



A.S.No.91 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.11.2025
PRONOUNCED ON : 09.06.2026

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CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

A.S. No. 91 of 2020
and
C.M.P. No. 15285 of 2025

1. Shanmugam,
S/o.C.Chennai malai,
89/55, Muniappan Koil Street,
Manickampalayam,
Veerappanchatram,
Erode-638 004,
Erode Taluk, Erode District.

2. Prabhu,
S/o.C.Sivanmalai,
No.92, Muniappan Koil Street,
Manickampalayam,
Veerappanchatram,
Erode – 638 004, Erode Taluk,
Erode District.

..Appellants/Plaintiffs

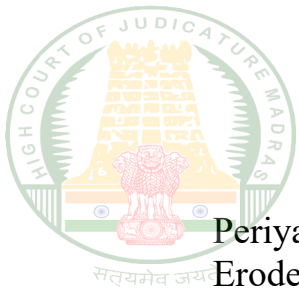
Vs.

1. R. Kalaiselvi,
W/o.late M.C.Ramasamy

2. R. Naveenkumar,
S/o.late M.C.Ramasamy

3. R. Gopalakrishnan,
S/o.Late M.C.Ramasamy

Nos.1 to 3 are residing at:
187/303, E.P.B.Nagar,
1/24



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Periyasemur Village,
Erode – 638 004,
Erode Taluk, Erode District.

4.C.Jayarathinam,
W/o.C.Chinnusamy,
429, Policekarar Thottam,
Manickampalayam,
Periyasemur Village,
Erode – 638 004,
Erode Taluk, Erode District.

5.Marayammal, (Died)
W/o.Chinnappan,
Osukadu Thottam,
Manickampalayam,
Periyasemur Village,
Erode – 638 004,
Erode Taluk, Erode District.

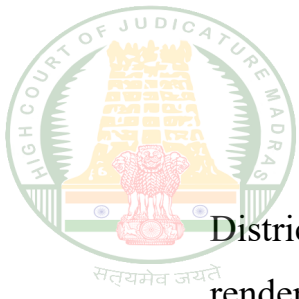
6.Chennimalai,
S/o.Chinnappa Gounder,
89, Muniappan kovil Street,
Manickampalayam,
Erode – 638 001.

7.Sivanamalai,
S/o.Late Chinnappa Gounder,
92, Muniappan Kovil Street,
Manickampalayam,
Erode – 638 001.

(R6 & R7 brought on record as L.R.s of
the deceased, R5 vide order of court dated
06.12.2019 made in C.M.P.Nos.24829 of
2019 in A.S.S.R.No.132 of 2015)

..Respondents/defendants

PRAYER in A.S.: Appeal suit filed praying to set aside the Judgment and decree
dated 10.02.2014 made in O.S.No.217 of 2012 on the file of the Principal
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District Court, Erode by allowing this first appeal before this Court and thus render justice.

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PRAYER IN C.M.P.: Civil Miscellaneous Petition filed praying to permit the petitioner to produce the petition mentioned list of documents as additional the evidences in the above A.S.No.91/2020 on the file of this Honourable Court and thus render justice.

For Appellant(s): Mr.N.Manokaran.

For Respondent(s): Mr.Arun Anbumani for
Mr.M.Guruprasad for R1 to R3.

Mr.S.Rajmakesh for R4.

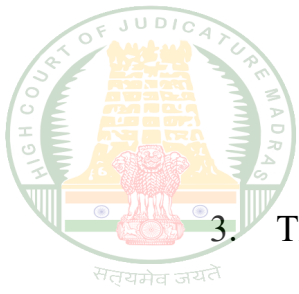
R5 – Died.

R6 & R7 – No appearance.

J U D G M E N T

This Appeal Suit is filed by the plaintiffs against the judgment and decree dated 10.02.2014 in O.S.No.217 of 2012 on the file of the Principal District Judge, Erode, whereby the trial Court dismissed the suit for partition, separate possession and permanent injunction with costs.

2. For convenience, the parties are referred to as they were arrayed before the trial Court.



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3. The plaintiffs are Shanmugam and Prabhu. They are the grandsons of the 5th defendant Marayammal. Defendants 2 and 3, namely, R. Naveenkumar and R. Gopalakrishnan, are also the grandsons of Marayammal. The 1st defendant R. Kalaiselvi is the widow of M.C. Ramasamy, who was the son of Marayammal. The 4th defendant C. Jayarathinam claims to be a purchaser from defendants 1 to 3.

