

TNKK040006192014



Presented on : 16-10-2014
Registered on : 16-10-2014
Decided on : 11-03-2026
Duration : 11 years, 4 months, 26 days

**IN THE COURT OF THE I ADDITIONAL DISTRICT MUNSIF,
NAGERCOIL.**

Present : Tmt. K. Chithra, B.A.,B.L., (Hons)

I Additional District Munsif (FAC), Nagercoil

Wednesday, on the 11th day of March, 2026.

O.S. No. 266 of 2014

(CNR NO. TNKK04-000619-2014)

1. Tmt. Sivagami
2. S.M.Sathasivam

... Plaintiffs

-vs-

1. Tmt. Vasantha Ammal (died)
2. V.K.Vigneshkumar
3. Tmt. V. Vasanthapriya
4. Vijayakumar
5. S.Velammal

(4th and 5th Defendants impleaded as per
order in I.A.No.360/2018 dated 04.06.2019)
(Consequential Amendment petition allowed
as per Order in I.A.1/2020, dated 03.08.2021)

... Defendants

This Suit came up before me on 09.03.2026 for a final hearing in the presence of Mr.A. Lawrence Peter shaw, Advocate for the Plaintiffs and Mr.V.Kannan, Advocate for the 2nd to 4th Defendants and Mr.Maria Stephen, Advocate for the 5th Defendants and 1st Defendant died and upon hearing the plaintiffs side arguments, and defendants side arguments and upon perusing the available case records and having stood over for consideration till this day, this court delivered the following:

JUDGEMENT

1. This **suit** was filed by the plaintiffs for the relief of declaring the cancellation deed executed by the defendant No.1 in document No.71/2014 dt. 07.01.2014 as null and void ab-initio and declaring the Settlement deed executed by the Defendant No.1 in document No.72/2014 dt.07.01.2014 as null and void ab-initio and Declaring the power deed executed by the Defendant No.2 in document No.2057/2014 dt.01.07.2014 as null and void ab-initio and Decree of permanent injunction restraining the defendants or their men or agent not to disturb the peaceful possession and enjoyment of suit property by the plaintiffs and along with cost of suit.

2. The **counter claim** was filed by the 2nd defendant, for the relief of permanent injunction restraining the plaintiffs from disturbing the 2nd defendant's peaceful possession and enjoyment over the counter claim property.

2. CRUX OF AVERMENTS IN AMENDED PLAINT DT.20.09.2021:

2.1) The plaintiffs are in joint possession and enjoyment of the suit property with extent of 467.7673sq.m. of 2 storied building bearing 8 door numbers, constrained in Resurvey No. P24/140, 141, 143 of Vadiveeswaram village. The suit property was originally belonged to 1st defendant. The 1st plaintiff, 4th and 5th defendants were the children of the 1st defendant. The 1st defendant executed a settlement deed No.1538/2009 dt.20.05.2009 in favour of the plaintiffs reserving the life interest over the property till lifetime of 1st defendant and her husband. She had handed over all the original parent documents to the plaintiffs. After effecting mutation in revenue records, the plaintiffs are paying taxes. The 1st defendant was receiving the benefits from the suit property.

2.2) The plaintiffs applied Encumbrance certificate on 18.09.2014 to transfer building tax and water tax. On verifying the Encumbrance certificate, the plaintiffs found that the 1st defendant has cancelled the Settlement deed of plaintiffs through cancellation deed No.71/2014 dt.07.01.2014. Also, she executed a settlement deed in favour of the 2nd defendant and 1st plaintiff through deed No.72/2014 dt.07.01.2014 by bequeathing buildings in ground floor and in first floor to the 2nd defendant; then by bequeathing another building in ground floor to the 1st plaintiff. In the said settlement deed, it is stated that two copies were prepared, out of which original copy shall be with the 1st defendant and the additional copy shall be handed over to the 1st

plaintiff. But no such copy was handed over to the 1st plaintiff and it revealed that the defendant colluded with each other and exhibited drama.

2.3) The 2nd defendant appointed his sister/3rd defendant as his Power of Attorney through a registered power deed No.2057/2014 dt. 01.07.2014. Without knowledge of the plaintiffs, the 1st defendant on the ill advice of 2nd and 3rd defendants and their family members, has purposefully cancelled the plaintiffs' Settlement deed. On 07.01.2014, the plaintiffs approached the defendants to cancel the Cancellation deed and subsequent Settlement deed executed by the 1st defendant; and to cancel the power deed of 2nd defendant. It yielded no result. Meanwhile, the 2nd defendant is trying to alienate the suit property and third persons are often visiting the suit property.

2.4) The plaintiffs are complying the condition in their settlement deed and ready to comply in future. The 1st defendant had executed the settlement deed only due to love and affection, without any compulsion. The 1st defendant has given up all his rights except life interest. The 1st defendant has no right to cancel the settlement deed and all the subsequent documents were void ab initio. Thus, this suit was filed.

3. THE CRUX OF WRITTEN STATEMENT FILED BY 1ST DEFENDANT
DT.27.02.2015:

3.1) All the averments stated in the plaint except those that are specifically admitted hereunder are hereby denied. The suit is not maintainable in law and facts. The plaintiffs were never in possession of the property at any point of time. **The**

description of suit property and the relationship among the parties are admitted.

It is admitted that the plaint schedule property originally belonged to this defendant. The suit property was purchased in the year 1962 vide sale deeds No.3459/1962, 3460/1962 and 3463/1962. The possession and enjoyment of suit property is with this defendant since its purchase till now by collecting the rents from the shops in the suit property. The plaintiffs misled the court by averring joint possession; they obtained exparte order of injunction; they have issued notices to the tenants of the shops asking them to pay the rent to the plaintiffs.

