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SA No. 298 of 2010



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on

22.01.2026

Pronounced on

10.02.2026

CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

SA No. 298 of 2010

AND

SA NO. 844 OF 2012,

and CMP NOs. 30090 & 30100 OF 2025

1. Madesammal
W/o Late Naina Gounder, Perumal
Malai Adivaram, Alagapuram,
Reddiyur, Salem 4.

Appellant(s)

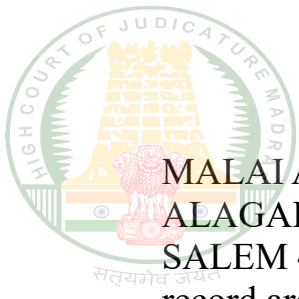
Vs

1. BAKKIAM(died)
W/o Late Marimuthu, 5/31, B.Perumal
Malai Adivaram, East, Alagapuram,
Reddiyur, Salem 4.

2.M.Annamalai
S/o Late Marimuthu, 5/31, B.Perumal
Malai Adivaram, East, Alagapuram,
Reddiyur, Salem 4.

3.M.Kumar
S/o Late Marimuthu, 5/31, B.Perumal
Malai Adivaram, East, Alagapuram,
Reddiyur, Salem 4.

4.M.Selvi
D/O LATE MARIMUTHU, W/O
RAVICHANDRAN, PERUMAL



MALAI ADIVARAM,
ALAGAPURAM, REDDIYUR,
SALEM 4. r1 died, rr2 to 4 already on
record are recorded as lrs of the
deceased r1 .memo recorded vide court
order dated 11/07/2025 made in
sa.no.844 of 2012(CVKJ)

5.Dhanapal (died)
S/o Perumal, Perumal Malai Adivaram,
Alagapuram, Reddiyur, Salem – 4.

6.Palani
.

7.D.Perumayi
W/o P.Dhanapal, Door.No.190/5/29
Perumal Malai Adivaram, Reddiyur
Village, Salem-636004

8.G.Azhagurani
W/o P.Dhanapal, Door.No.190/5/29,
Perumal Malai Adivaram, Reddiyur
Village, Salem-636004

9.D.Ganapathi
S/o P.Dhanapal, Door.No.190/5/29,
Perumal Malai Adivaram, Reddiyur
Village, Salem-636004

10.D.Ravi
S/o P.Dhanapal, Door.No.190/5/29,
Perumal Malai Adivaram, Reddiyur
Village, Salem--636004. R5 Died. R7
To R10 Are Brought On Record As Lt's
Of The Deceased R5 Vide Order Of
Court Dated 19/06/2024 And Made In
Cmp.No.11522 Of 2020 In S.A.No.298
Of 2010 (vsgj)

Respondent(s)



SA No. 844 of 2012

1. Dhanapal(died)

S/o Perumal At Perumal Malai
Adivaram Alagapuram Reddiyur
Salem-4

2. Palani

S/o Perumal At Perumal Malai
Adivaram Alagapuram Reddiyur
Salem-4

3. D. Perumayi

W/o P. Dhanapal, Door.No.190/5/29,
Perumal Malai Adivaram, Reddiyur
Village, Salem-636004

4. G. Azhagurani

D/o P. Dhanapal, Door.No.190/5/29,
Perumal Malai Adivaram, Reddiyur
Village, Salem-636004

5. D. Ganapathi

S/o P. Dhanapal, Door.No.190/5/29,
Perumal Malai Adivaram, Reddiyur
Village, Salem-636004

6. D. Ravi

S/o P. Dhanapal, Door.No.190/5/29,
Perumal Malai Adivaram, Reddiyur
Village, Salem-636004 A1 Died. A3 To
A6 Are Brought On Record As Lt's Of
The Deceased A1 Vide Order Of Court
Dated 19/06/2024 Made In
Cmp.No.11528 Of 2020 In S.A.No.844
Of 2012 (vsgj)

Appellant(s)