4. The suit property is situated at Periyasemur Village, Erode Taluk, in R.S.No.474/4, corresponding to old Survey No.293-A. The total extent is 96 cents.

5. Case of Plaintiffs: The plaintiffs pleaded that the suit property originally belonged to the 5th defendant Marayammal. They stated that she executed two registered settlement deeds dated 09.09.2009, one in favour of the 1st plaintiff for 32 cents and another in favour of the 2nd plaintiff for 32 cents. According to them, both settlement deeds were accepted and possession was delivered to them.

6. The plaintiffs further pleaded that on 27.09.2009, the 3rd defendant attempted to trespass into the property. Therefore, the plaintiffs filed O.S.No.545 of 2009 before the Principal District Munsif, Erode, for permanent injunction against the 3rd and 5th defendants. According to



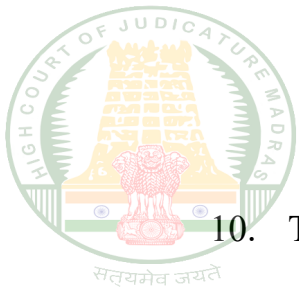
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the plaintiffs, in that suit the Court observed that the parties should work out their rights by a comprehensive suit for partition.

7. The plaintiffs also pleaded that Marayammal had earlier executed a settlement deed dated 05.03.2003 in favour of her son M.C. Ramasamy for 10 cents. After the death of the said Ramasamy, defendants 1 to 3 sold the said 10 cents to the 4th defendant under a registered sale deed dated 03.03.2010.

8. The plaintiffs further stated that Marayammal executed another settlement deed dated 06.05.2011 in their favour in respect of the remaining 22 cents. Thus, according to them, they became entitled to 86 cents, namely 64 cents under the two settlement deeds dated 09.09.2009 and 22 cents under the settlement deed dated 06.05.2011. They admitted that the 4th defendant could claim only the remaining 10 cents.

9. The plaintiffs claimed that there was no permanent partition. They stated that they and the 4th defendant were in joint possession and enjoyment of the suit property. According to them, they demanded partition in the last week of September 2012, but the 4th defendant was not willing for amicable partition. They also alleged that the 4th defendant attempted to interfere with their possession.



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10. Therefore, the plaintiffs prayed for partition and separate possession of 86 cents by metes and bounds, for appointment of a Commissioner, and for permanent injunction restraining the 4th defendant from trespassing into the suit property or disturbing their possession till final partition.

11. The 3rd defendant filed a written statement and defendants 1 and 2 adopted it. They admitted the relationship between the parties and the original ownership of Marayammal. They denied the claim of the plaintiffs for 86 cents.

12. According to defendants 1 to 3, Marayammal executed a settlement deed dated 05.03.2003 in favour of her son M.C. Ramasamy in respect of a specific extent of 10 cents out of 96 cents. Ramasamy accepted the settlement and enjoyed the property. After his death, defendants 1 to 3, as his legal heirs, became entitled to that 10 cents. They sold the said 10 cents to the 4th defendant under the sale deed dated 03.03.2010 and delivered possession to her.

13. Defendants 1 to 3 further pleaded that on 01.09.2009, Marayammal executed a registered settlement deed in favour of the 3rd defendant in respect of 24 cents with specific boundaries. The 3rd defendant accepted



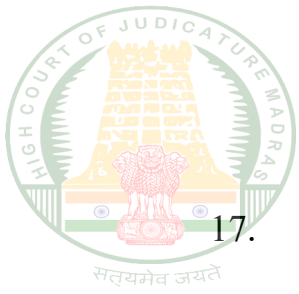
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the settlement and took possession. Therefore, according to them, after the settlement of 10 cents in favour of Ramasamy and 24 cents in favour of the 3rd defendant, Marayammal had only 62 cents left.

14. Defendants 1 to 3 denied the plaintiffs' claim under the settlement deeds dated 09.09.2009. They pleaded that even if such documents existed, Marayammal could not convey more than 62 cents. They also stated that the settlement deed dated 01.09.2009 in favour of the 3rd defendant was absolute and irrevocable. Hence, the alleged cancellation deed dated 09.09.2009 could not take away the 3rd defendant's right.

