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SA No. 594 of 1



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 20.04.2026

Pronounced on : 24.07.2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

**S.A.No. 594 of 1993
and
A.S.No.703 of 1997
and
CMP No. 16718 of 2025**

S.A.No.594 of 1993

Lakshmi Bai

..Appellant(s)

Vs

1. Rani Bai
2. Chinni Bai (died)
3. Sakuntala Bai(died)
4. Ganga Bai (died)
5. M/s.V.G.Kappa Sa & Sons,
Rep.by its Partner, Kanni Sa
6. S Parvathi Ammal
7. Anbukkarasi
8. Munusamy
9. Sankar
- 10.Selvam
- 11.Prakash

**12.Sekar**

(Respondents 8 to 12 are brought on record as LR's of the deceased 2nd respondent vide order of Court dated 12.09.1994 in C.M.P.No.5623/1994 in S.A.No.594/1993)

13.Baskar Sa**14.Gayathri (Died)**

(Respondents 13 and 14 are brought on record as LR's of the deceased 4th respondent vide order of Court dated 24.08.2009 made in C.M.P.No.13891/2004 in S.A.No.594/1993)

15.Sankar Sa

(R3 Died, R15 is brought on record as legal heir of the deceased R3 vide court order dated 25/07/2025 made in CMP.No.16723,16724 and 16727 of 2025 in S.A.No.594 of 1993)

16.M. Ramachandira Sah**17.R. Meenatchi Bai****18.Balaji**

(R14 Died. R16 to R18 are brought on record as LRS of deceased R14 vide court order dated 10.10.2025 made in CMP.No's.18982,18987,18985 of 2025 in S.A.No.594/1993)

..Respondent(s)

Prayer in S.A.No.594 of 1993

Second Appeal filed under Section 100 of the Code of Civil Procedure, praying to set aside the judgment and decree dated 08.03.1993 in A.S.No.9 of 1991 on the file of the Subordinate Judge's Court, Kancheepuram preferred against the judgment and decree dated 16.07.1990 in O.S.No.338/1985 on the file of the District Munsif's Court, Kancheepuram.

**Prayer in C.M.P.No.16718 of 2025 in S.A.No.594/1993:**

Civil Miscellaneous Petition filed under Order 41 Rule 17 of C.P.C.,
praying to pass an order to permit me to file list of documents in the above case
and pass such further or other orders as necessary and it deems fit in the nature
and circumstances of this case and thus render justice.

For Appellant(s): Mr. X. Selvam Sounder

For Respondent(s): Mr.V.Raghavachari
Senior Counsel
For M/s. V.Srimathi
(For R6 & R7)

Mr.K.Vinoth (For RR13, 15 to 18)

R1 – Vacated
RR8 to R12 – No appearance
RR2, 3, 4 and 14 – Died
R5 – Not ready in notice

AS No. 703 of 1997

Lakshmi Bai

..Appellant(s)

Vs

1. S. Parvathy
2. Anbukkarasi
3. Chinna Bai (Died)
4. Sakunthala Bai
5. Ganga Bai (Died)
6. Kanni Sah (Died)



7. Kandaswamy Sah

8. Munusamy

9. Sankar

10. Selvam

11. Prakash

12. Sekar

(RR8 to 12 are brought on record as Lrs of the deceased 3rd respondent vide order of Court in C.M.P.No.12235 of 1993)

13. Mr. Sankar Sah,

14. Mr. Venku Sah

(R6 Died, R13 And R14 Are Brought On Record As Lrs Of Deceased R6, Vide Order Of Court Dated 24/10/2024 Made In Cmp.No.2633 Of 2023 In As.No.703 Of 1997)

..Respondent(s)

Prayer in AS No. 703 of 1997

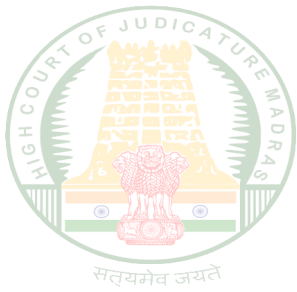
First Appeal filed under Section 96 of the Code of Civil Procedure, against the decree and judgment dated 08.03.1993 passed in O.S.No.386 of 1990 on the file of the Sub Court, Kancheepuram.