3.2) This defendant is an Income Tax Assessee and her IT returns have shown the rental income from the shops in the suit property. Patta, tax receipts, EB service assessments were stood in the name of this defendant. It is admitted that this defendant had executed Settlement deed No. 1538/2009 reserving life interest over the suit property till the life time of this defendant and her husband. But mutation has not carried out until it was cancelled on 07.01.2014. The plaintiffs in collusion with the village Administrative office, have obtained Chitta without mentioning the year and the tax receipt dt.22.09.2014, which has been obtained 8 months after the Settlement was cancelled.

3.3) In the plaintiffs produced Encumbrance certificate No.5195 dt.18.09.2014, the subsequent Settlement deed dt.07.01.2014 was not entered. The plaintiffs manipulated and created records for this case. During the plaintiffs' Settlement deed in the year 2009, the defendant's husband was not in good terms with

the father of 2nd and 3rd defendants. As a matter of fact, this defendant did not want to be impartial, but the defendant's husband did not allow her to give any property to her son or his heirs. She was forced to execute Settlement deed in favour of plaintiffs. On the death of this defendant's husband, she started living with her son. She had been longing to do justice to her children. On verifying the revenue records, no mutation effected. So, she cancelled Settlement deed and executed another Settlement deed with intention to shar the property equally. In fact, a major extent of 7.558 cents has been given to the first plaintiff and only 4.031 cents has been given to the 2nd defendant. Immediately, the 2nd defendant has effected mutation and he is paying land tax in his name.

3.4) It is false to state that the additional copy shall be handed over to the plaintiffs. In fact, after the death of this defendant's husband, the plaintiffs have not even been loving and affectionate towards this defendant and their behaviour has been motivated to grab all properties. It is admitted that 2nd defendant executed a Power deed in favour of 3rd defendant for easy administration of property. There is no prima facie in this case and the balance of convenience is only in favour of the respondents. Thus, she prayed to dismiss the suit with compensatory cost.

4. THE CRUX OF ADDITIONAL WRITTEN STATEMENT OF 1ST DEFENDANT DT.11.03.2016:

As per the Settlement deed of plaintiffs dt.20.05.2009, the possession and enjoyment of suit property was not handed over to the plaintiffs. The said deed is

having the nature and contention of “Will Deed character” and it was not effected and not acted upon. So, she decided to cancel the settlement deed on her free intention and wishes. As per the subsequent settlement deed No.72/2014, the southern 4.031 cents of land with building No.35/489 at ground floor and No.489A to I with EB connection were allotted to the 2nd defendant. The northern 7.558 cents of land with building No.40/62 with EB is allotted to the 1st plaintiff. The 2nd defendant was having the possession and enjoyment of his respective portion. The plaintiffs were having no actual physical and legal possession over the 2nd defendant’s property and they attempted to disturb it. Thus she pleaded to dismiss the suit.

5. The 3rd defendant on 27.02.2015 filed written statement separately, by stating all the averments of written statement of 1st defendant. The 2nd defendant had filed an adoption memo to adopt the written statement of 3rd defendant.

6. THE CRUX OF ADDITIONAL WRITTEN STATEMENT CUM COUNTER CLAIM OF 2ND DEFENDANT DT.11.03.2016 AS FOLLOWS:

The 2nd defendant has repeated all the averments of additional written statement of 2nd defendant till 3rd line in 11th para of 3rd page. In addition to that, he alleged that, the property of counter claim is 4.031 cents of land and buildings therein. On 29.02.2016, the plaintiffs attempted to disturb the 2nd defendant’s possession and enjoyment over the counter claim property and encroach the same. The illegal and unwanted action of them was thwarted by the 2nd defendant. So, the counter claim was filed for the relief of permanent injunction restraining the plaintiffs

from disturbing the 2nd defendant's peaceful possession and enjoyment over the counter claim property.

7.ISSUES:

7.1) Based on the pleadings and the documents, this court has framed the following issues

1. Whether the plaintiff is entitled to the relief of declaration that the cancellation deed executed by the 1st defendant in Doc. No.71/2014 dt.07.01.2014 is null and void?
2. Whether the plaintiff is entitled to the relief of declaration that the settlement deed executed by the 1st defendant in Doc.No.72/2014 dt.07.01.2014 is null and void abinitio?
3. Whether the plaintiff is entitled to the declaration that the power deed executed by the 2nd defendant in doc. No.2057/2014 dt. 01.07.2014 is null and void?
4. Whether the plaintiff is entitled to the relief of Permanent injunction as prayed for?
5. What is the order relating to cost?
6. To what other reliefs the parties are entitled to?

7.2) At the stage of arguments on the defendants 2 to 4, this court has framed additional issues on 10.02.2026.

1. Whether the suit is bad for non-claiming of title declaration over suit property?

7.3) At the stage of pronouncing judgment, this court finds that no issues were framed for the relief sought for in counter claim and on 19.02.2026, this court framed additional issues for counter claim

1. Whether the 2nd defendant is entitled to the relief of Permanent injunction as prayed for with respect to counter claim property?

8.EVIDENCE:

8.1) On the plaintiff side, the 2nd plaintiff was examined as **PW1, Ex.A1 to Ex.A10** were marked. **Ex.A11 to Ex.A13** were marked during the cross of DW2. On endorsement, the plaintiff side evidence was closed on 10.01.2025.

8.2) On the defendant side, the 2nd defendant was examined as **DW1, Ex.B1 to Ex.B32, Ex.B42 to Ex.B47** were marked. The 4th defendant was examined as **DW2**, no document was marked. The Assistant District officer of Fire Extinguisher and Rescue Department, Nagercoil was examined as **DW3, Ex.X1** was marked. The Scavenger Inspector of Nagercoil Corporation, was examined as **DW4, Ex.X2, X3, X6** were marked. The personal Assistant of Revenue Divisional officer, Nagercoil was examined as **DW5, Ex.X4** was marked. Zonal Deputy Tahsildar of Nagercoil was examined as **DW6, Ex.B41 and Ex.X5** were marked. The Superintendent of District Fire Department was examined as **DW7, Ex.X7** was marked.