Vs

1. BAKKIAM(died)
W/o Marimuthu At 5/31b Perumal
Malai Adivaram East Allagapuram
Reddiyur Salem-4

2.M.Annamalai
S/o Marimuthu At 5/31b Perumal Malai
Adivaram East Allagapuram Reddiyur
Salem-4

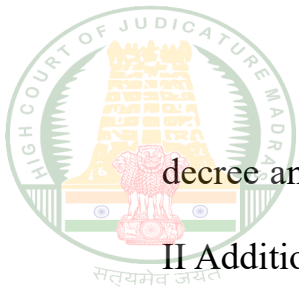
3.M.Kumar
S/o Marimuthu At 5/31b Perumal Malai
Adivaram East Allagapuram Reddiyur
Salem-4

4.M.Selvi
W/O RAVICHANDRAN PERUMAL
MALAI ADIVARAM
ALLAGAPURAM REDDIYUR
SALEM-4 r1 died, rr2 to 4 already on
record are recorded as lrs of the
deceased r1 .memo recorded(dated
19/06/2024) vide court order dated
11/07/2025 made in sa.no.844 of
2012(CVKJ)

5.Mathesammal
W/o Late Naina Goundeer At Perumal
Malai Adivaram East Allagapuram
Reddiyur Salem-4

Respondent(s)

COMMON PRAYER: Second Appeals are filed under Section 100 of the Civil Procedure Code to set aside the decree and judgment dated 23.10.2008 passed in A.S.No.227 of 2007 on the file of the Principal Subordinate Court against the



decree and judgment dated 15.06.2007 in O.S.No.887 of 2003 on the file of the
II Additional District Munsif Court, Salem.

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For Appellant(s): M/s.P. Jagadeesan
in both appeals

For Respondent(s): M/s.M.Ravi
For R2 To R4 (in both appeals)

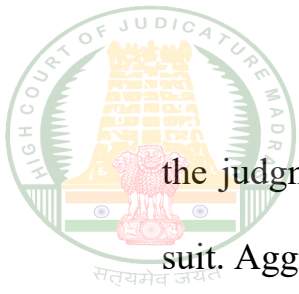
Mr.A.Ragupathy Raj for R5 in
S.A.No.844/2012

COMMON ORDER

S.A.No.844 of 2012 has been filed by the appellants / defendants 2 & 3 against the decree and judgment dated 23.10.2008 passed in A.S.No.227 of 2007 on the file of the Principal Subordinate Court, Salem, against the decree and judgment dated 15.06.2007 in O.S.No.887 of 2003 on the file of the 2nd Additional District Munsif Court, Salem.

Second Appeal in S.A.No.298 of 2010 has been filed by the appellant / first defendant against the judgment and decree dated 23.10.2008 passed in A.S.No.227 of 2007 on the file of the Principal Subordinate Judge, Salem, reversing the judgment and decree dated 15.06.2007 in O.S.No.887 of 2003 on the file of II Additional District Munsif Court, Salem.

2. The suit in O.S.No.887/2003 has been filed for the relief of declaration and permanent injunction. The Trial Court has dismissed the suit and on the First Appeal preferred by the plaintiffs, the First Appellate Court has set aside



the judgment of the Trial Court by allowing the First Appeal and decreed the suit. Aggrieved over that, the defendants have filed these two Second Appeals.

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3. The facts pleaded in the plaint filed by the plaintiffs in brief:

The first plaintiff Bakkiam is the wife of late Marimuthu. The plaintiffs 2 to 4 are the children of the first plaintiff and late Marimuthu. Previously, Marimuthu had married one Chinnammal and out of the said marriage, Chinnammal gave birth to one child by name Sekar. The said Sekar predeceased Chinnammal, without marriage. On 23.12.1965, the first plaintiff and the said Sekar have purchased the suit property. As the original sale deed was lost, the registration copy of the sale deed is produced before the Court. From the date of purchase, the first plaintiff and Sekar had been in enjoyment of the same.

