



SA No. 569 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-02-2026

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CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 569 of 2021

1. Venkatesan
S/o Late Mayil Ravanam, Res At
Kodaikkal Madura, Kondapuram
Village, Walajah Tk, Vellore District

2. Anjali
D/o Late Mayil Ravanam, Res At
Kodaikkal Madura, Kondapuram
Village, Walajah Tk, Vellore District

3. Indiragandhi
W/o Res At Kodaikkal Madura,
Kondapuram Village, Walajah Tk,
Vellore District

Appellant(s)

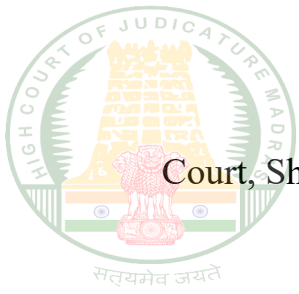
Vs

1. Munusamy
S/o Late Chinnappa Reddy, Kodaikkal
Madura, Kondapuram Village, Walajah
Tk, Vellore District

Respondent(s)

PRAYER

Second Appeal filed under Section 100 of CPC against the Judgment and Decree dated 20/12/2019 made in AS No. 26/2019 on file of Special Subordinate Court for LAOP Cases, Arakkonam, reversing the Judgment and decree dated 25/1/2018 made in OS No. 7/2006 on the file of District Munsif



Court, Sholinghur.

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For Appellant(s): MR.S.Kaithamalai Kumaran

For Respondent(s): Mr.A.Gouthaman

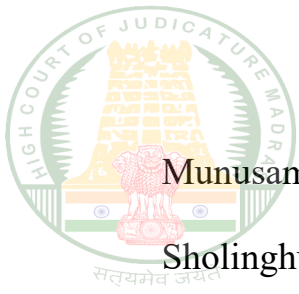
JUDGMENT

Challenging the reversal finding, the plaintiffs/appellants have preferred this Second Appeal.

2. For the sake of convenience, the parties are denoted as per their ranking before the trial court. The brief facts before the trial court is as under:-

2.1 The plaintiffs/appellants herein filed a suit for partition claiming 2/3rd share in the entire suit property against defendants. The 2nd defendant Mayil Ravanam is the father of the plaintiffs 1 and 2 and husband of the 3rd plaintiff.

2.2 The case of the plaintiffs is that the entire suit property is ancestral Joint Family Property allotted to the plaintiffs 1 and 2's father Mayil Ravanam as per Registered Partition deed held in the family dated 28.08.1985 in which the suit property was allotted to his share. Thereafter, the plaintiffs 1 and 2 along with their father constituted Joint Family and they jointly enjoyed the property. The plaintiffs also contended that their father Mayil Ravanam was insane in and around 2004. He was not capable of understanding. He has no mental capability; taking advantage of the same, on 27.06.2005, the 1st defendant

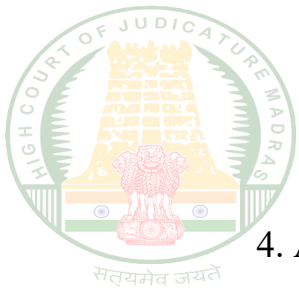


Munusamy forcibly took his brother Mayil Ravanam to Sub-Registrar's Office, Sholinghur and obtained sale deed in respect of the entire suit property. Having come to know that, immediately they caused notice. But the 1st defendant caused interference and claimed right over the suit property. Therefore, the plaintiffs 1 and 2 viz., the children of the said Mayil Ravanam filed a suit claiming share represented through their mother, since at that time, they were minors. Pending suit, Mayil Ravanam/father of the plaintiffs were added as 2nd defendant but he died pending suit. The 1st defendant Munusamy who is brother of the Mayil Ravanam contested the case stating that as a Joint Family Manager, Mayil Ravanam maintained the family and for the welfare of the minor children and for plaintiffs 1 and 2 education, he sold the property for valid sale consideration on 27.06.2005. Therefore, the sale deed was marked as Ex.B.1 and thereafter, he contested the case as purchaser as he is in enjoyment of the property.

2.3 The 1st defendant contended that the plaintiffs not sought for any prayer to cancel the sale deed, without which the suit is not maintainable. Further he would contend that the sale was made by Mayil Ravanam as a guardian for the minor children and for the education and welfare and to maintain the family and also for legal necessity. The sale deed bind the plaintiffs and he prayed to dismiss the suit before the trial court.