9. ARGUMENTS ON BOTH SIDES:

9.1) The learned counsel for plaintiffs had argued that the facts regarding the original title holder of suit property was the 1st defendant; the description of suit

property and the relationship of parties are undisputed and admitted by both parties. The 1st defendant had executed settlement deed No.1538/2009 dt.20.05.2009 in favour of plaintiffs by reserving the life interest over the property till the lifetime of 1st defendant and her husband. The plaintiffs carried out the mutation and the 1st defendant was enjoying the property by collecting rental income. When the plaintiffs attempted to transfer the records of property in Building tax and others, they came to know the cancellation of settlement deed and execution of another settlement deed in favour of 1st plaintiff and the 2nd defendant on 07.01.2014. The former settlement deed is irrevocable; the unilateral cancellation of settlement deed and execution of another settlement deed were void abinitio. The defendants' allegation of harassing the 1st defendant without love and affection, being impediment to collect the rental income were false and not proved. The 1st defendant's defence that the former Settlement deed not acting upon, did not entitle the 1st defendant to cancel the settlement deed unilaterally. The 1st defendant's longings to do impartial to her children does not stand good as she had 3 children and she executed the 2nd settlement deed in favour of 2 children only. The stand of former settlement deed as Will in nature and the 2nd settlement deed came into effect with respect to the 2nd defendant, had shown the inconsistent plea. The 1st defendant did not cancel the former settlement deed at her own will and intention. The 1st defendant was under the custody of 2nd and 3rd defendants. The cancellation of 1st settlement deed, execution of 2nd settlement deed, filing of written statement were made at the undue influence of

the 2nd and 3rd defendants. Thus, this suit has to be decreed and the counter claim has to be dismissed.

9.2) The learned counsel for defendants 2 to 4 had argued that the 1st defendant under the influence of her husband, had executed the first settlement deed in favour of the plaintiffs by reserving life interest to the 1st defendant and her husband. On going through the context of Settlement deed, it revealed the nature of Will, not the settlement deed. Further it was not acting upon by the plaintiffs. So, the 1st defendant after her husband's death, cancelled the 1st settlement deed, on verification of not acting upon. Then she executed another settlement deed in favour of 1st plaintiff and the 2nd defendant, which came into effect immediately. The 2nd defendant had mutated the revenue records and transferred all other connected records in his name with respect to their share of property. In response to the plaintiff's obstruction to the 1st defendant's collection of rental income of suit property, she had given complaint to the Revenue divisional officer. The plaintiffs had filed a civil suit to overcome the proceedings of Revenue Divisional officer. The RDO had closed the complaint by citing the civil suit, which was later dismissed for default by the court of law. The 1st defendant cancelled the 1st settlement deed and executed the 2nd settlement deed on her free will. The plaintiff did not take care of the 1st defendant and her husband. The defendants 2 and 3 had spent money to provide medical aid to the 1st defendant and her husband. The medical bills Ex.B18 to Ex.B23 were produced. The plaintiffs did not describe the suit property clearly. They mixed

the description of property in first settlement deed and second settlement deed in the plaint schedule property. They have no right, possession, enjoyment of the property, which the defendants have inherited through 2nd settlement deed. Without title declaratory relief and the recovery of possession, this suit is not maintainable.

10. REASON FOR DETERMINATION:

ISSUE NO.1: Whether the plaintiff is entitled to the relief of declaration that the cancellation deed executed by the 1st defendant in Doc. No.71/2014 dt.07.01.2014 is null and void?

ISSUE NO.2: Whether the plaintiff is entitled to the relief of declaration that the settlement deed executed by the 1st defendant in Doc.No.72/2014 dt.07.01.2014 is null and void abinitio?

ISSUE NO.3: Whether the plaintiff is entitled to the declaration that the power deed executed by the 2nd defendant in doc. No.2057/2014 dt. 01.07.2014 is null and void?

ADDITIONAL ISSUE NO.1: Whether the suit is bad for non-claiming of title declaration over suit property?

10.1) The fact-in-issues and other discussions with respect to these issue No.1 to 3 and additional issue No.1 were interconnected to each other, hence they were taken together for consideration.

10.2) SUIT PROPERTY: The suit property was 11.55 cents equivalent to 467.673sq.m of plots with building of shops bearing old NMC No.40/3-62, 63,

40/489 at the ground floor, bearing old NMC No.40/489A, 489B, 489C, 489D, 489E, 489F, 489H at the first floor, bearing 40/489I at the second floor, with Electricity Service connection No. D4-84, D4-196, with its Water connection No.40/20639. The old NMC no.40 was changed to new NMC No.35 like 35/489A, 489B, 489C, 489D, 489E, 489F, 489H, 489I. The suit property was constrained in Old survey No.1679/3260, 1679/3261, 1679/3262, 1679/3264, 1679/3265 and in Resurvey No.P-24/140, P24-141, P24/143 of Vadiveeswaram village, Agasteeswaram taluk, Kanyakumari district. the suit property was situated at K.P road (from Xavier koil junction to Chettikulam junction), Nagercoil.

10.3) Admittedly, the suit property was purchased by the 1st defendant Vasantha through 3 sale deeds. Ex.A1/Sale deed No.3459/1962 dt.13.10.1962, from minor Murugesan, conveyed eastern 1/3rd share of portion. Ex.A2/Sale deed No.3460/1962 dt.13.10.1962 from Thiruchittrambalam chettiar, conveyed western 1/3rd share of portion. Ex.A3/Sale deed No.3463/1962 dt.13.10.1962 from Kumarasamy chettiar, conveyed middle 1/3rd share of portion. She had constructed Vasantha commercial building in the year 1964 in 4 cents; a dwelling house where the entire family resided. The construction of building on payment of licence fee on 14.02.1998/Ex.B2 was produced. The defendants 2 to 4 alleged that the 1st defendant had purchased and had built construction, on her own, whereas the plaintiffs contended that it was carried out by the husband of the 1st defendant.

