint, as if the plaintiffs acquired knowledge about the sale deed only on 10.08.2019, after obtaining encumbrance certificate was made for the purpose of the case just to bring the suit within limitation and hence the cause of action pleaded is illusory one.

7. Per contra, the learned counsel appearing for the respondent would submit that even before the execution of sale deed dated 03.12.2001, the above mentioned Velusamy died on 16.01.2001. In such circumstances, the power deed executed in favour of defendants 1 and 2 had become inoperative as far as share of the Velusamy is concerned. In such circumstances, at least to that extent, sale deed dated 03.12.2001 becomes invalid and hence the suit cannot be rejected in *toto*. He further submitted that the defendants 1 and 2 sold the property to the wife of defendants 1 and 2 and others. Hence, the sale transaction is a collusive one just to defeat the rights of the plaintiffs. He further submitted that the question of limitation is a mixed question of fact and law and the same cannot be the basis in the case on hand for rejection of the plaint.



8. It is seen from the sequence of event, Velusamy died on 16.01.2001 leaving behind the respondents herein as his legal representatives. Only after his death, the defendants 1 and 2 executed impugned sale deed in favour of defendants 3 to 6 on 03.12.2001 in their capacity as power agent of Velusamy and respondents. Therefore, it has to be seen, whether the sale deed executed by power agent will also cover the share of Velusamy who died. Normally, on the death of principal, the power will get terminated by operation of law. However, in the case on hand, on death of Velusamy, his interest in the property devolves on other principals who are also joint executants of the power deed. In view of the peculiar circumstances, whether the sale deed executed by power agent can be treated as valid in respect of entire property including the share of deceased Velusamy is a moot question. The law relating to termination of the power, in case of death of one of the principals who jointly executed power deed with other principals came up for consideration before the Division Bench of this this Court in *K.A. Meeran Mohideen vs. Sheik Amjad and Ors.* Reported in *MANU/TN/5483/2024*. The Division Bench after referring to various decided cases observed as follows:



15. *From the precedents Discussed above, we will have to necessarily reach the conclusion that a power of attorney deed executed by several persons, which cannot be said to be coupled with interest, is not automatically terminated on the death of one of the principals. The question of termination would necessarily depend on the facts and circumstances of each case. We are aware of the fact that we cannot exhaustively elucidate various circumstances, under which, the power will terminate or survive. We could only lay down broad guidelines. The termination will necessarily be,*

*(i) dependent on the facts and circumstances of each case.*

*(ii) The intention of the parties at the time of execution of the power which could be gathered either from the recitals in the instrument or from other circumstances that are placed before the Court, will play an important role in the decision making process.*

*(iii) If it is shown that the intention of the parties was that the power was to continue even after death of one of the*



*executants as laid down by the Calcutta High Court in Re Sital Prosad's (supra) and this Court in Garapati Venkanna's case, (supra), the agency will continue till the object sought to be achieved is complete.*

*(iv) If it is shown that the principals had specific interest, independent of each other, like two joint owners executing a power for sale of the property, if their share is specific, the power will stand terminated in respect of the joint owner who dies. If the interest is unascertainable like that of an interest in the coparcenary of a joint family and the intention is shown to be to survive even after the death of one of the principals, the termination will not be automatic.*

*16. We hasten to add that these are only few instances and the ultimate conclusion would depend upon the evidence that is made available and the recitals in the instrument. If the interest of the deceased principal is separable from that of the surviving principal's, then, the power would not survive in respect of the deceased principal.*



9. The Division Bench further added in case of power coupled with interest death of one of the principals will not result in termination of the power with reference to his interest. The relevant portion reads as follows:

*17. Adverting to the question of power coupled with interest if it is demonstrated that the power is coupled with interest, then the termination is governed strictly by Section 202 of the Indian Contract Act, 1872, and in such event, death of one of the principals will not result in termination of the power even with reference to his interest.*

10. In the case on hand, as per the plaint averment, the property was purchased by Velusamy @ Velappan on 24.08.1970. However, in paragraph No.4 of the plaint, it was stated that the property belongs to the plaintiffs ancestrally. If we look at the recitals in the general power deed, it was stated that the property was self acquired property of Velusamy and the same belonged to plaintiffs ancestrally. The property also appeared to have been allotted to Velusamy in a partition dated 24.02.1995. If the suit property was the self acquired property of Velusamy, absolutely, there was no necessity for him to include his descendants namely the plaintiffs as executants, while executing the power of attorney in favour of defendants 1 and 2. So it has



to be decided, whether the property was treated as joint family property at the time of execution of general power of attorney. If it is joint family property then on the death of Velusamy, the property will go to the plaintiffs or atleast some of the plaintiffs by way of survivorship.

11. Therefore, as per the law settled by the Division Bench of this Court in the above mentioned case law, whether power deed executed in favour of defendants 1 and 2 got terminated in so far as interest of the Velusamy on his death automatically or not is a matter to be decided based on various facts which have to be proved by leading evidence. If it is ultimately shown power deed executed by Velusamy in favour of defendants 1 and 2 got terminated on death of Velusamy, in so far as his interest is concerned, then automatically the sale deed executed by the defendants 1 and 2 in favour of other defendants in their capacity as power agent will become invalid, at least in respect of Velusamy's share. In such circumstances, the sale deed will become *void ab initio* in so far as Velusamy's share is concerned. In that event, as far as share of Velusamy is concerned the sale deed shall be treated as void from the inception. Therefore, the plaint cannot be rejected in *toto*.



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12. Therefore, I feel it is not a fit case to invoke Order VII Rule 11 of

CPC to reject the plaint and parties shall be relegated to face the trial to decide the question, with regard to the effect of death of Velusamy on the validity of the sale deed governed by first prayer in the plaint. Therefore, I concur with the conclusion reached by the trial Court and accordingly, the Civil Revision Petition stands dismissed. The trial Court shall decide the suit on merits, without being influenced in any way by observation made in this order. No costs. Consequently, connected miscellaneous petition is closed.

08.01.2026

Index : Yes/No  
Speaking order: Yes/No  
Neutral Citation: Yes/No  
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To

The Additional District Munsif Court,  
Tiruppur.



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**S.SOUNTHAR, J.**

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