3.1 The defendants are the daughter-in-law and sons of Perumal Goundar and they proclaimed that they are going to sell away the suit property. The defendants have created a sale deed as though it has been executed by the plaintiffs 1 and 2 on 30.01.1991 in favour of the defendants. The plaintiffs are not the parties to the said sale deed, but it is a forged one. Hence, it will not create any right in favour of the defendants. The plaintiffs are in possession and enjoyment of the suit property and they never executed any sale deed in favour of anyone. Subsequently, on 30.11.2003, the defendants have tried to take forcible possession from the plaintiffs. Hence, the plaintiffs have filed the suit



for permanent injunction along with the relief of declaration that the plaintiffs are the owners of the suit property.

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4. The averments made in the written statement filed by the third defendant and adopted by the second defendant are as follows:

The relationship of the plaintiffs with the deceased Marimuthu and Sekar is not disputed. The suit property has been sold by the plaintiffs to the defendants on 30.01.1991 for a valuable sale consideration of Rs.25,800/- and thereafter, the possession of the suit property was given to the defendants on 30.01.1991. From then onwards, the defendants were in actual possession and enjoyment of the same. The plaintiffs have no manner of right, title or interest over the suit property. As the title has been passed in favour of the defendants, the plaintiffs cannot claim any right over the suit property. It is false to state that the defendants have taken forcible possession from the plaintiffs. The sale deed dated 30.01.1991 is a genuine one and the suit has been filed without any cause of action and hence, it is liable to be dismissed.

5. On the basis of the above pleadings, the Trial Court has framed the following issues:

“1. Whether the sale deed dated 30.01.1991 is forged and created not binding upon the plaintiffs?

2. Whether the plaintiffs are in possession and enjoyment of



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the suit property?

3. Whether the plaintiffs are entitled to the relief of declaration and permanent injunction?

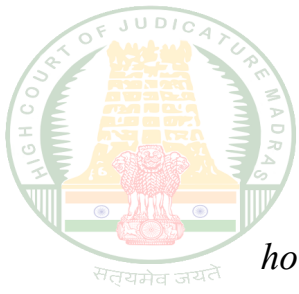
4. To what other reliefs?”

6. During the course of the trial, on the side of the plaintiffs, three witnesses were examined as P.W.1 to P.W.3 and Exhibits A1 to A17 were marked. On the side of the defendants, D.W.1 to D.W.4 were examined and Exhibits B1 to B6 were marked.

7. At the conclusion of the trial and on considering the evidence available on record, the Trial Court has dismissed the suit. The First Appeal preferred by the plaintiffs before the First Appellate Court in A.S.No.227 of 2007 was allowed by reversing the judgment of the Trial Court. Aggrieved over the same, the defendants have filed these two Second Appeals. These Second Appeals have been admitted by raising the following common substantial questions of law:

“(i) Whether the suit for declaration and permanent injunction is maintainable without a prayer for setting aside the sale deed Ex.B1?

(ii) Whether the plaintiffs have discharged their burden of proving that Ex.B1 is not a valid document for non-examination of the attestor (Govindan) and the 4th plaintiff?



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(iii) *Whether the Lower Appellate Court was correct in holding that Ex.B1 was not valid on the ground that it had not been properly executed overlooking the fact that the first plaintiff was illiterate and left thumb was damaged owing to leprosy?"*

8. Mr.P.Jagadeesan, the learned counsel for the appellants / defendants submitted that the sale deed has been executed by the first plaintiff for herself and as a guardian for the plaintiffs 2 and 3 along with her major daughter, the fourth plaintiff; in the sale deed, the fourth plaintiff had affixed her signature; the first plaintiff has been suffering with Leprosy and hence she was not able to affix her thumb impression; in the Thumb Impression Register, the Sub-Registrar has made an endorsement stating that the first plaintiff was affected with Leprosy; the fourth plaintiff, despite being a party to the proceedings and also the sale deed, has not come to the box to speak that she has not affixed her signature in the sale deed; the attesor of the document who is a notary public was examined as D.W.1 and he has stated about the execution of the documents by the plaintiffs.