10.4) To substantiate the defendants' allegation, the learned counsel suggested to the 2nd plaintiff/PW1 in his cross-examination that the father of 1st defendant named Boothalinga Panikkar was a wealthy man, who conducted grocery business at Alexandra Press road. During her marriage, the 1st defendant was given with stridana property of 150 sovereign gold jewels, garden area, commercial complex and residential house. The 1st defendant was running a diary farm and earning money. The 2nd plaintiff admitted residential house and denied other details as not known. Further the defendants suggested that the husband of the 1st defendant was a wealthy man, but not giving any other information. In the Ex.A1 to ex.A3/Sale deeds, the 1st defendant at age of 27 years, was described as Homemaker/kirahaparanam. It is understandable that in earlier India, the unorganised sectors were not recognised and all the homemakers had own unorganised jobs to have liquid cash. In Ex.A1 to Ex.A3, the sale consideration was paid by the 1st defendant's father Boothalinga panikker, not by the 1st defendant as well as her husband. The original title of the 1st defendant was proved through Ex.A1 to Ex.A3, whatever the source was from.

10.5) The 1st defendant and her husband Sathasivam had 3 children namely 1.Velammal(5th defendant), 2. Sivakami (1st plaintiff), 3.Vijayakumar (4th defendant). The education of daughters were stopped with 10th standard and son was with BA. The 5th defendant was married in the year 1970 to one who worked at Karnataka Government and she was given with stridana property of 125 sovereign gold jewel. In addition, the 1st defendant purchased a land at Mysore for the 5th defendant and house

was constructed by the 1st defendant. Then a land of 39.83 cents of plot at Jeevanagar, Nagercoil was purchased vide Saledeed/Ex.B33 dt.28.06.1971 for both 1st plaintiff and 5th defendant and separate houses were constructed for both by the 1st defendant. The 5 ½ cents of plot at Tirunelveli; 55 cents of land at Eathamozhi; 1acre land with 5 houses were purchased by the 1st defendant in the name of 5th defendant. Her daughter was working as Assistant professor at Hindu college and her son was running a Force Automobile company. The total extent of all properties would amount to 200.33 cents.

10.6) The 1st plaintiff was married to one who worked as Professor at Anna college and was given stridana property of 150 sovereigns of gold jewel, cash and household articles. Further, the 18 cents of plot at Vellamadam; another 1 ½ acres of land; another 5 acres of land backside of Muppanthal kovil were purchased by the 1st defendant in name of 1st plaintiff. The 2 1/3 plot with building bearing NMC No.40/488, 488A-E constrained in Resurvey No.P21/B4 of Vadiveeswaram village was bequeathed by the 1st defendant through Will No.30/2011 by reserving life interest of the 1st defendant. The total extent of all properties would amount to 170.33 cents.

10.7) The 4th defendant was given with lands of 55 cents with house at Vaidyanathapuram; 60 cents of land at AR Camp road; ¾ cents of plot with building at Kottar; 11 cents of land with shops nearer to Narayanaguru school; Oil shop at rental building of Mudhaliar Trust. The total extent of all properties would amount to

125.75 cents. All these facts were suggested by the 2nd to 4th defendants at the cross-examination of 2nd plaintiff. These facts were neither pleaded in written statement nor in the counter claim. These purchases were not substantiated through the concerned title deeds or any other deeds.

10.8) It is admitted by the defendants 2 to 4 that the husbands of 1st plaintiff and 5th defendant were government officials. Without elucidating the source of incomes, their expenditure pattern, their saving mindset, psychological belief to build wealth, these facts of purchasing properties in name of 1st plaintiff and 5th defendant by the 1st defendant, are considered to be mere assumptions. The 2nd and 4th defendants alleged in their evidence that they were given with 'sick' oil company and they turned it into a 'phoenix' company. This statement is unbelievable, without producing the statement of accounts or balance sheet of the company for the alleged period.

10.9) The 2nd and 4th defendant deposed that the lands given to the 1st plaintiff and the 5th defendant were more valuable property and the lands given to defendants were worthless property. While considering this statement, the real estate is more volatile and subject to the market risk. The date of purchase, the guideline value of those properties were not produced to prove the alleged market value of the properties. Further, the 4th defendant was having BA degree and the investment was made in his education, which has to be taken into consideration. Beyond all these discussions, these facts are irrelevant to the suit property as well as the prayer of the

suit, as this case was not a partition suit. These evidences were rejected as irrelevant and partially unbelievable and those were not proved by the defendants.

10.10) FIRST SETTLEMENT DEED: Admitted by both parties that the Ex.A4/B4 settlement deed 1538/2009 dt.20.05.2009 was executed by the 1st defendant in favour of 1st and 2nd plaintiffs to settle the property of 467.673sq.m. of land with buildings, by reserving the life interest to the 1st defendant. The plaintiff pleaded that Ex.A4/Ex.B4 was executed by the 1st defendant on her will and wishes. On other hand, the defendants 1 to 4 alleged that it was executed on the compulsion of the 1st defendant's husband, as the 1st defendant's husband was not in good terms with the 2nd and 3rd defendant.

10.11) While considering these rival contentions on perusing the Ex.A4/B4-Settlement deed, it reads in the 4th page as “the 1st defendant has no right to cancel or alter the deed as it was executed voluntarily with full wish and free will.” Though the 1st defendant alleged the execution of Ex.A4/B4 settlement deed on the compulsion of her husband, she did not state ground or other circumstances to contradict the clause of registered Settlement deed. Mere stating that the 1st defendant's husband was not in good terms with 2nd and 4th defendant, is not enough, because she did not state her state of mind or her terms with them or her husband. She even did not state from which instance, the bad terms started or elongated or reached its high to decline share in the suit property through Ex.A4/B4-settlement deed. So, the allegation of execution of settlement deed by the 1st defendant under the

compulsion of her husband, is totally unbelievable and it is rejected by this court. This court held that the Ex.A4/B4-settlement deed was executed by the 1st defendant voluntarily.