For Appellant(s): Mr. X. Selvam Sounder
Vide Court Order Dt.01.10.2024

For Respondent(s): Mr.K.Vinoth (For R13)

For RR3 to R7 – Died

R14 – No appearance (Unclaimed)



RR8 to 12 – Not ready in notice
For RR1 & R2 – No appearance

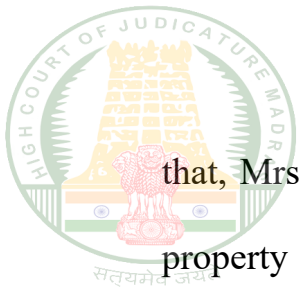
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COMMON JUDGMENT

The Second Appeal has been filed against judgement and decree dated 08.03.1993 in A.S.No.9 of 1991 on the file of the Subordinate Judge's Court, Kancheepuram, confirming the judgement and decree dated 16.07.1990 in O.S.No.338 of 1985 on the file of the District Munsif's Court, Kancheepuram.

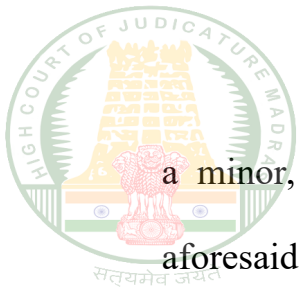
2. The Appeal Suit has been filed against judgement and decree dated 08.03.1993 in O.S.No.386 of 1990, on the file of the District Munsif's Court, Kancheepuram.

3. The plaintiff's case in O.S. No. 338 of 1985 is that the suit schedule property was purchased by Mrs. Venkamma Bai, wife of Mr. Narayana Sah. Out of the said wedlock, the couple had begotten one son, Mr. Venku Sah and four daughters, namely, the plaintiff and defendants 2 to 4. The property was purchased under a registered Sale Deed dated 26.05.1942 for valuable consideration. The aforesaid Sale Deed was executed in the name of Mrs.Venkamma Bai both in her individual capacity and as guardian of her then minor son, Venku Sah. However, the entire sale consideration was paid by Venkamma Bai, as Venku Sah being a minor at the time of purchase had not contributed any amount towards the acquisition of the property. It is averred



that, Mrs.Venkamma Bai treated and enjoyed the suit property as her absolute property until her death in the year of 1959, leaving behind her husband, Mr. Narayana Sah and her children as her legal heirs. Consequently, each of the legal heirs became entitled to a 1/6th share in the suit property. Thereafter, upon the subsequent demise of Narayana Sah, his 1/6th share devolved upon his children, namely the plaintiff, Mr. Venku Sah and defendants 2 to 4. Accordingly, the plaintiff contends that she, along with her siblings, namely, Mr.Venku Sah and defendants 2 to 4 became entitled to a 1/5th share each in the suit schedule property.

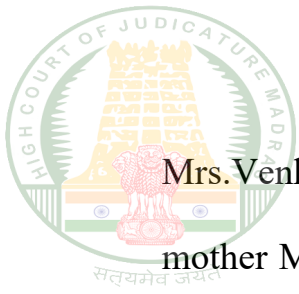
4. Subsequently Mr.Venku Sah died leaving behind his wife, the 1st defendant, as his sole legal heir. Thereafter, the 5th defendant, claimed to have obtained a mortgage decree in O.S. No. 91 of 1978 against the suit property on the basis of a mortgage which was allegedly executed by Mr.Venku Sah and initiated proceedings to bring the property to auction sale. The plaintiff and her sisters, namely defendants 2 to 4, filed a claim petition objecting to the same. During the pendency of the claim proceedings, the 5th defendant contended that Mr.Narayan Sah, the father of the plaintiff, Venku Sah and defendants 2 to 4, had executed a Release Deed dated 02.07.1962 in favour of Venku Sah and that pursuant to the aforesaid Release Deed, the plaintiff and her sisters had no right or interest in the suit property. However it was contented that the plaintiff was unaware of the alleged Release Deed and the same was executed when she was



a minor, hence it was contended that notwithstanding the execution of the aforesaid Release Deed, the same is void and not binding on the plaintiff's rights in the suit property.