8.1 D.W.1 has clearly stated in his evidence about the presence of the first plaintiff in the registration office at the time of executing the document and also the fourth plaintiff affixing her signature; there is no suspicion in the evidence of D.W.1; the plaintiffs without raising the relief of declaring the sale deed as



null and void, could not directly file a suit to declare title; these facts were not properly appreciated by the First Appellate Court.

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8.2 The plaintiffs have adduced evidences through P.W.1 to P.W.3 that the fourth plaintiff by name Selvi is in the habit of affixing thumb impression and she cannot sign; but the Trial Court has observed that when Selvi herself is a party to the proceedings, she ought to have come to the Court to adduce evidence and hence, the Trial Court has rightly taken an adverse inference and the same was also not properly appreciated by the First Appellate Court; the Trial Court has perused the vakalat and pleadings and arrived at a conclusion that Selvi can affix her signature and thus, got convinced with the contention of the defendants. The learned counsel for the appellants has drawn the attention of the Court to Section 3(56) of General Clauses Act and Section 3 of Transfer of Property Act and also Section 58 of the Registration Act.

9. Mr.M.Ravi, the learned counsel for the respondents R2 to R4 / plaintiffs submitted that the sale deed would show that the document writer alone has written as “கீரல் பாக்கியம் அம்மாள்” and Bakkiam who is the first plaintiff, has not affixed her thumb impression anywhere; the first plaintiff has got nothing to do with Ex.B1 sale deed dated 30.01.1991; only when the plaintiffs came to know about the fraudulent action of the defendants and when their possession was disturbed, they came to file the suit; when the plaintiffs



plead that they are not parties to the said document, it is not obligatory on their part to prove that the document was not executed by them; as the plaintiffs have contended that they are not parties to Ex.B1 – Sale deed, they have not sought for any relief of declaration in respect of the sale deed that it is invalid; even if it is assumed that the first plaintiff is affected by Leprosy, some procedural mandates need to be followed and while executing Ex.B1, those procedures were not followed.

9.1. The first plaintiff was drawing pension of the deceased Sekar and during that course, she was in the habit of affixing her thumb impression; P.W.3 has stated in his evidence that the left thumb of Bakkiam was not totally affected by Leprosy and that was not totally damaged; Ex.A17 – Pension Receipt could not have been a created document for the purpose of this case in view of its relevancy of time. Attention of this Court was drawn to the Instructions 476 and 477 of the Registration Manual of the Registration Department of Tamil Nadu.

10. The three substantial questions of law framed in these second appeals revolves around the validity of Ex.B1 - sale deed. The respondents / plaintiffs who have filed the suit seeking to declare the title and consequent permanent injunction in respect of the suit property, has taken a stand that Ex.B1 – sale deed was not executed by the plaintiffs. The said sale deed appears to have been



executed in favour of the defendants 1 to 3 by the first plaintiff along with the fourth plaintiff. The first plaintiff have executed the sale deed for herself and on behalf of her minor children, the plaintiffs 2 and 3 and the major daughter, the fourth plaintiff.

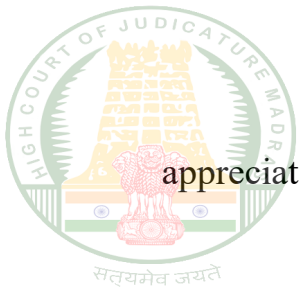
11. The contention of the respondents is that the first plaintiff was affected due to Leprosy and hence she was not in a position to affix her signature on Ex.B1 – sale deed and hence it has been mentioned in the sale deed as “கீரல் பாக்கியம் அம்மாள்”. It is further stated that the fourth defendant had affixed her signature and the defendant’s witness D.W.1 and D.W.2 have spoken about the presence of the plaintiffs 1 to 4 at the Sub-Registrar Office on the date of the execution of the sale deed.