3. Both parties adduced evidence. On the side of the plaintiffs, the mother of the minor children was examined as P.W.1 another witness was examined as P.W.2 and marked Exhibits A.1 to A.3. On the side of the defendant, Ex.B.1 and Ex.B.2 were marked. Based on that, the trial court framed issues. On considering the issues, the Trial Judge held that at the time of the filing of the suit, plaintiffs 1 and 2 were minors. It is also held that as per Ex.A.1, Partition Deed, the properties were joint Family in nature in which plaintiffs 1 and 2 are having 1/3rd share along with their father. Further both minor children are dumb and they were studying only in the Government School. In such circumstances, the property sold for the welfare of the minor children and for the education of the minor children is not acceptable one. The burden is heavily entrusted upon the purchaser/1st defendant who purchased the property from Mayil Ravanan that for the welfare of the minors, the property was sold by Mayil Ravanan who was a guardian of the children. P.W.2 deposed that both the plaintiffs were hearing disabled persons but there was no recital to that effect in Ex.B.1 sale deed . But as per the recitals, the property was sold to meet out the educational expenses as such is not acceptable one. Therefore, the trial Judge has held that the property was not sold by Mayil Ravanan for the financial necessity of the minor plaintiffs. However, he is entitled to execute sale for his 1/3rd share. Therefore, the trial Judge held that the plaintiffs are entitled for 2/3rd share and the sale deed executed by the father will not bind them. Accordingly, suit is decreed as prayed for.



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4. Aggrieved by the finding, the 1st defendant preferred appeal before the Sub Court, Vellore, wherein, the 1st appellate court analysed the entire evidence and held that there is no proof on the side of the plaintiffs that Mayil Ravanam was suffered with insanity at the time of execution of Ex.B.1 and at the time of selling the property. But Mayil Ravanam was a Joint Family Manager and to manage the family and in order to discharge the debt, he sold the property through sale deed Ex.B.1 which is sustainable one. The 1st appellate Judge also held that the plaintiff has not sought for any relief with regard to cancellation of Ex.B.1 sale deed. Further the plaintiff established that the property was sold by Mayil Ravanam not for any immoral purpose. Based on those findings, the 1st appellate Judge allowed the appeal, thereby, dismissed the suit.

5. Aggrieved by the said findings, the plaintiffs have preferred this Second Appeal.

6. Learned counsel for the appellants/plaintiffs argues that the 1st appellate court failed to take note of the fact that there was a clear evidence on the side of the plaintiffs that both the plaintiffs 1 and 2 are dumb i.e., hearing disabled persons and they were only studying in the Government School and there was no necessity to sell the property to meet huge educational expenses as they were



already dumb i.e., hearing disabled children. Though the trial court has appreciated the said fact, the 1st appellate court failed to take note of it and erroneously dismissed the suit, which requires interference. As such the findings are illegal and to be set aside.

7. Further the learned counsel for the appellants/plaintiffs would also argue that the 1st appellate court failed to take note of the evidence of D.W.3 Head Master of the school where the plaintiffs 1 and 2 were studying. The Head Master deposed that the children were studying under free education scheme, but the same was not properly appreciated by the 1st appellate court though the trial Judge has rightly held that the sale was not made for the welfare of the minor children.

8. Learned counsel also pointed out that no permission was obtained to sell the property of the minor plaintiffs since the children were physically challenged persons; the relief claimed in the suit is legally sustainable.

9. Further the suit has also been filed immediately by the minor plaintiffs soon after the alleged sale which shows that the said Mayil Ramanan has not executed the sale deed for the legal necessity; but by force the 1st defendant has obtained the sale deed, but the 1st appellate court failed to appreciate all these facts properly. Hence prayed to allow the second appeal and dismiss the first



appeal.

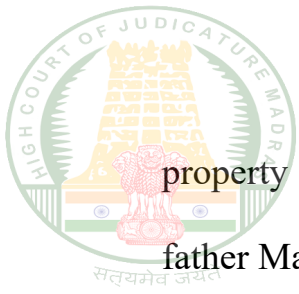
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10. In reply, the learned counsel for the 1st defendant/respondent submits that due to family necessity, as a Joint Family Manager, the father of the minor plaintiffs viz., Mayil Ravanam sold the property for valid consideration; ever since execution of Ex.B.1 sale deed, the 1st defendant became the absolute owner of the property which was rightly appreciated by the trial court. In order to grab the property, the plaintiffs falsely contended that Mayil Ravanam suffered with insanity. To that effect, the contentions raised by the learned counsel for the appellants/plaintiffs is false one and sought to dismiss the appeal.

11. Upon hearing the learned counsel appearing on either side and on perusal of the materials available on record, the following substantial question of law arises for consideration in this Second Appeal.

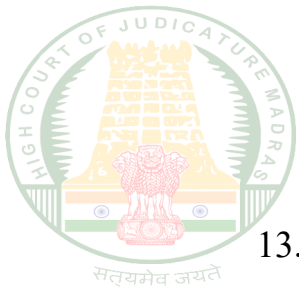
“The appellants 1 and 2 being the co-parceners in the suit schedule properties need not challenge the sale deed Ex.B.1 dated 27.06.2005 as null and void as their guardian has no right to alienate their share without permission from a competent court?”