5. The plaintiff further contended that she has been in continuous possession and enjoyment of the suit schedule property. Accordingly by virtue of such uninterrupted possession, she continues to be entitled to her share in the property. On the other hand, defendants 6 and 7 claim rights over the suit property on the basis of a Sale Deed dated 12.07.1984, allegedly executed by the 1st defendant. It is further averred that notwithstanding the alleged Sale Deed executed in favour of defendants 6 and 7, the plaintiff would continue to be entitled to her 1/5th share in the suit schedule property, as the said document is not binding upon her. Therefore, as the result of interference with her possession and enjoyment of the suit schedule property by respondents 1 and 5 to 7, the plaintiff instituted the suit in O.S. No. 338 of 1985 seeking a preliminary decree with regard to the partition and separate possession of her 1/5th share in the suit schedule property and a consequential decree of permanent injunction against defendants 6 and 7.

6. On the other hand, the 7th defendant, in the written statement, contended that the suit schedule property was purchased jointly in the names of



Mrs.Venkamma Bai and her minor son Venku Sah, who was represented by his mother Mrs.Venkamma Bai herself as his guardian. Therefore, Mrs.Venkamma

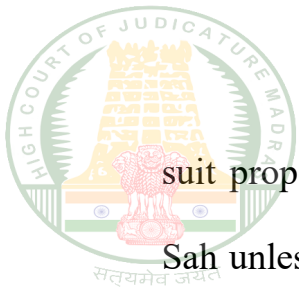
Bai was entitled only to a 1/2 share in the property, while the remaining 1/2 share belonged to Venku Sah. Upon the death of Venkamma Bai, her 1/2 share devolved upon her legal heirs, namely her husband Narayan Sah, her son Venku Sah and her daughters, namely the plaintiff and defendants 2 to 4, each becoming entitled to a 1/12 share in the suit property. It was further contended that the plaintiff, defendants 2 to 4 and their father, Mr.Narayan Sah had executed a Release Deed dated 02.07.1962 relinquishing their respective shares in the suit property in favour of Venku Sah. Consequently, Venku Sah became the absolute owner of the entire suit property and his sisters, namely the plaintiff along with the defendants 2 to 4 ceased to have any right or interest therein. It was further averred that Venku Sah, during his lifetime, was in exclusive possession and enjoyment of the suit property and had mortgaged the same in favour of the 5th defendant. Upon the death of Venku Sah on 14.04.1981 the property devolved upon his wife, the 1st defendant as his sole legal heir. It was also stated that the claim petition filed by the plaintiff and defendants 2 to 4 against the 5th defendant was dismissed on 19.09.1985. Thereafter the defendants 6 and 7 purchased the suit property from the 1st defendant under a registered Sale Deed dated 12.07.1984 for valuable consideration. In view of the aforesaid facts it is contended that the plaintiff is not entitled to claim any right or interest in the suit schedule property.



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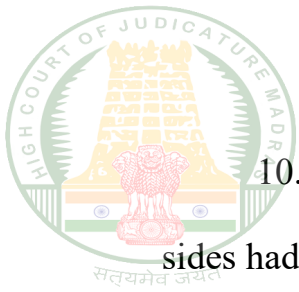
7. Defendants 2 to 4 filed a written statement contending that the suit schedule property was purchased by their mother Mrs.Venkamma Bai in her own name and as guardian of her minor son, Mr.Venku Sah. It was averred that Venku Sah had made no contribution towards the sale consideration and that Venkamma Bai remained in absolute possession and enjoyment of the property throughout her lifetime. The defendants further denied the execution of any Release Deed relinquishing their rights in favour of Venku Sah, rejecting the claims of the defendants 6 and 7. Accordingly the defendants 2 to 4 contended that each of them along with the plaintiff, is entitled to a 1/5th share in the suit schedule property.

8. In the additional written statement filed by defendants 6 and 7, it was averred that the suit schedule property was purchased jointly in the names of Mrs.Venkamma Bai and her then minor son Venku Sah, both in her individual capacity and as the guardian Venku Sah, for the benefit of the latter. Consequently, the absence of any contribution by Venku Sah towards the sale consideration would not affect his interest in the property. It was further contended that, in terms of Section 92 of the Indian Trusts Act, wherein property is purchased by a guardian on behalf of a minor, the person purchasing the property holds it in trust for the benefit of the minor. Therefore it is averred that there would have been no necessity for Mrs.Venkamma Bai to purchase the



suit property jointly in her individual capacity and as the guardian for Venku Sah unless an interest in the suit property was intended to be created in favour of the minor. It was further averred that both Venkamma Bai and Venku Sah were in joint possession and enjoyment of the suit schedule property. According to the defendants unless and until Mrs.Venkamma Bai had taken steps during her lifetime to exclude or divest the then minor, Mr.Venku Sah of his interest in the property, it could not be claimed that Venku Sah had lost his rights in the suit schedule property.