12. Section 3 sub-clause (56) of the General Clause Act defines as under:

“ 3. Definitions. - In this Act, and in all Central Acts and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context, -

56) “sign”, with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include “mark”, with its grammatical variations and cognate expressions”

13. Section 58 of the Registration Act, 1908 would state about the particulars to be introduced on the documents admitted for registration. For a better



appreciation, Section 58 of the Registration Act is extracted hereunder:

“ 58. Particulars to be endorsed on documents admitted to

registration – (1) *On every document admitted to registration, other than a copy of a decree or order, or a copy sent to a registering officer under Section 89, there shall be endorsed from time to time the following particulars, namely -*

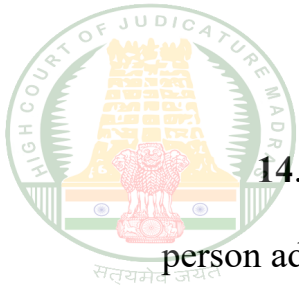
(a) the signature and addition of every person admitting the execution of the document, and, if such execution has been admitted by the representatives, assign or agent of any person, the signature and addition of such representative, assign or agent;

[(aa) in the case of a document for sale of property, the signature and addition of every person admitting the claim under such document, and, if such claim has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;]

(b) the signature and additional of every person examined in reference to such document under any of the provisions of this Act; and

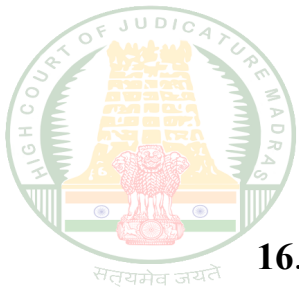
(c) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

(2) If any person admitting the execution of a document [and in the case of a document for sale of property, any person admitting the execution of such document, or any person admitting the claim under that document] refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.”



14. As per Section 58(1)(aa) of the Registration Act, the signature of a person admitting the claim under the document should be present. If the claim is admitted by a representative or an agent of any person, the signature of such agent or representor should also be present during the execution of the document. Even when a person who has admitted the claim and execution of the document refused to affix his signature, the Registration Officer shall register it by endorsing the note for such refusal. So, the above provisions under Section 58(1)(aa) of the Registration Act would make it clear that in any document like the sale deed, the signature of the executant ought to have been made and even on his refusal, the Registration Officer shall make an endorsement to that effect and in view of Section 3 sub-clause (56) of the General Clauses Act, the word “*signed*” would denote the above mark with reference to a person who is unable to write his name.

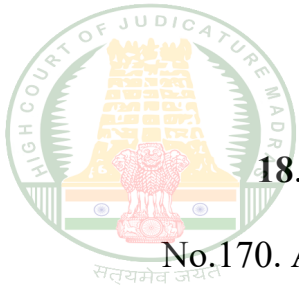
15. So the contention of the respondents / plaintiffs that in Ex.B1 – sale deed neither the thumb impression of the first respondent / first plaintiff has been affixed nor the mark has been made by any of the representative or agent of the first respondent / first plaintiff by affixing her signature. Admittedly, in Ex.B1 there is a mention about “*கீரல் பாக்கியம்*”. The person who has made the mark on behalf of the first respondent / first plaintiff did not affix his signature. The mark on the sale deed is a type-written hyphen mark and not the mark made by the first respondent / first plaintiff.



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16. The fourth plaintiff who is a major daughter of the first plaintiff had affixed her signature. However, it is denied by the respondents / plaintiffs that neither of the plaintiffs have gone to the registration office on 30.01.1991 and executed Ex.B1 – sale deed and passed the title in respect of the suit property in pursuant to the sale deed in favour of the defendants. At the 2nd page of the sale deed the hand written “x” mark has been made on behalf of the first respondent / plaintiff and the fourth plaintiff has affixed both the signatures and the thumb impression. Two witnesses have also signed below the said mark for having identified the executants who have affixed their signatures.