15. They further alleged that the plaintiffs suppressed the settlement deed dated 01.09.2009 in favour of the 3rd defendant. According to them, the plaintiffs were fully aware of this document because the same dispute had already arisen in O.S.No.545 of 2009. They contended that the plaintiffs had filed the present suit without disclosing material facts.

16. They also contended that the settlement deed dated 06.05.2011 in favour of the plaintiffs was not true, valid or binding. According to them, by that date Marayammal had no subsisting right beyond 62 cents. Therefore, she could not settle 22 cents already covered by earlier transactions.



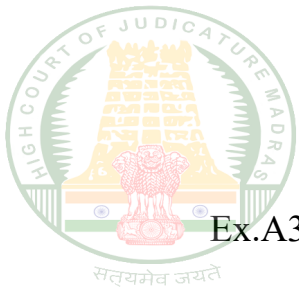
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17. The 4th defendant pleaded that she purchased 10 cents from defendants 1 to 3 under the registered sale deed dated 03.03.2010. She claimed title and possession over the said 10 cents with specific boundaries.

18. She also pleaded that the plaintiffs had already litigated the matter in O.S.No.545 of 2009 and A.S. No. 4 of 2013. According to her, the plaintiffs were found entitled only to 62 cents. She stated that the plaintiffs could not again seek partition for 96 cents by including the 10 cents purchased by her and the 24 cents belonging to the 3rd defendant.

19. The 5th defendant Marayammal filed the written statement where she admitted the execution of the settlement deeds in favour of the plaintiffs. She also stated that the settlement deed dated 01.09.2009 in favour of the 3rd defendant was obtained by fraud and misrepresentation.

20. Before the trial court on the side of the plaintiffs, P.Ws.1 to 3 were examined P.W.1 is the 1st plaintiff Shanmugam. P.W.2 is R. Kumaresan and P.W.3 is A. Dhamodharan. Exs.A1 to A8 were marked on the side of the Plaintiffs. Ex.A1 - settlement deed dated 05.03.2003 in favour of M.C. Ramasamy for 10 cents. Ex.A2 - sale deed dated 03.03.2010 executed by defendants 1 to 3 in favour of the 4th defendant for 10 cents.



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Ex.A3 - settlement deed dated 06.05.2011 relied on by the plaintiffs for 22 cents. Ex.A4 and Ex.A5 - judgment and decree in O.S.No.545 of 2009. Ex.A8 - judgment in A.S.No.4 of 2013 dated 27.08.2013.

21. On the side of the defendants, D.Ws.1 to 3 were examined and Exs.B1 to B6 were marked. D.W.1 is the 3rd defendant Gopalakrishnan. D.W.2 is Chinnasamy. D.W.3 is the 5th defendant Marayammal. Ex.B1 settlement deed dated 05.03.2003 in favour of M.C. Ramasamy for 10 cents , Ex.B2 - settlement deed dated 01.09.2009 in favour of the 3rd defendant for 24 cents, Ex. B3- kist receipt, Ex. B4- settlement deed dated 06.05.2011 relied on by the plaintiffs for 22 cents, Ex.B5- patta , Ex.B6 - written statement in O.S.No.545 of 2009.

22. On appreciation of oral and documentary evidence the trial Court found that Marayammal was the original owner of the entire extent of 96 cents. It held that the settlement deed dated 05.03.2003 executed in favour of M.C. Ramasamy in respect of 10 cents was admitted and had been acted upon. After the death of Ramasamy, defendants 1 to 3 sold the said 10 cents to the 4th defendant under Ex.A2 sale deed dated 03.03.2010, and therefore the 4th defendant was held to be the owner of that extent. The trial Court also accepted Ex.B2 settlement deed dated 01.09.2009 executed in favour of the 3rd defendant in respect of 24 cents,

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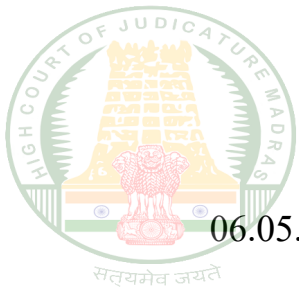


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holding that it was an absolute and irrevocable settlement deed and that Marayammal had not reserved any right of cancellation.