10.12) WHETHER Ex.A4/B4 IS SETTLEMENT DEED OR WILL?

The 2nd and 4th defendant alleged that the settlement deed is having the nature and contention of “will deed character” since there was no immediate transfer of ownership; possession of the suit schedule property was retained by the Defendant No.1 / mother and was never handed over to the 1st and 2nd plaintiffs. While considering this contention, Ex.A4/B4-settlement deed was executed by the 1st defendant in favour of 1st and 2nd plaintiffs by reserving life interest of the 1st defendant and her husband. Further, it is admitted by both parties that the shops in building appurtenant to suit property were leased to various individuals and the 1st defendant was enjoyed the suit property by collection of rental income. Thus, any person claiming possession of suit property would be constructive one and not physical/direct possession.

10.13) It is pertinent to note the judgment in *N.P.Saseendran v. N.P.Ponnamma, 2025 INSC 388*, It is held that delivery of possession is not a condition sine qua non to validate the gift. The excerpts are given below for reference:

“Section 123 states, how a gift is to be made. It has two parts. The earlier part deals with immovable property and the later, with movable property.

Insofar as an immovable property is concerned, registration is mandatory,

which is in tune with Section 17 of the Registration Act. Whereas, it is not only mandatory to register a gift of a movable property, it also can be effected by delivery. Section 126 states, as to when a gift can be suspended or revoked. This section bars unilateral revocation. Section 127 enables the donor to impose any condition in the deed, which has to be accepted for the gift to take effect or in other words, the donee without accepting the obligation, cannot be said to have accepted the gift. Section 128 deals with the liability of the donee for the debts of the donor to the extent of the property comprised therein. A conspicuous reading of the provisions would disclose that for a gift of an immovable property to be valid, it has to be registered, unilateral cancellation of the gift is impermissible and *delivery of possession is not a condition sine qua non to validate the gift.*

...

Interplay between Gift, Settlement and Will 11.5. The element of voluntary disposition is common to all the three deeds. The element of gift is traceable to both “settlement” and “will”. As settled in law, the nomenclature of an instrument is immaterial and the nature of the document is to be derived from its contents. While so, a voluntary disposition can transfer the interest in praesenti and in future, in the same document. In such a case, the document would have the elements of both the settlement and will. Such document, then has to be registered and by operation of the doctrine of severability, becomes a

composite document and has to be treated as both, a settlement and will and the respective rights will flow with regard to each disposition from the same document. It is pertinent to mention here that ***the reservation of life interest or any condition in the instrument, even if it postpones the physical delivery of possession to the donee/settlee, cannot be treated as a will, as the property had already been vested with the donee/settlee.***

....

12. At this juncture, it will be useful to refer to a few judgements on the subject:

(i) In Navneet Lal @ Rangi v. Gokul [1976] 1 SCC 630 and others, after analysing the entire case laws on the subject, this Court highlighted the essential principles that should guide the courts in interpreting Wills, distinguishing from other types of documents, as follows:

(i) The fundamental rule is to ascertain the intention of the testator from the words used, the surrounding circumstances for the purpose of finding out the intended meaning of the words which have been employed;

(ii) The court, in doing so is entitled to put itself into the armchair of the testator and is bound to bear in mind also other matters than merely the words used and the probability that the testator had/would have used the words in a particular sense, in order to arrive at a right construction of the Will and ascertain the meaning of the language used;

(iii) The true intention of the testator has to be gathered not by attaching importance to isolated expression but by reading the Will as a whole, with all its provisions and ignoring none of them, as redundant or contradictory, giving such construction as would give to every expression some effect rather than that which would render any of the expressions inoperative;

(iv) Where apparently conflicting dispositions can be reconciled by giving full effect to every word used in a document, such a construction should be accepted instead of a construction which would have the effect of cutting down the clear meaning of the words used by the testator;

(v) It is one of the cardinal principles of construction of Wills that to the extent that it is legally possible effect should be given to every disposition contained in the Will, unless the law prevents effect being given to it. If even there appear to be two repugnant provisions conferring successive interests and the first interest created is valid the subsequent interest cannot take effect, the court will proceed to the farthest extent to avoid repugnancy, so that effect could be given as far as possible, to every testamentary intention contained in the Will.” 12.1. The aforesaid principles were reiterated in the decisions subsequently rendered by this Court [Refer: Arunkumar & another v. Shrinivas & another¹⁷, and Bajrang Factory Ltd. & another v. University of Calcutta & others.]

10.14) While considering this case on hand, the Ex.A4/B4-settlement deed was executed by the 1st defendant in favour of the 1st and 2nd plaintiffs on 20.05.2009. the said deed was registered before the District Registrar office, Kanyakumari as document no.1538/2009. The **original settlement deed, parental deeds (Ex.A1 to Ex.A3)** were handed over to the plaintiffs by the 1st defendant. The defendants 2 and 4 alleged in cross-examination of PW1/2nd plaintiff that the plaintiffs had robbed the original deeds (Ex.A1 to Ex.A3) by break-open the house of the 1st defendant when the 1st defendant and her husband were hospitalised for treatment. While considering this suggestion, these facts were not pleaded in writtent statement of defendants. The defendants have not produced any document to the said crime/incident. Hence, the allegation of stolen the original deeds by break-open the 1st defendant's house, is totally unreliable.