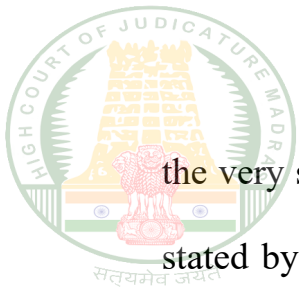
17. D.W.2 who has been summoned by the defendants from the concerned Sub-Registrar Office where Ex.B1 was registered, has deposed evidence basing on the records and stated that Ex.B1 has been registered in Soolamangalam, Sub-Registrar Office in document No.206/91. He has stated that Bakkiyam i.e. the first respondent / plaintiff was affected by Leprosy and hence she did not affix her thumb impression and the fourth plaintiff alone had affixed the thumb impression in Ex.B2. The Thumb Impression Register would show the thumb impressions of various persons who had been to the Sub-Registrar Office on 30.01.1991 for various transactions. One serial number is assigned to get the thumb impression of persons involved in one document.



18. The serial number assigned to Ex.B1 in Thumb Impression Register is No.170. As against the Register No.170, the official in the Sub-Registrar Office

has made a “x” mark on behalf of the first plaintiff by making an endorsement “தொழுநோய் பீடிக்கப்பட்டவர்” (meaning: person affected due to leprosy). The next person is another executant namely the fourth respondent / fourth plaintiff who had affixed her signature as well as the thumb impression. The relevant page of the thumb impression register has been produced as Ex.B2. As the document has not been released on the day when it was registered due to insufficient payment of stamp papers, it was kept pending by assigning a pending No.நி5/91. That reference is also shown in Ex.B2 Thumb Impression Register against the endorsement made on behalf of the first respondent / first plaintiff and the signature in the thumb impression made by the fourth plaintiff.

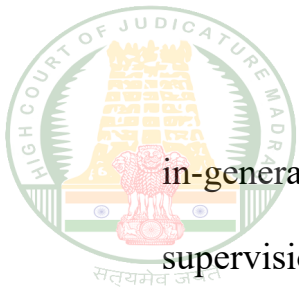
19. The document was of the year 1991 and the suit has been filed by the plaintiff in the year 2003. During the course of the arguments, the learned counsel for the respondents / plaintiffs submitted that as per Rule 476 of the Tamil Nadu Registration Manual Part – 11, the signature of the person suffering from contagious disease shall also be obtained through the impressions dispensed with under Rule 62. Even in such cases, mark signature of such persons need not be obtained and it is sufficient to make a note that Marks Man / Marks Woman – suffering from contagious disease. On Ex.B1 – sale deed



the very same procedure is adopted. Since leprosy is a contagious disease, it is stated by mentioning the name of Marks Woman, who has contagious disease.

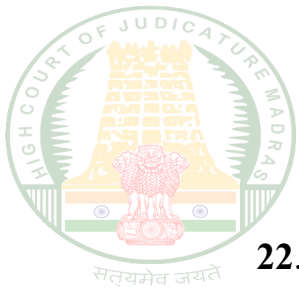
Instead of making it in handwriting by a person who is making the endorsement, it is seen to be type-written in the document. Registration Manual, Rule 476 would state that mark or signature of the said person affected with contagious disease need not be obtained. Just because the endorsement has been type-written instead of hand writing, it can not be said that the procedure contemplated under Section 476 of the Registration Manual Part 11, has not been complied.

20. It is not denied by the respondents / plaintiffs that Bakkiam was suffering from Leprosy. No signature can also be obtained from her as her hands would have been damaged and mutilated. It is contended that Bakkiam has not damaged to the level of inability to affix impressions and she had been in the habit of affixing her thumb impression in pension books etc. But the Rule 477 of the Registration Manual does not state the level of mutilation of left thumb impression. It only states about the contagious diseases as a reason for not getting the thumb impression. According to Rule 477 of the Registration Manual such impressions shall be taken under the personal supervision and in the immediate presence of the Registering Officer himself. Rule 477 has to be read as a cumulative consequence to Rule 475 and 476. Rule 475 speaks about obtaining the thumb impression or signature in the thumb impression register



in-general. As per Rule 477 of the Registration Manual, a person under whose supervision the impressions are obtained should be able to depose evidence before the Court when needed and such duty shall not be delegated.