23. The trial Court also noticed that the cancellation deed and the settlement deeds dated 09.09.2009 were not produced before the trial court in this suit. It further held that after execution of Ex.A1 / Ex.B1 for 10 cents and Ex.B2 for 24 cents, Marayammal retained only 62 cents, and therefore the settlement deed dated 06.05.2011 could not convey any further right to the plaintiffs. The trial Court also found that the plaintiffs had suppressed Ex.B2 in the plaint, though it had been considered in the earlier proceedings. On these findings, the suit was dismissed with costs, with an observation that the plaintiffs may divide the 62 cents settled in their favour among themselves.

24. Aggrieved by the judgment of the trial court the plaintiffs filed this appeal and have raised the following grounds in this appeal. They contend that the trial Court erred in dismissing the suit after observing that the plaintiffs were entitled to 62 cents. They submit that O.S.No.545 of 2009 was only a bare injunction suit and could not bar a subsequent partition suit. They further submit that Marayammal was the absolute owner of the property and had validly cancelled the settlement deed dated 01.09.2009 and executed settlement deeds dated 09.09.2009 and 10/24



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06.05.2011 in their favour. They also contend that the trial Court was wrong in holding that there was suppression of material facts.

25. Pending the appeal, the appellants filed C.M.P.No.15285 of 2025 under Order XLI Rule 27 C.P.C. seeking permission to produce additional documents. The documents sought to be produced are: (i) cancellation deed dated 09.09.2009 cancelling the settlement deed dated 01.09.2009, (ii) settlement deed dated 09.09.2009 in favour of the 1st appellant Shanmugam, and (iii) settlement deed dated 09.09.2009 in favour of the 2nd appellant Prabhu.

26. The reason stated by the appellants is that the trial Court found that these documents were not produced before the trial court. They state that these documents had been marked in O.S.No.545 of 2009, but were inadvertently not marked in O.S.No.217 of 2012. They also state that these documents are necessary to decide the appeal.

27. The respondents 1 to 3 oppose the petition. Their case is that the documents were always within the knowledge of the appellants. They also state that the very same documents were part of the earlier proceedings in O.S.No.545 of 2009 and A.S.No.4 of 2013. According to them, the appellants deliberately withheld the documents in O.S.No.217



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of 2012 and cannot now fill up the lacuna at the appellate stage. They also contend that the cancellation deed has already been found legally ineffective because the settlement deed dated 01.09.2009 was absolute and irrevocable.

28. The learned counsel for the appellants / plaintiffs submitted that there is no dispute with regard to the 10 cents covered under Ex.A1 / Ex.B1. The dispute relates only to the 24 cents covered under Ex.B2 settlement deed dated 01.09.2009, said to have been executed in favour of the 3rd defendant. It is submitted that Ex.B2 settlement deed dated 01.09.2009 was cancelled by the 5th defendant under the cancellation deed dated 09.09.2009. On the very same day, namely 09.09.2009, the 5th defendant executed two settlement deeds in favour of the plaintiffs, each measuring 32 cents. Though the said settlement deeds were not marked in the present suit, the defendants have accepted the settlement in favour of the plaintiffs at least to the extent of 62 cents.

29. The learned counsel further submitted that Ex.A3 settlement deed dated 06.05.2011 was also executed by the 5th defendant in favour of the plaintiffs in respect of 22 cents. Therefore, according to the plaintiffs, they became owners of 86 cents in all, and on that basis the suit for partition was filed. It is further submitted that the 5th defendant, in her

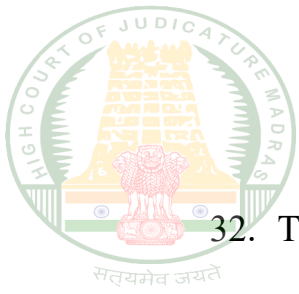


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written statement, specifically denied the validity of Ex.B2 settlement deed in favour of the 3rd defendant for 24 cents and pleaded that the said document was obtained by fraud. The cancellation of the settlement deed was also not properly challenged by the defendants in their written statement. According to the learned counsel, the plaintiffs examined witnesses to prove the settlement deeds as well as the cancellation deed.

30. The learned counsel also submitted that under Section 31(2) of the Specific Relief Act, if the defendants wanted to avoid the effect of the cancellation deed, they ought to have challenged the same in the manner known to law. Such challenge ought to have been made within the period of limitation of three years from the date of knowledge, as prescribed under Article 59 of the Limitation Act.