10.15) The Ex.A4/B4-Settlement deed was registered deed by presenting it to the Registrar office by the 1st defendant. The Ex.B41/Ex.X5-Reply under Right to Information Act, from the Public Information officer, Agasteeswaram Taluk, was produced with SLR copy-2 nos, chitta register-3 papers, settlement register with order no. And date. On careful reading of Ex.B41/Ex.X5, the SLR for Resurvey No.P.24/141, P24/143 were in the name of the 1st defendant, 1st and 2nd plaintiffs; chitta register entry was made in name of Vigneshkumar on 23.03.2023, 12.12.24, 26.08.21; then the order to transfer records for Resurvey No.P.24/140, 141, 143 with extent of 11.55cents in the name of 1st and 2nd plaintiffs were made as per the

proceedings in TR.5268/1420 dt. 27.10.2010; subsequently it was modified to 1st plaintiff's name for Resurvey No.P.24/141, 143 with 7.568 cents and to 2nd defendant's name for resurvey No.P.24/140 with 4.031 cents. The subsequent changes were through proceedings in TR No.10795/1423 and in TR No.10798/1423 respectively. But it was written without any dates.

10.16) The SLR and the proceedings in Tr No.5268/1420 dt. 27.10.2010 in Ex.B41/Ex.X5 proved the fact that the Ex.A4/B4-Settlement deed was acted upon and it came into force on 27.10.2010 itself. The plaintiffs have produced Ex.A10-chitta dt.10.11.2010 in name of plaintiffs for Resurvey No.P24/140, 141, 143. These were dated in the year 2010 ie. Before the cancellation of 1st settlement deed. These show the fact that the Ex.A4/B4 was acted upon and came into force, eventhough the possession was delayed by the condition of life interest of the 1st defendant and her husband.

10.17) CANCELLATION OF Ex.A4/B4-SETTLEMENT DEED IS VOID:

As per S.126 of the Transfer of Property Act, the unilateral cancellation of settlement deed is barred unless it entitle with specific clause to revoke or in case of failure to comply with specific condition if any. The Ex.A4/B4 does not contain any specific condition to comply. It reserves life interest of the 1st defendant. It is admitted by both parties that the enjoyment of suit property by the 1st defendant was not disturbed by the plaintiffs at any time.

10.18) The 1st defendant averred in her written statement that, this defendant did not want to be impartial, but the defendant's husband did not allow her to give any property to her son or his heirs. She was forced to execute Settlement deed in favour of plaintiffs. On the death of this defendant's husband, she started living with her son. She had been **longing to do justice to her children**. On verifying the revenue records, no mutation effected. So, she cancelled Settlement deed and executed another Settlement deed with intention to share the property equally. In fact, a major extent of 7.558 cents has been given to the first plaintiff and only 4.031 cents has been given to the 2nd defendant.

10.19) While considering these pleadings, it is pertinent to note that the 1st defendant had 3 children - 5th defendant, 1st plaintiff and 4th defendant. It is not logical to do justice and to share property equally to the 1st plaintiff and 4th defendant only and not to the 5th defendant. No whisper about the equality to 5th defendant in the said cancellation deed/Ex.A5/B7 and the 2nd settlement deed/Ex.A6. The major portion of 7.558 cents to 1st plaintiff and lesser portion to 2nd defendant also not substantiated with any logical facts.

10.20) The defendants 1 to 4 alleged that after the death of the 1st defendant's husband, the plaintiffs were not affectionate and they behaved variedly by obstructing the 1st defendant from enjoying rental income from suit properties. On analysing this aspect, the defendants have produced Ex.B40- petition of 1st defendant under the Senior citizens and Parents Maintenance Act, 2009 before the Revenue Divisional

officer, Nagercoil; statement of petitioner and 2 respondents; its order copy. On thorough reading Ex.B40 in full, it is found that the 1st defendant sought the relief to enforce the 2nd settlement deed no.72/2014 and to mutate records in name of 2nd defendant. In the order, the presiding officer clearly held that the petitioner/1st defendant did not seek any relief of maintenance amount from anyone. It is vital to note that the said petition was filed on 06.07.2014, which was after the cancellation of 1st settlement deed dt.07.01.2014. Ex.B40 is clearly an afterthought arrangement to justify the cancellation and it is not at all a genuine petition.

10.21) The 2nd plaintiff in his cross-examination admitted that he collected rent from the tenants of shops bearing door No.40/488, 488A to E. Admittedly, those shops were not connected with this suit. The 1st defendant did not allege any facts in the written statement. Other defendants have not pleaded anything in their statement. Hence, those facts of evidence were rejected as irrelevant.

10.22) Further, it is evident that the 1st defendant was born and brought up in a wealthy lifestyle. She was running a dairy farm and maintaining a house with other properties and shops, etc. It shows that she was with leadership qualities and to take decisions for her own as well as for the needy. There was no suit or no problem till the death of her husband. After the death of her husband, she resided along with the 2nd and 4th defendant. Psychologically, the mourning of dear ones commonly causes intense, varied psychological effects, including poor concentration, confusion, memory loss, numbness, apathy to anxiety, depression and feelings of abandonment.

10.23) The 1st defendant's husband died on 04.12.2013. On the 31st day of the death of her husband, the 1st defendant aged 81 years, cancelled the 1st settlement deed and executed the 2nd settlement deed on 07.01.2014. The medical bill(Ex.B18 to Ex.B23) produced by the defendants ranging the period from 26.02.2014 to 17.01.2018. She lodged complaint before Senior Citizens and Parents Maintenance Forum on 06.07.2014. She sent requisition/Ex.B15 to cancel the Trade license Account No.1017 to the Commissioner, Nagercoil corporation on 08.08.2016. She sent Liability Disclaimer notice/Ex.B16 dt.08.09.2016 to the Commissioner, Nagercoil corporation to shrug off her liability in the trade conducted in building bearing No.62, 63.

10.24) From the analysis of all these exhibits, it is clear that the defendants did not produce single document to prove of not caring well of parents, not maintaining the parents, obstructing from enjoying the rental income, Ex.A4 was not acting upon.