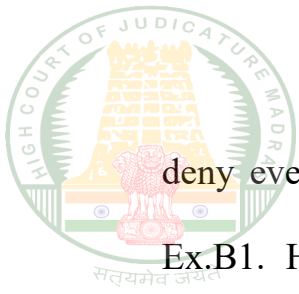
21. Admittedly, D.W.2 is not a Sub-Registrar in the Sub-Registrar Office where Ex.B1 was registered and he was a Head Clerk in the Sub-Registrar Office. It is not the contention of the respondents / plaintiffs that the Sub-Registrar who was present in the year 1991 when the document Ex.B1 was registered was available in the very same Sub-Registrar Office, but he did not choose to come but deputed his sub-ordinate. When summon is issued to the Sub-Registrar, some time the person in-charge of the seat might be deputed to Court. If a person who is deputed by the Officer gives evidence based on record, that cannot be ignored by the Court unless it is established before the Court that the deponent has got some vested interest or he is deposing false evidence. Even if the Sub-Registrar comes to depose evidence, he can depose evidence only basing on the records and by recalling his memory about the presence of the parties from the endorsement affixed by his office on the relevant day of the transaction. It is not the contention of the defendant that the endorsement in the records of the sub registrar is forged or someone has committed impersonation by producing any other person with leprosy in the place of the first plaintiff. Hence much ado cannot be attached for deputing an officer to depose evidence in respect of Ex.B2.



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22. In fact, yet another document has been registered on the same day is also seen to be suffering from deficit stamp and given with pending Document No.6. The learned counsel for the respondents / plaintiffs submitted that one of the executants of the above document is one of the defendants and with regard to the above transaction, a complaint has been given by a third party and in pursuant to that an FIR has been registered in Cr.No.12/2012 on the file of Central Crime Branch, Salem City. But these documents were not marked as evidence in this suit. In fact, the above sale deed has been executed in favour of the first plaintiff of this suit. The first plaintiff did not give any complaint stating that she was not the person who purchased the property involved in the said document executed by one of the appellants / defendants on the same day. So those matters are extraneous to the issue involved in this suit. In fact, that would also confirm the fact that the first plaintiff was present in the Sub-Registrar Office during the relevant point of time and hence the possibility of her executing Ex.B1 need not be doubted.

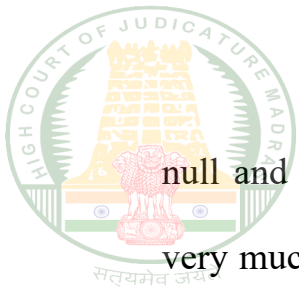
23. Apart from the technicalities involved in making marks / endorsements on behalf of the persons having contagious diseases like the first respondent, one important fact with regard to the presence of the fourth plaintiff assumes great significance. The fourth plaintiff had affixed not only her signature but also her thumb impression in Ex.B1 – Sale deed. The plaintiffs



deny even the presence of the fourth respondent on the date of execution of Ex.B1. However, the fourth plaintiff avoided the witness box and did not assert by adducing evidence before the Court that the signature and the thumb impression were not affixed by her in Ex.B1 Thumb Impression Register relating to the said document on 30.01.1991. D.W.2 has also given categorical evidence about the presence of the fourth plaintiff also and hence the respondents / plaintiffs could not deny their very presence for executing Ex.B1 and claim that they are not parties to Ex.B1 sale deed executed in favour of the defendants.

24. Though the plaintiffs have chosen to file an intelligent suit by denying their presence in the Sub-Registrar Office and thereby claimed that they are not parties to Ex.B1, the material available on record would only substantiate the fact that the first plaintiff for herself and on behalf of her minor children and the fourth plaintiff, were very much present in the Sub-Registrar Office on 30.01.1991 for executing the sale deed in favour of the defendants and participated in the process of executing the sale deed as stated by the defendants and confirmed by D.W.2 - official of the Sub-Registrar Office, along with Ex.B2 thumb impression register.