31. It is further contended that the defendants ought to have raised a proper counter-claim or sought appropriate relief challenging the cancellation deed under order 8 Rule 16 of the civil procedure code 1908. Since the document was in favour of the defendants, they were equally bound to produce and challenge the cancellation deed, if they wanted to rely upon Ex.B2 settlement deed.

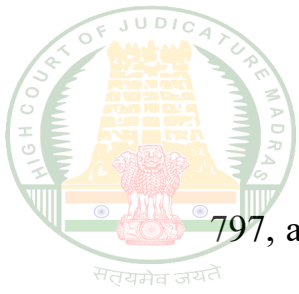


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32. The learned counsel submitted that when a document has been cancelled by the settlor, the party relying upon the original document ought to have challenged the cancellation in the manner known to law, particularly when such party is affected by the cancellation. In the present case, the 3rd defendant did not choose to challenge the cancellation deed. Therefore, the right claimed by the 3rd defendant under Ex.B2 stood extinguished.

33. It is finally submitted that after cancelling Ex.B2, the settlor, namely the 5th defendant, proceeded to execute the subsequent settlement deeds in favour of the plaintiffs. Therefore, the plaintiffs are entitled to claim 86 cents, and the finding of the trial Court rejecting their claim is erroneous and liable to be set aside.

34. In support of the above contention, the learned counsel for the appellants / plaintiffs relied upon the decisions in *Deccan Paper Mills Co. Ltd. v. Regency Mahavir Properties*, reported in (2021) 4 SCC 786, *Satya Pal Anand v. State of M.P. and others*, reported in (2016) 10 SCC 767, *Board of Trustees of Port of Kandla v. Hargovind Jasraj and another*, reported in (2013) 3 SCC 182, *Union of India v. K.V. Lakshman and others*, reported in (2016) 13 SCC 124, *Harjas Rai Makhija (Dead) through LRs. v. Pushparani Jain and another*, reported in (2017) 2 SCC 14/24



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797, and Sanjay Kumar Singh v. State of Jharkhand, reported in (2022) 7

SCC 247.

35. Per contra, the learned counsel for the respondents / defendants submitted that the present suit is only one for partition and that defendants 1 to 3 and 5 are not necessary parties. It was further submitted that, even in the earlier suit in O.S.No.545 of 2009, the title of the 3rd defendant over 24 cents under the settlement deed dated 01.09.2009 was upheld, and the said finding was confirmed in A.S.No.4 of 2013. According to the respondents, the plaintiffs suppressed both the settlement deed dated 01.09.2009 executed in favour of the 3rd defendant for 24 cents and the alleged unilateral cancellation deed in the plaint. The trial Court in O.S.No.545 of 2009 had correctly held that the plaintiffs were entitled only to 62 cents. It was also submitted that the 5th defendant, who had earlier remained ex parte, filed her written statement only on 26.06.2013, after completion of the plaintiffs' evidence, and her subsequent stand cannot improve the case of the plaintiffs.

36. The learned counsel further submitted that either undue influence or fraud must be specifically pleaded and proved, and both cannot be vaguely alleged. In the present suit, specific issues were framed regarding the validity of the settlement deed dated 06.05.2011 and the cancellation



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deed dated 09.09.2009 and whether they are binding on the defendants.

The trial Court, after considering the evidence, rightly held that Ex.B2 settlement deed dated 01.09.2009 is irrevocable and could not have been unilaterally cancelled. It was also submitted that possession of the 24 cents is with the 3rd defendant. Since the trial Court had already framed issues regarding the cancellation deed and rendered findings thereon, a separate suit was not necessary. Therefore, the judgment of the trial Court does not warrant interference. In support of the said submissions, the learned counsel relied upon *S. Ganesan v. Bharathirajan*, reported in 2009 (5) CTC 558, and *K. Balakrishnan v. K. Kamalam*, reported in (2004) 1 SCC 581.

37. On the pleadings, evidence, trial Court judgment, grounds of appeal and the pending C.M.P., the following points arise for determination:

- (1) Whether C.M.P.No.15285 of 2025 deserves to be allowed?
- (2) Whether the settlement deed dated 06.05.2011 executed by Marayammal in favour of the plaintiffs to the extent of 22 cents is valid and binding upon the defendants?
- (3) Whether the cancellation deed dated 09.09.2009 cancelling the



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settlement deed dated 01.09.2009 in favour of the 3rd defendant is true and valid?