9. It was further contended that the plaintiff ought to have taken steps to challenge and set aside the aforesaid Release Deed dated 02.07.1962 within three years of attaining majority, as contemplated under Section 8(3) of the Hindu Minority and Guardianship Act. According to the averments in the plaint, the plaintiff was about eight years old at the time of the execution of the Release Deed and about thirty years old when the suit was instituted. Therefore, it was contended that the plaintiff would have attained majority in or about 1972 and ought to have challenged the Release Deed on or before 1975. However, the present suit came to be filed only in the year 1984, therefore the claim made by the plaintiff was barred by limitation under Article 60(a) of the Limitation Act. On the above grounds the defendants seek that the suit was liable to be dismissed.



10. The learned Trial Court in upon hearing the pleadings on both the sides had framed the following issues to be determined;

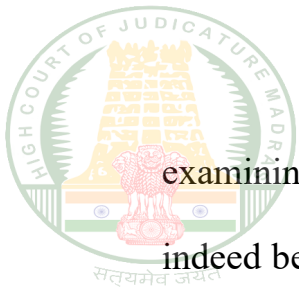
1. *Whether the suit property is the absolute property of the plaintiff's mother?*
2. *Whether the plaintiff is entitled to a 1/6th share in the suit property?*
3. *Whether the Release Deed dated 02.07.1962 executed by the plaintiff in favour of defendants 2, 3 and 4 is true, valid and binding?*
4. *Whether the suit is barred by limitation?*
5. *Whether the plaintiff has unlawfully entered into and is in possession and enjoyment of the suit property?*
6. *Whether the Sale Deed executed in favour of the defendants 6 and 7 is true, valid and binding?*
7. *Whether the plaintiff is entitled to a decree of permanent injunction against defendants 6 and 7?*
8. *Whether the plaintiff has a valid cause of action to file the suit?*
9. *Whether the court fee paid by the plaintiff is proper and sufficient?*
10. *To what other reliefs, if any, is the plaintiff entitled?*

11. On the side of the plaintiff, the plaintiff and her father one Mr.Narayan Sah were examined as PW1 and PW2 respectively and the documents marked as Exs.A1 to A20 were produced as the plaintiff's side evidence. On the side of the defendants, the 3rd defendant, Mr. Shanmugavel (husband of the 6th defendant) and Mrs.Banumathi were examined as RW1, RW2 and RW3 respectively and the documents marked as Exs.B1 to B12 were produced as the defendants' evidence.



12. The learned Trial Court after hearing both the sides and perusing the evidences available on record had determined the aforesaid issues. The learned Trial Court observed that a reading of the Sale Deed dated 26.05.1942, marked as Ex.A1, reveals that the suit schedule property was purchased in the names of Venkamma Bai, both in her individual capacity and as guardian of her minor son, Venku Sah and the recitals therein clearly disclose an intention to confer a beneficial interest in the property upon the minor. Accordingly, the learned Trial Court concluded that Venkamma Bai and Venku Sah each held a 1/2 share in the suit schedule property and that Venkamma Bai did not possess exclusive or absolute ownership over the entirety of the property.

13. The Trial court had further observed that the plaintiff along with her sisters defendants 2 to 4 and their father had executed a Release Deed dated 02.07.1962, marked as Ex.A20 and Ex.B9, wherein they have relinquished their rights in the suit schedule property in favour of the Venku Sah. The Trial Court observed that, although the plaintiff had averred in the plaint that she had no knowledge of the Release Deed she admitted its existence during the course of her deposition. While defendants 2 to 4 disputed the execution of the said Release Deed, the evidence of PW3, the then Sub-Registrar of SRO, Kancheepuram, deposed that separate records containing the signatures and thumb impressions of executants are maintained with respect to every registered document. The relevant record were produced and marked as Ex.B16. Upon



examining Ex.B16, the learned Trial Court found that the Release Deed had indeed been executed by Narayan Sah as well as defendants 2 and 4. In view of the documentary evidence of Ex.B16, the learned Trial Court rejected the contention of defendants 2 to 4 disputing the execution of the Release Deed and held that the said Release Deed was genuine, valid and duly executed.

