

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2023
(arising out of Special Leave Petition (Civil) No. _____ OF 2023)
(@ Diary No. 335 of 2020)

MURUGANANDAM AND ANOTHER APPELLANTS

VERSUS

ANJUGAM AND OTHERS RESPONDENTS

O R D E R

Delay condoned.

Application for substitution is allowed. Cause title be amended accordingly. Abatement, if any, is set aside.

Leave granted.

We have examined the impugned judgment, which disposes of the second appeal, which was admitted on two substantial questions of law, namely: (1) Whether the Lower Appellate Court is correct in law in reversing the well-considered judgment and decree of the learned District Munsif at Ariyalur especially when plaintiffs have proved by concrete evidence the joint nucleus funds which have been used for the purchase of the suit property?; and (2) Whether the Lower Appellate Court is correct in law in relying upon Patta Ex.B4 for concluding that the property belonged to Rangaraj totally overlooking the fact that patta is not a document of title?

The impugned judgment, however, does not deal with and answer the substantial questions of law, but relies upon Section 4 of the Benami Transactions (Prohibition) Act, 1988 ('1988 Act'), a plea and contention which was never raised by the respondents, to dismiss the appeal.

Our attention is drawn to the exceptions carved out to Section 4 of the 1988 Act. According to the appellants, the exceptions are applicable in the present case. Further, as per the appellants, applicability or bar under the 1988 Act would be a mixed question of law and facts.

Looking at the nature of controversy, including the contentions raised, and the impugned judgment, we are of the opinion that the same cannot be sustained being devoid of in-depth examination and considerations of the issues involved, including whether or not bar of Section 4 of the 1988 Act would be attracted. We, accordingly, pass an order of remit restoring the second appeal for fresh consideration by the High Court.

Recording the above, the impugned judgment is set aside and the appeal is allowed with an order of remand to the High Court to decide the second appeal no. 1719/2008 afresh, and expeditiously in accordance with law. We make it clear that the observations made in the impugned judgment, and this order of remit, would not be treated as observations and findings on the merits of the case of either side. All questions and issues are left open.

The parties will appear before the High Court on 23.02.2023, when a date of hearing will be fixed.

The appeal is allowed in the aforesaid terms.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(M.M. SUNDRESH)

NEW DELHI;
JANUARY 25, 2023.
ps

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 335/2020

(Arising out of impugned judgment and order dated 31-01-2019 in SA No. 1719/2008 passed by the High Court Of Judicature At Madras)

MURUGANANDAM AND ANOTHER

PETITIONER(S)

VERSUS

ANJUGAM AND OTHERS

RESPONDENT(S)

(IA No. 83999/2020 - APPLICATION FOR SUBSTITUTION, IA No. 83994/2020 - CONDONATION OF DELAY IN FILING, IA No. 84000/2020 - CONDONATION OF DELAY IN FILING SUBSTITUTION APPLN., IA No.83997/2020 - CONDONATION OF DELAY IN REFILEING / CURING THE DEFECTS, IA No. 83993/2020 - EXEMPTION FROM FILING O.T., IA No. 31618/2021 - EXEMPTION FROM FILING O.T., IA No. 83996/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 41753/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 84001/2020 - SETTING ASIDE AN ABATEMENT)

Date : 25-01-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s)

Mr. S. Nagamuthu, Sr. Adv.
Mr. M.P. Parthiban, AOR
Mr. A.S.vairawan, Adv.
Mr. R.Sudhakaran, Adv.
Mr. Vikashraj Kumar, Adv.
Mr. D.Subrahmanya Bhanu, Adv.
Mr. T.Hariharasudhan, Adv.
Mr. K. Devendran, Adv.
Mr. D.Alagendran, Adv.

For Respondent(s)

Mr. B. Karunakaran, Adv.
Ms. Balambihai, Adv.
Mr. Anoop Prakash Awasthi, AOR

UPON hearing the counsel, the Court made the following
O R D E R

Delay condoned.

Application for substitution is allowed. Cause title be amended accordingly.

Abatement, if any, is set aside.

Leave granted.

Appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)

(R.S. NARAYANAN)
COURT MASTER (NSH)

(Signed order is placed on the file.)