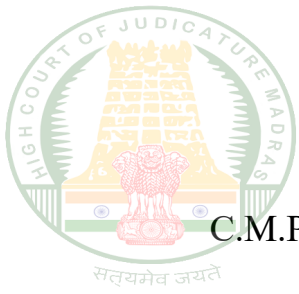
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(4) Whether the plaintiffs are entitled to partition by metes and bounds to the extent of 86 cents in the suit schedule property as prayed for?

(5) Whether the judgment and decree passed in A.S.No.4 of 2013 is binding upon the plaintiffs?

Point No.1

38. C.M.P.No.15285 of 2025 has been filed under Order XLI Rule 27 C.P.C. to receive additional documents, namely the cancellation deed dated 09.09.2009 and the two settlement deeds dated 09.09.2009 in favour of the plaintiffs. The petition cannot be allowed. The documents were admittedly within the knowledge of the plaintiffs. Their own case is that these documents were marked in O.S.No.545 of 2009. Therefore, this is not a case where the documents were not within their knowledge or could not be produced despite due diligence. The trial Court did not refuse to receive them. The plaintiffs simply failed to mark them in O.S.No.217 of 2012. Order XLI Rule 27 C.P.C. cannot be used to fill up lacunae in evidence after the suit has been dismissed. Hence, no substantial cause is made out for receiving additional evidence.



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C.M.P.No.15285 of 2025 is dismissed. Accordingly, point no.1 is answered.

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Point Nos.2 and 3

39. The suit in O.S.No.217 of 2012 was filed by the plaintiffs for partition and separate possession of 86 cents in the suit schedule property. The total extent of the suit property is 96 cents. It originally belonged to the 5th defendant, Marayammal. The 5th defendant had executed a registered settlement deed dated 05.03.2003 in favour of her son, M.C. Ramasamy, in respect of 10 cents. The said document is marked as Ex.A1 / Ex.B1. After the death of M.C. Ramasamy, defendants 1 to 3 sold the said 10 cents to the 4th defendant, C. Jayarathinam, under the sale deed dated 03.03.2010, marked as Ex.A2.

40. The 5th defendant had also executed a registered settlement deed dated 01.09.2009 in favour of the 3rd defendant, R. Gopalakrishnan, in respect of 24 cents. The said document is marked as Ex.B2. Thereafter, the 5th defendant executed two settlement deeds dated 09.09.2009 in favour of the plaintiffs, namely Shanmugam and Prabhu, each measuring 32 cents. She also executed a cancellation deed dated 09.09.2009, purporting to cancel the settlement deed dated 01.09.2009 executed in

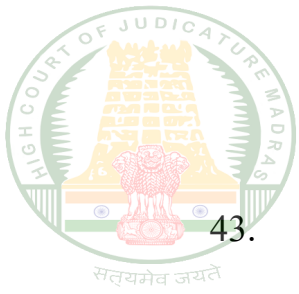


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favour of the 3rd defendant. Subsequently, she executed another settlement deed dated 06.05.2011 in favour of the plaintiffs in respect of 22 cents, which is marked as Ex.A3 / Ex.B4.

41. On the strength of the settlement deeds dated 09.09.2009 and the settlement deed dated 06.05.2011, the plaintiffs now claim partition to the extent of 86 cents. Previously, the plaintiffs had filed O.S.No.545 of 2009 for permanent injunction in respect of 64 cents on the basis of the settlement deeds dated 09.09.2009. The trial Court dismissed the said suit by observing that the plaintiffs were not in separate possession. However, in A.S.No.4 of 2013 filed by the plaintiff against the judgment and decree dated 27.08.2013, the appellate Court granted permanent injunction in favour of the plaintiffs in respect of 62 cents, holding that they were in exclusive possession of the said extent.

42. In the earlier proceedings, there was no dispute regarding the execution of the settlement deed dated 05.03.2003 in favour of M.C. Ramasamy for 10 cents and the settlement deed dated 01.09.2009 in favour of the 3rd defendant for 24 cents. The appellate Court in A.S.No.4 of 2013 also recognised the settlement deeds dated 09.09.2009 in favour of the plaintiffs.



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43. It appears that during the pendency of O.S.No.545 of 2009, the 5th defendant executed the settlement deed dated 06.05.2011 in favour of the plaintiffs. By that document, she purported to settle the property which had already been settled in favour of the 3rd defendant under Ex.B2. The cancellation deed dated 09.09.2009, by which the 5th defendant purported to cancel the settlement deed dated 01.09.2009, has also been brought to notice.