14. The contention of the plaintiff is that the aforesaid Release Deed was void and not binding upon her, as the said Deed had been executed by her father, Mr.Narayan Sah when the plaintiff was still a minor. The learned Trial Court upon considering the said contention, held that even assuming the plaintiff's case to be true, she ought to have taken steps to challenge and set aside the Release Deed within three years from the date of attaining majority. The learned Trial Court further observed that, as per the plaint, the plaintiff was about 30 years old at the time of filing the suit and approximately she would have been 8 years old when the Release Deed was executed. Consequently, she would have attained majority in or about the year 1972 and ought to have challenged the Release Deed on or before 1975. However, the present suit came to be instituted only in the year 1985. Accordingly, placing reliance on Section 6 and Article 60(a) of the Limitation Act, the Trial Court held that neither the plaintiff nor defendants 2 to 4 had taken steps to challenge the Release Deed within the prescribed period of limitation and, consequently, the suit was barred



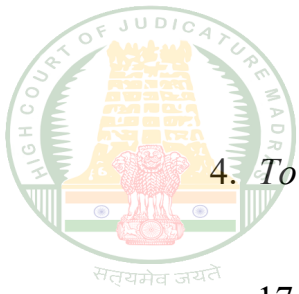
by limitation.

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15. The Trial Court further held that defendants 6 and 7 had purchased the suit schedule property for valuable consideration under the Sale Deed dated 12.07.1984 executed by the 1st defendant, the wife and legal heir of Venku Sah, upon whom the property had devolved after his death. The said Sale Deed was accordingly held to be valid and binding. Consequently, in view of the aforesaid findings, the learned Trial Court held that the plaintiff was not entitled to any share in the suit schedule property or to the relief of permanent injunction as prayed for. Accordingly, Issues Nos. 1 to 10 were answered against the plaintiff *vide* its judgment dated 16.07.1990 and consequently the O.S. No. 338 of 1985 came to be dismissed.

16. Aggrieved by the judgment dated 16.07.1990 made in O.S.No.338 of 1985 the plaintiff had preferred an Appeal Suit in A.S.No.9 of 1991 against the defendants and had impleaded them as the respondents before the Sub Court of Kanchipuram. The learned Subordinate Court after hearing both the sides had determined the following issues to be decided;

1. *Whether the appellant is entitled to a 1/5th share in the suit property?*
2. *Whether the Release Deed executed by the appellant's father is binding on the appellant?*
3. *Whether the judgment and decree of the trial court are liable to be set aside?*



4. *To what relief is the appellant entitled?*

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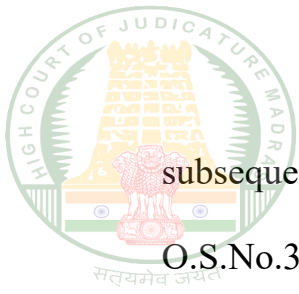
17. The learned Sub ordinate Court after hearing both the sides and perusing the evidences available on record had determined the aforesaid issues. The learned Subordinate Court upon perusing the Sale Deed (Ex.A1) dated 26.05.1942 executed in favour of the plaintiff's mother Venkamma Bai and her then minor son Venku Sah, represented by Mrs.Venkamma Bai herself as the guardian, held that it was clear that the suit schedule property was brought with the intention that the suit schedule property should be enjoyed by both Mrs.Venkamma and minor son Venku Sah. Subsequent to the death of Venkamma Bai, the plaintiff along with her sisters defendants/respondents 2 to 4 and their father, Narayan Sah, relinquished their respective rights in the suit schedule property in favour of Venku Sah under the Release Deed dated 02.07.1962 (Ex.B9/Ex.A20). The learned Sub-Ordinate Court further placing the reliance upon the judgments made in *Nainar Mohammed Rowther Vs Minor Vijayasankar and others*, *Adimoola Padayachi Vs Pavadai Padayachi and others, etc.*, had held that the plaintiff is not entitled to any share in the suit schedule property. Since the plaintiff/appellant was then a minor, the said Release Deed was executed by Narayan Sah on her behalf, while defendants 2 to 4 executed the deed in their own capacity. The recitals in the Release Deed establishes that upon receipt of valid consideration by Narayan Sah, the deed was executed for the purpose of discharging family debts, meeting the marriage



expenses of defendants 2 to 4 and providing for the maintenance and welfare of the minor plaintiff. Therefore the learned Subordinate Court had held that the aforesaid Release Deed was valid and binding upon the plaintiff/appellant.