12. Considering both side submissions, the fact reveals that the suit



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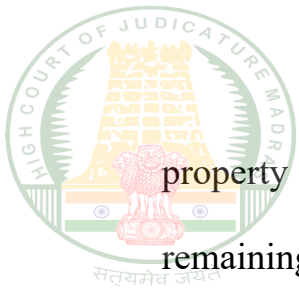
property is ancestral in nature allotted to the share of the plaintiffs 1 and 2's father Mayil Ravanam in the family. It is an undisputed fact that the 1st defendant is the brother of the said Mayil Ravanam. It is also admitted fact that both the plaintiffs 1 and 2 suffered with hearing disability and they are hearing disabled persons and studying in Government School as per the evidence of P.W.3 Head Master of the School, therefore, the minor children were studying under the Government's free education system. According to the plaintiffs, the 1st defendant who is the brother of their father forcibly obtained the sale deed for the entire property. Having come to know about the same, they immediately raised objection and issued notice. The plaintiffs also contend that their father was insane in and around 2004 at the time of the execution of the sale deed. But no medical proof was produced before the court to support the appellant's plea of insane. But as per the partition deed, Ex.A.1 nature of the suit property is Joint Family Property, therefore initial burden is on the plaintiffs to establish that the property was sold for the welfare of the minors. As per the recitals of Ex.B.1, it was mentioned that to meet out the education expenses of the minor children, their father sold the entire property. But as rightly pointed out by the learned counsel for the appellant, at the time of selling the property, they studied in Government disabled persons school. There is no legal necessity to sell the property to meet out the educational expenses. Therefore, the reason assigned in the Ex.B.1 sale deed is not true and correct one and it is not prima facie established by the 1st defendant.



13. It is also an admitted fact that the father of the plaintiffs is a Joint Family Manager and he is entitled to sell his share. He is also having 1/3rd share along with minor sons. At the most, he can transfer 1/3rd share to the 1st defendant. To that effect, the trial Judge has rightly appreciated the facts. But the 1st appellate court has failed to appreciate the legal proposition.

14. The defendant also failed to establish that property was sold for the legal necessity by the vendor Mayil Ravanam as Kartha of the Joint Family. Furthermore, as a co-sharer, they did not challenge the Ex.B.1 sale deed as it would not bind their share. Hence, necessity not arose for them to seek for the relief of declaration without which prayer, the suit is maintainable to that effect.

15. The 1st appellate court failed to appreciate the settled legal position that the sale deed executed by the father of the plaintiffs 1 and 2 in favour of the 1st defendant would not bind the undivided 2/3rd share of the plaintiffs in the suit property. In respect of 1/3rd share of the Mayil Ravanam, the purchaser is entitled to work out his rights in the final decree proceedings. The plaintiffs clearly established that there is no lawful right on the part of the plaintiff 1 and 2's father to sell their share in the property which is not for legal necessity, consequently, it would not bind plaintiff 1 and 2's share. Hence the findings of the 1st appellate court is set aside. The father has no right to sell the entire



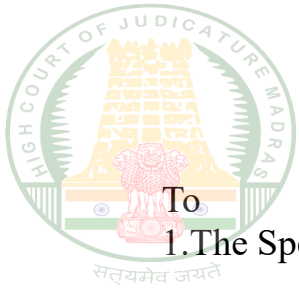
property including the share of the plaintiffs who are entitled to 2/3rd share; remaining 1/3rd share is entitled to Mayil Ravanan which goes to the share of the 1st defendant. A perusal of the schedule of the property goes to show that the total property is 1.27 cents and the plaintiffs/appellants each are entitled to 0.42 totally 0.84 to plaintiffs 1 and 2 cents and the remaining 0.42 cents belongs to the 1st defendant/1st respondent. The findings of the 1st appellate court is set aside. Consequently, suit is decreed as prayed for.

16. Taking into consideration the suit is of the year 2006, on a final decree application filed by the plaintiffs, the trial court is directed to dispose of the same within three months from the date of filing of such final decree application.

17. This Second Appeal is allowed on the above terms. No costs.

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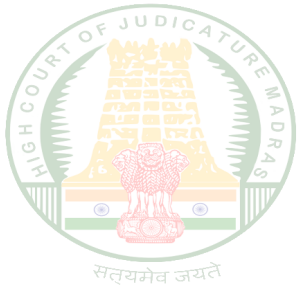
To

1.The Special Subordinate Court for LAOP Cases, Arakkonam,

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2.The District Munsif Court, Sholinghur.

3.The Section Officer, V.R.Section, High Court, Madras.



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T.V.THAMILSELVI J.

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