44. As already stated, the settlement deed dated 01.09.2009 in favour of the 3rd defendant was accepted and recognised in the previous proceedings, particularly in A.S.No.4 of 2013. The cancellation deed dated 09.09.2009 is only a unilateral cancellation deed. Such unilateral cancellation of a completed settlement deed is void ab initio and cannot divest the right already conveyed to the 3rd defendant.

45. Therefore, the subsequent settlement deed dated 06.05.2011 executed by the 5th defendant in favour of the plaintiffs cannot convey any valid right in respect of the property already settled in favour of the 3rd defendant. In the circumstances, the cancellation deed dated 09.09.2009 and the settlement deed dated 06.05.2011 are invalid and not binding upon the defendants. Accordingly, Point Nos.2 and 3 are answered against the plaintiffs.



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Point Nos.4 and 5

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46. As stated above, the plaintiffs are entitled only to 62 cents in the suit schedule property. This position has already been recognised in the previous proceedings in O.S.No.545 of 2009 and A.S.No.4 of 2013. In A.S.No.4 of 2013, by judgment and decree dated 27.08.2013, it was specifically held that the plaintiffs are in exclusive possession of 62 cents and that the 3rd defendant is in exclusive possession of 24 cents. On that basis, permanent injunction was granted in favour of the plaintiffs only in respect of 62 cents.

47. When the extent of the property and the exclusive possession of the plaintiffs over a specific portion measuring 62 cents out of the total extent of 96 cents had already been determined in A.S.No.4 of 2013, the present suit for partition claiming 86 cents is not maintainable. The judgment and decree passed in A.S.No.4 of 2013 are binding upon the plaintiffs. Consequently, the plaintiffs are not entitled to seek partition of 86 cents.

48. While disposing this appeal it is noticed that O.S.No.545 of 2009 was disposed of on 06.07.2011, observing that the plaintiffs and the 3rd defendant should work out their remedy by filing a proper suit for partition. Pursuant to that observation, the plaintiffs filed O.S.No.217 of



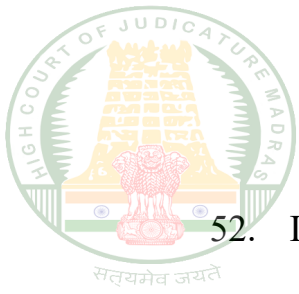
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2012 on 09.10.2012. At the same time, they also preferred A.S.No.4 of 2013 against the judgment and decree in O.S.No.545 of 2009. Thus, the plaintiffs simultaneously maintained both proceedings.

49. After A.S.No.4 of 2013 was disposed of on 27.08.2013, the findings therein became binding upon the plaintiffs. Even thereafter, the plaintiffs continued to prosecute O.S.No.217 of 2012 for partition of 86 cents. Such conduct is not permissible, particularly when the appellate Court had already recognised their right and possession only in respect of 62 cents.

50. Further, the plaintiffs have not sought partition among themselves in respect of the 62 cents. Therefore, the observation made by the trial Court in the present suit O.S.No.217 of 2012 in the concluding portion that the plaintiffs may divide the properties among themselves is unwarranted.

51. In the result, the plaintiffs are not entitled to partition by metes and bounds to the extent of 86 cents. The judgment and decree passed in A.S.No.4 of 2013 are binding upon them. Accordingly, Point Nos.4 and 5 are answered against the plaintiffs.



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52. In the result, the Appeal Suit is dismissed with costs. The judgment and decree dated 10.02.2014 in O.S.No.217 of 2012 on the file of the Principal District Judge, Erode, are confirmed, subject to the clarification that the observation of the trial Court regarding division of 62 cents among the plaintiffs shall not be treated as a preliminary decree in this suit.

53. C.M.P.No.15285 of 2025 is dismissed. Consequently, connected miscellaneous petitions, if any, stand closed.

09.06.2026

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Index:Yes/No

Speaking Order /Non-speaking order

Neutral citation:Yes/No



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A.S.No.91 of 2020

DR. A.D. MARIA CLETE, J

ay

To

1.The Principal District Judge, Erode

2. The Section Officer,
V.R.Records,
Madras High Court.

PRE DELIVERY JUDGMENT
A.S. No. 91 of 2020

09.06.2026

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