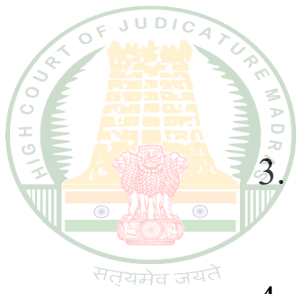
18. It was further observed that, notwithstanding the denial of respondents 2 to 4, the signature and thumb impression record (Ex.B16) produced through PW3, the then Sub-Registrar, Kancheepuram, established that the defendants 2 to 4 along with their father Narayan Sah have executed the said Release Deed (Ex.B9). The learned Subordinate Court had further observed that the Venku Sah had considered the suit schedule property as his separate Property right after the execution of the Release Deed dated 02.07.1962 (Ex.B9) and had enjoyed the same by mortgaging it to the 5th respondent. It was further held that the defendants/respondents 6 and 7 had purchased the suit schedule property with a valid consideration through the Sale Deed dated 12.07.1984 marked as Ex.A19 and Ex.B2. In view of the aforesaid findings and observations, the learned Subordinate Court *vide* its judgment dated 08.03.1993 held that the plaintiff/appellant was not entitled to the reliefs sought for and consequently affirmed the judgment and decree dated 16.07.1990 made by the learned Trial Court.

19. Subsequent to the dismissal of the suit O.S.No.338 of 1985 (herein referred to as partition suit), the defendants 6 and 7 therein, who are the



subsequent purchasers of the Suit Schedule property filed a separate suit in O.S.No.386 of 1990 seeking a decree of declaration that they are entitled possession of the suit schedule property, along with recovery of the damages to a tune of Rs.18,000/- and determination of the Mesne Profits based on the aforesaid judgement dated 16.07.1990 and the Sale Deed 12.07.1984. The plaintiff in the partition suit has been impleaded as the 1st defendants herein. Similarly, the defendants 2 to 4 of the partition suit have been impleaded as the respondents 2 to 4 herein. The 5th respondent is to whom the Venku Sah had mortgaged the suit property and the 6th respondent is to whom the 1st respondent herein had mortgaged the suit property. It was contended that the plaintiffs had purchased the suit schedule property from Mrs. Rani Bai for valuable consideration under a registered Sale Deed dated 12.07.1984. According to the plaintiffs, the suit property had devolved upon Mrs. Rani Bai upon the death of her husband, Mr.Venku Sah, who had become the absolute owner of the property pursuant to the Release Deed dated 02.07.1962 executed by Narayan Sah and respondents 1 to 4 for valid consideration. Upon consideration of the pleadings and evidence adduced by the parties, the learned Trial Court framed the following issues for determination;

1. *Whether the first defendant is entitled to a share in the suit property?*
2. *Whether the plaintiffs are entitled to recovery of possession of the suit property and damages/mesne profits?*

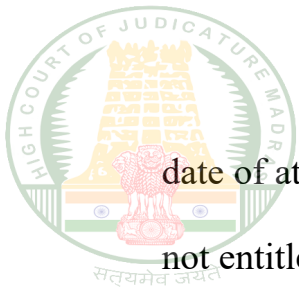


3. *Whether the plaintiff is entitled to future mesne profits under Order XX Rule 12 of the Code of Civil Procedure, 1908?*
4. *To what other reliefs are the plaintiffs entitled?*

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20. On the side of the plaintiffs, Mr. R. Shanmugavel was examined as PW1 and eight documents were marked as Exs.A1 to A8. On the side of the defendants, the first defendant and her father, Mr. Narayan Sah, were examined as RW1 and RW2 respectively.

