

BEFORE THE ADDITIONAL MASTER II,
HIGH COURT, MADRAS
C.S.No. 791 OF 2014

Date : 20.12.2023
Time : 12.05 P.M.

Name : Mrs. G.Uma Devi (PW 1)

PW1 Cross Examined by Learned counsel for the 3rd and 4th defendant Mr.V.Subramani.

(Evidence of PW1 reopened and recalled as per order in A.No.766 and 767 of 2019 in C.S.No.791/2014 and further examined.)

Solemnly affirmed:

Q11: Are you aware of the settlement deeds dated 13.12.2012 executed in favour of your brother at the time of filing this suit for partition?

A: Yes.

Q12: After the execution of the settlement deeds who is in possession in enjoyment?

A: My brothers. Witness adds: The settlement done by my father is null and void.

Q13: In spite of the settlement deed you claimed a share in the property settled?

A: I claimed a share because it is an ancestral property.

Q14: Therefore the settlement deeds are not valid?

A: Yes.

Q15: Is it correct to state that after the execution of original settlement deed your father executed deeds of cancellation of settlements on 19.05.2014?

A: Yes. Because my father very well knew that is an ancestral property we had a strong intention to have a proper partition equally among his 6th legal heirs.

Q16: When did your father expressed the intention?

A: After the 1994 partial partition itself as the all had a legal share my father promised for a proper partition in the suit property.

Q17: Thereafter did you make partition again?

A: No.

Q18: Therefore you have file this suit for partition?

A: Yes, I have file this suit for partition. Because my father in 2016 said he had done something good for us. Hence I have applied for partition.

Q19: In the statement made by you is correct, there is no reason why this suit has been filed in 2014?

A: This statement is not right.

Q20: According to you if the original settlement deed dated 13.12.2012 not valid there is no question of cancellation of document?

A: According to my father my great grandfather Munuswamy Reddiar had arranged funds to my grandfather Muthukrishna Reddiar to purchased lands in Chennai. This my father had clearly mentioned deed of declaration that all the properties owned by the family or either ancestral or acquired from ancestral funds and properties including the suit property hence my father and myself are obtaining for the properties.

Q21: In para 3 of your proof affidavit you stated that your brother Magesh has deposition suppressed important vital facts namely the settlement deed executed by my father in favour of my brothers has been disowned by him. Is that correct?

A: Yes.

Q22: What do you mean “disowned by him”?

A: He said he was not aware of it and he had to search for it.

Q23: Search for what?

A: Search for settlement deeds.

Q24: In para 3 of your proof affidavit you have also stated that your brother D3 and D4 played fraud on him by misrepresenting that he was executing a partition deed, but whereas later on it has transpired the same to be a settlement deed. When your father stated above statement?

A: Yes. 2014 itself.

Q25: If it is what action has taken in 2014?

A: In 2014 we had a talk with my father, mother and brothers but we did not get any good reply from them. My brothers also know about this.

Q26: You have not stated anything about this in your plaint?

A: We have mentioned.

Q27: When did you come to know the cancellation of the settlement deed?

A: In 2016.

Q28: I put it to you that you are lying because earlier you stated 2014 itself, there was a discussion in this regard?

A: No, I am not lying.

Q29: Ex.P11 is shown to the witness. Please tell what is this document?

A: Rectification Deed.

Q30: Ex.P11 is shown to the witness. This document is executed by your father and he alone signed it?

A: Yes.

Q31: In page 2 of Ex.P11 stated that the settlor is the sole and absolute owner of thte Schedule A property and he had settled three portions of the property in the Schedule A property and morefully described in Schedule B as item I, II and III in favour of the settlee, who is the younger son of the settlor under a deed of settlement dated 13.12.2012. Registered as Document No.3911 of 2012 in the office of the Sub registrar, Kodambakkam, Chennai. The above statement made by your father is it correct?

A: Yes.

Q32: In page 2 para 3 of Ex.P11 stated that certain mistake has inadvertently crept in the said settlement deed with regard to the description of SETTLEE was wrongly typed as SETTLOR in the first page 12th line (last line) of the said settlement deed. The above statement made by your father is it correct?

A: Yes, correct. My father has singed both the document without knowing the content.

Q33: If my father stated in Ex.P11 statement is correct there is no scope for playing a fraud at the time of executing the original settlement deed on 13.12.2012?

A: I deny.

Q34: If at all any fraud has been played as alleged your father would not have executed this cancellation deed?

A: (In spite of repeatedly said by counsel for defendant witness as follows)
I could not understand the question.

Q35: Is it Ex.P10 also rectification deed is related to the Document No.3910/2012 dated 13.12.2012 executed as similar circumstance?

A: Yes my father has signed without knowing the contents.

Q36: When did your father die?

A: 28.11.2016.

Q37: Your father has filed the written statement on 07th April 2015?

A: Yes.

Q38: Written statement is shown to the witness. Whether there is any reference to any fraud relating to the execution of settlement deed dated 13.12.2012 and the subsequent cancellation deeds dated 18.01.2013?

A: No. It is not stated.

Q39: Therefore I put it to you that there is no fraud played by anybody in this regard?

A: I deny.

Q40: I put it to you that you are lying if at all fraud was playing your father would have refer in his written statement?

A: I deny.

Time: 12.50 P.M.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be true and correct and signed before me.

ADDITIONAL MASTER-II