25. There cannot be any doubt about the legal position that a person who is not a party to a sale deed need not file a suit to declare that the sale deed is



null and void. But when it is proved before the Court that the plaintiffs were very much parties to Ex.B1, they cannot get the relief for a mere declaration of title without seeking the relief of declaration that the sale deed Ex.B1 is null and void.

26. Though the first appellate Court also discussed about the avoidance of witness box by the fourth plaintiff, it is observed that she had a very minor interest to the suit property and hence, her role can be neglected. Irrespective of the quantum of the entitlement of the fourth plaintiff, it is to be noted that the fourth plaintiff was very much present at the Sub-Registrar Office on 30.01.1991 along with her mother, the first plaintiff, for executing the sale deed in respect of the suit property in favour of the defendants. So, the plaintiffs cannot conveniently ignore the sale deed dated 30.01.1991 denying their very presence in the Sub-Registrar Office by taking advantage of the fact that the first plaintiff is a person suffering from contagious disease and the related technicalities involving the execution of documents by such persons.

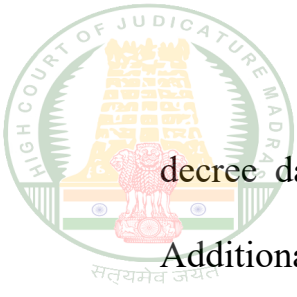
27. Though the trial Court has rightly appreciated the evidence and arrived at a right conclusion that Ex.B1 document was executed by the first plaintiff for herself and on behalf of her minor children, the plaintiffs 2 and 3 along with the major daughter fourth plaintiff, the first appellate Court had misled itself by ignoring the presence of the fourth plaintiff to execute Ex.B1



sale deed. Even if it is presumed that the Regulation for making endorsement in respect of the persons affected with contagious disease is not valid, that will not falsify the intention of the party who was present at the Sub-Registrar Office to transfer the title in favour of the purchaser in respect of the suit property. Since the authorized officers are entitled to even make an endorsement in the event of the party executing the document refuse to affix their signature despite executing the document, the presence of the first plaintiff and fourth plaintiff at the Sub-Registrar Office during the relevant date, cannot be reduced to the level of rendering Ex.B1 itself as non-est.

28. As the evidence on record prove the presence of both the first and the fourth plaintiff and that they have executed the sale deed in a manner known to law and the officials of the Sub-Registrar Office have also followed the correct procedure for making due endorsements in respect of persons affected by contagious disease, it is not correct on the part of the first appellate Court to reverse the judgment of the trial Court and decreed the suit. In view of the above stated reasons, the substantial questions of law which revolves around Ex.B1 are answered in favour of the appellants.

29. In the result, Second Appeals are **allowed** and the decree and judgment dated 23.10.2008 passed in A.S.No.227 of 2007 on the file of the Principal Subordinate Court, Salem is hereby set aside and the judgment and



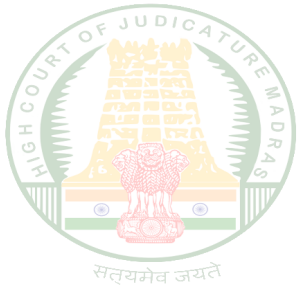
decree dated 15.06.2007 made in O.S.No.887 of 2003 on the file of the II Additional District Munsif Court, Salem is upheld. No costs. As the substantial questions of law already raised itself covers the entire issue, the connected Civil Miscellaneous Petitions filed seeking to file additional substantial questions of law are also dismissed.

-02-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
bkn

To:

1. Principal Subordinate Judge, Salem
2. II Additional District Munsif, Salem



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SA No. 298 of 2010



R.N.MANJULA J.

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**SA No. 298 of 2010
AND SA NO. 844 OF
2012**

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