21. The learned Trial Court after hearing both sides and perusing the evidences available on record had determined the aforesaid issues. The learned Trial Court held that under the Release Deed dated 02.07.1962 marked as Ex.A2 therein, the defendants 1 to 4 and their father Narayan Sah, had relinquished their respective rights in the suit property in favour of Venku Sah. Since the 1st defendant was a minor at the time her father Mr.Narayan Sah had executed the Release Deed on her behalf. The Trial Court also observed that the said Release Deed had been executed upon receipt of valuable consideration to a tune of Rs.3,335/-. The learned Trial Court further had placed reliance upon the judgments made by this court in the cases of *Nainar Mohammed Rowther Vs Minor Vijayasankar and others*, *Adimoola Padayachi Vs Pavadai Padayachi and others*, *Venkatesa Mudaliar & 6 others Vs V.N.Krishnaswamy Mudaliar Trust* and *Sundari Ammal Vs Thilakavathi Ammal* had held that the 1st defendant ought have challenged the Release Deed within 3 years from the

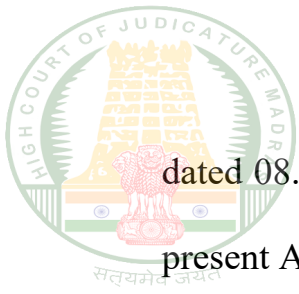


date of attaining the majority but have failed to do so. Hence the 1st defendant is not entitled to any share in the suit schedule property.

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22. It was contended that defendants 1 to 5 had unlawfully entered into and remained in possession of the suit schedule property from the year 1984, which has been substantiated by the evidence of RW1. The learned Trial Court further held that the plaintiffs had lawfully purchased the suit schedule property from Mrs. Rani Bai for valuable consideration under the registered Sale Deed dated 12.07.1984 marked as Ex.A1 and had thereby acquired valid title to the suit property. Consequently, it was held that defendants 1 to 5 had no subsisting right to remain in possession of the suit property. Accordingly, *vide* judgment and decree dated 08.03.1993, the learned Trial Court directed defendants 1 to 5 to pay damages at the rate of Rs.250/- per month for a period of three years, aggregating to a total sum of to Rs.9,000/- and further directed them to vacate the suit property and deliver vacant possession to the plaintiffs within three months. Insofar as future mesne profits were concerned, the learned Trial Court directed that the same be determined in a separate enquiry under Order XX Rule 12 of the Code of Civil Procedure, 1908, and further awarded costs of the suit to the plaintiffs.

23. Subsequently, aggrieved by the judgement dated 08.03.1993 in the Appeal Suit in A.S.No.9 of 1991 the applicant/Plaintiff has preferred the present second Appeal in S.A.No.594 of 1993 and similarly aggrieved by the judgement



dated 08.03.1993 in the O.S.No.386 of 1990 the 1st defendant had preferred the present Appeal in A.S.No.703 of 1997.

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24. Consequently, all the respondents/defendants in A.S. No. 9 of 1991 have been impleaded as Respondents 1 to 7 in the present Second Appeal. During the pendency of the appeal, the 2nd respondent died and her legal heirs were brought on record and impleaded as Respondents 8 to 12. Similarly, upon the death of the 4th respondent herein, her legal heirs were brought on record and impleaded as Respondents 13 and 14 respectively. Upon the death of the 3rd respondent her legal heir had been brought on record and impleaded as 15th respondent. Further upon the death of the 14th respondent, her legal heirs have been brought on record and impleaded as respondents 16 to 18.

25. All the parties to O.S. No. 386 of 1990, namely the plaintiffs and defendants therein, have been arrayed as Respondents 1 to 7 in the present Appeal Suit A.S. No. 703 of 1997. During the pendency of the appeal, the 3rd respondent died and her legal heirs were brought on record and impleaded as Respondents 8 to 12 and upon the death of the 6th respondent her legal heirs have been brought on record and impleaded as respondents 13 and 14 in the present appeal.

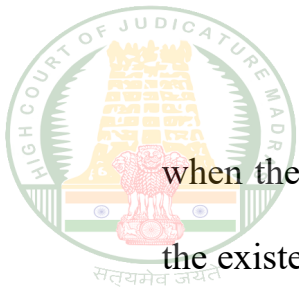
26. Heard Mr.X.Selvam Soundar, the learned counsel appearing on behalf of the applicant in both the appeals, Mr. V.Raghavachari the learned Senior



Counsel appearing for Ms.V.Srimathi the learned counsel appearing on behalf of the respondents 6 and 7 in the Second Appeal and Mr.K.Vinoth the learned counsel appearing on behalf of the 13th respondent in both the first and second Appeal.