10.25) Finally, in Ex.A5/B7-Settlement cancellation deed, the 1st defendant cancelled the 1st settlement deed/Ex.A4 on the ground that Ex.A4 was executed 1.on the compulsion of her husband, 2. her life became worse, 3. she has full enjoyment of properties. The compulsion of her husband was ruled out earlier. In addition, the 1st settlement deed was clearly defined her right of enjoyment by reserving her life estate interest over the property. The second ground of life became worse, did not contain any clarity. Whether the worse was happened emotionally or physically or

economically or socially or any other aspect? Was not explained in the deed. The 3rd ground of full enjoyment of properties was obtained through the reservation of her life interest. It shows the consistent of Ex.A4/settlement deed and no contradiction occurred. Hence all these grounds were found unsustainable.

10.26) Beyond these grounds, as per S.126- S.128 of Transfer of Property Act, the unilateral cancellation was barred. It can be done through court of law only. The 1st defendant has not issue any legal notice or show cause notice or any other steps to intimate the alleged cancellation of settlement deed.

10.27) The excerpts which squarely applicable to the present situation from the judgement of *N.P.Saseendran v. N.P.Ponnamma, 2025 INSC 388*, are given below:

“18. The ratio in the above judgments would have to be applied considering the facts of the case. It is settled law that delivery of possession is not sine qua non to validate a gift or settlement. Therefore, for the document to be valid, it is sufficient if it is proved that the same was acted upon during the life time of the executant. In the present case, it is not in dispute that the plaintiff has registered the instrument. Such registration by the plaintiff is possible only if the document was handed over by Defendant No.1. The factum of acceptance can be derived from the conduct of the parties. This Court in the judgment in Daulat Singh (Supra) has held that the possession of the gift itself would amount to acceptance. The plaintiff, when the suit was filed, was in possession

of the original title deed. The stand of the defendants that the plaintiff took away the document later is unbelievable. Even assuming that the original deed was returned after registration, the fact that it was already acted upon, cannot be altered. Once a gift has been acted upon, the same cannot be unilaterally cancelled. As already held by us, delivery of possession is only one of the methods to prove acceptance and not the sole method. The receipt of the original document by the plaintiff and registration of the same, would amount to acceptance of the gift and the transaction satisfies the requirement of Section 122 of the Transfer of Property Act, 1882. The creation of life interest with rights to enjoy the income from the property is a plausible and justifiable reason for the plaintiff not to reside in the premises. Once the document is declared as “gift”, Defendant No.1 had no right to cancel the same unilaterally and the Sub Registrar had no right to register the cancellation deed. Once the document is categorized as a gift, in the absence of any clause or reservation to cancel, the executant has no right to cancel the same. The reasons for cancellation or revocation of gift have to be proved in a court of law. Therefore, according to us, the unilateral cancellation of the document is void and as a natural corollary, the sale deed dated 19.10.1993 executed by Defendant No.1 / father also, is invalid.”

10.28) Upon the above discussions and in light of the said judgment, this court held that the unilateral cancellation of Settlement deed/Ex.A4 is null and void and the issue no.1 is answered positively in favour of the plaintiffs.

10.29) Without proper right, title over the properties, the 1st defendant had executed the Second settlement deed No.72/2014. In furtherance, the 2nd defendant executed power deed without conveying any right or title. Hence those two deeds were declared as null and void. The plaintiffs are entitled to the relief of declaring the settlement deed no.72/2014 and the power deed No.2057/2014 were null and void and this issues No.2 and 3 were answered positively in favour of the plaintiffs.

ISSUE NO.4: Whether the plaintiff is entitled to the relief of Permanent injunction as prayed for?

COUNTER CLAIM ISSUE NO.1: Whether the 2nd defendant is entitled to the relief of Permanent injunction as prayed for with respect to counter claim property?

10.30) Ex.B17, B24, B25, B35 to Ex.B41 were the reply under the right to Information Act. Ex.B11, B13, B14, B24, B25, B29, B31, B32, B42 to B44, Ex.X1, X3, X4, X6, X8 were the documents after the institution of this suit ie. During pendency of suit, these exhibits were issued or created and it did not help to disprove the case of the plaintiffs. Many exhibits inclusive of revenue records, corporation records, or other trade/professional tax records, were in the name of the 1st defendant and mainly those were dated either before 2009 or after 2014.

10.31) As this court held that the plaintiffs are entitled to the relief of declaration of Ex.A5/cancellation deed, Ex.A6/2nd settlement deed, Ex.A7/power deed as null and void, the plaintiff is entitled to the relief of permanent injunction against the defendants, their men, agent not to disturb the peaceful possession and enjoyment of suit property by the plaintiffs. And the 2nd defendant is not entitled to the permanent injunction as prayed for. Thus these issues were answered accordingly.

ISSUE NO.5: What is the order relating to cost?

ISSUE NO.6: To what other reliefs the parties are entitled to?

10.32) The defendants 2 to 4 has to pay the suit cost to the plaintiffs. The parties are not entitled to any other reliefs. Thus these issue No.5 and 6 are answered accordingly.

11. In fine, this suit is decreed and counter claim is dismissed. The 2 to 4 defendants are directed to pay the suit cost to the plaintiffs. No order of costs to the 5th defendant.

Dictated to Steno-Typist and typed by her directly in the Computer and corrected and pronounced by me in the Open Court on this the 11th day of March 2026.

I Additional District Munsif (FAC)
Nagercoil.

Appendix:

1) Plaintiffs side witnesses:

PW1 - Sathasivam

2) Plaintiff side documents:

Ex.A1	13.10.1962	Original sale deed No.3459/1962
Ex.A2	13.10.1962	Original sale deed No.3460/1962
Ex.A3	13.10.1962	Original sale deed No.3463/1962
Ex.A4	20.05.2009	Certified copy of Settlement deed No.1538/2009
Ex.A5	07.01.2014	Certified copy of Cancellation deed in Doc.No.71/2014
Ex.A6	07.01.2014	Certified copy of Settlement deed in Doc.No.72/2014
Ex.A7	01.07.2014	Certified copy of Power deed in Doc.No.2057/2014
Ex.A8	22.09.2014	Original Land tax receipt in the name of plaintiff.
Ex.A9	18.09.2014	Original Encumbrance Certificate
Ex.A10	10.11.2010	Original copy of chitta
Ex.A11	22.03.2025	Notice given by the 2 nd defendant to the 1 st plaintiff,
Ex.A12	-	Reply Notice given by the 1 st plaintiff
Ex.A13	30.04.2025	Notice issued by the 2 nd defendant to the 1 st plaintiff,

3) Defendants side witnesses:

- DW1 - Vigneshkumar
 DW2 - Vijayakumar
 DW3 - Immanuel
 DW4 - Kannan Maharaja
 DW5 - Subramaniam
 DW6 - Murugan
 DW7 - Vijayakumar

4) Defendants side documents:-

Ex.B1	30.08.2006	Original Kara receipts in the name of 1 st defendant (nos.2)
Ex.B2	07.03.2003	Original notice issued for the 1st defendant (3 nos)
Ex.B3	14.02.1997	Receipt issued by Nagercoil Municipality to the 1 st defendant
Ex.B4	20.05.2009	Certified copy of Settlement deed No.1538/2009
Ex.B5	2013 - 2014	Original Property tax demand notice (nos.9)
Ex.B6	24.02.2014	Original Property tax receipt
Ex.B7	07.01.2014	Certified copy of settlement deed No.71/2014
Ex.B8	07.01.2014	Certified copy of settlement deed No.72/2014
Ex.B9	10.06.2014	Original fasli 1423 in the name of Vigneshkumar
0Ex.B10	13.10.2014, 26.02.2014	Original kara receipts in fasli 1423 and 1424 in the name of Vigneshkumar
Ex.B11	13.12.2021	Original kara receipt in fasli 1434 in the name of Vigneshkumar
Ex.B12	-	Original property tax receipt in the name of Vigneshkumar (nos.10)
Ex.B13	-	Original property tax receipt in the name of Vigneshkumar (nos.9)
Ex.B14	-	Original Electricity tax receipt in the name of Vigneshkumar (nos.4)
Ex.B15	08.08.2016	Letter issued by the 1 st defendant to the Nagercoil Municipality, postal receipt and acknowledgement card.
Ex.B16	08.09.2016	Letter issued by the 1 st defendant to the Nagercoil Municipality, postal receipt
Ex.B17	30.01.2025	Letter issued by the 2 nd defendant to the Nagercoil Municipality, postal receipt and acknowledgement card.

Ex.B18	-	Original Medical receipt in the name of 1 st defendant (nos.34)
Ex.B19	-	Original Medical receipt (nos. 12)
Ex.B20	30.07.2016	Original Medical bill for the 1 st defendant
Ex.B21	08.09.2018	Original discharge summary issued for the 1 st defendant
Ex.B22	15.12.2013	Original discharge summary issued for the 1 st defendant's husband Sathasivam
Ex.B23	26.02.2014	Original Medical charges certificate issued to Sadasivam
Ex.B24	02.03.2016	Copy of letter issued by the 1 st defendant to the Nagercoil Municipality, postal receipt and acknowledgement card (nos.2)
Ex.B25	03.03.2016	Letter issued by the General information officer to the 1 st defendant
Ex.B26	28.02.2014	Original Property tax receipt
Ex.B27	-	Original Property tax receipt (nos.10)
Ex.B28	28.02.2014	Original Trade licence receipt in the name of 1 st defendant
Ex.B29	-	Original Property tax receipt in the name of 2 nd defendant (nos.11)
Ex.B30	21.07.2015	Original kara receipts in fasli 1425 in the name of 2 nd defendant.
Ex.B31	-	Original Electricity bill receipt
Ex.B32	30.10.2014	Original chitta in fasli 1424 in the name of 2 nd defendant.
Ex.B33	28.06.1971	Certified copy of sale deed in the name of 1 st plaintiff and 5 th defendant.
Ex.B34	04.07.2017	Copy of plaint in O.S.163/2017
Ex.B35	03.05.2018	Copy of petition, Postal receipt, acknowledgement card forwarded to Nagercoil Municipality by the 4 th defendant
Ex.B36	25.07.2023	Copy of petition forwarded to Superintendent of police by the 4 th defendant.

Ex.B37	08.09.2023	Reply sent by the Taluk officer
Ex.B38	16.09.2023	Reply sent by the Nagercoil Municipality
Ex.B39	03.03.2025	Reply sent by the Nagercoil Municipality
Ex.B40	24.09.2024	Reply received under the Right to Information Act
Ex.B41	-	Reply given to the 4th respondent under the Right to Information Act
Ex.B42	30.10.2024	Original Property tax (Building tax) receipt
Ex.B43	29.09.2025	Original Property tax (Building tax) receipt
Ex.B44	18.09.2025	Original Revenue (Land) Tax receipt
Ex.B45	10.11.2025	Online copy of Guideline value
Ex.B46	2010 - 2011I to 2011- 2012 II	Originals Property Tax Demand notices (Nos.9)
Ex.B47	14.09.2011	Original Property Tax (Building Tax)

5) **3rd Party documents:-**

Ex.X1	04.02.2015	Application for fire license
Ex.X2	22.10.2025	Letter of authority given to testify on behalf of the Commissioner.
Ex.X3	24.10.2025	Certified copy of Business license certificate from 2019 to 2025
Ex.X4	-	Petition filed by vasantha and statements of parties, and orders
Ex.X5	-	Certified copy of B register and copy of Chitta
Ex.X6	-	Certified copy of Business license certificate from 2009 to 2018 in the name of vasantha
Ex.X7	-	Authorisation letter
Ex.X8	-	Regiser of deleted files

I Additional District Munsif (FAC)
Nagercoil.

I ADM Court
Draft/Fair Judgment
O.S.266 of 2014
Dated: 11.03.2026.