27. The learned counsel appearing for the appellant in both the First Appeal and the Second Appeal submits that the appellant has been residing in the suit schedule property from her birth and has been in continuous joint possession and enjoyment thereof along with the other legal heirs. It was therefore contended that the appellant is entitled to institute a suit for partition at any time so long as the property remains joint and there has been no ouster. According to the learned counsel, the right to seek partition accrued to the appellant only when her entitlement in the suit property was denied. In support of the aforesaid contention, the learned counsel placed reliance upon the judgment of the Hon'ble Supreme Court in ***Vidya Devi @ Vidya Vati (Dead) by LRs v. Prem Prakash and Others***, reported in ***AIR 1995 SC 1789***.

28. The learned counsel further submitted that the appellant's brother, Mr.Venku Sah, had mortgaged the suit property in favour of the 5th respondent. Pursuant thereto, the 5th defendant in O.S.No.338 of 1985 instituted O.S.No. 91 of 1978, in which the appellant filed an objection petition in I.A. No. 395 of 1984, which was subsequently disposed of. It was further submitted that only



when the 5th respondent filed his counter statement dated 21.06.1984, wherein the existence of the Release Deed dated 02.07.1962 was disclosed, only then the appellant had come to know of the alleged Release Deed.

29. The learned counsel vehemently contends that the appellant became aware of the Release Deed only on 21.06.1984, when her rights in the suit property were sought to be defeated on the strength of the said Release Deed. According to the learned counsel, the cause of action for seeking partition arose only upon the appellant acquiring knowledge of the said document. Since the suit for partition was instituted only in May 1985, within three years from the date of such knowledge and accrual of the right to sue, the suit was well within the period of limitation. The learned Counsel had further placed his reliance upon the Hon'ble Apex Court's judgment made in the case of ***Rukhmabai Vs Lala Laxminarayan and Ors.***, reported ***AIR 1960 SC 335***. Therefore, the finding of the learned Trial Court that the suit was barred by limitation is unsustainable in law and liable to be set aside.

30. The learned counsel further submitted that the suit property was purchased and developed by the appellant's mother, Mrs. Venkamma Bai, from her own funds, and upon her demise devolved upon her legal heirs, each being entitled to a 1/5th share. It was contended that Mrs. Rani Bai, wife of Venku Sah, had lived with him only briefly for about three months after their marriage



and thereafter deserted him. According to the learned counsel, Venku Sah continued to reside with his sisters in the suit property until his death, and thereafter the appellant and her sisters remained in possession of the suit property thereof.

31. It was further submitted that the learned Trial Court failed to appreciate that a prima facie case had been made out regarding Mrs. Rani Bai's non-possession of the suit property. Though she had executed the Sale Deed dated 12.07.1984 in favour of defendants 6 and 7, she did not enter the witness box to depose regarding her possession or enjoyment of the property during the trial of the partition Suit. The learned Counsel had placed reliance upon the judgements made in various High Courts which are reported in *AIR 1970 MP 225*, *AIR 1931 Bombay 97*, *AIR 1958 Cal 713* and *AIR 1974 Punjab & Haryana 7*. Therefore, the learned Trial Court ought to have drawn an adverse inference against her and held that the alleged Sale Deed has been executed without a valid possession or valid title over the suit property and consequently was *void ab initio*.

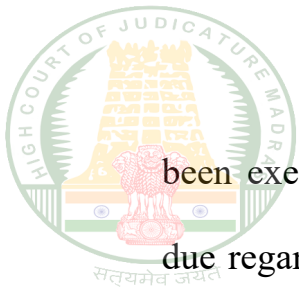
32. The learned counsel further contends that Mrs. Rani Bai had no possessory documents, such as patta, chitta, adangal, kist receipts or electricity records in her name after the demise of her husband to establish her possession over the suit property. On the other hand, the appellant had been paying kist in



the name of her deceased, Mr. Venku Sah and thereafter the revenue records, including kist receipts and patta were transferred in the names of the appellant and her sister Mrs. Shahunthalabai. Therefore, it was contended that only the appellant and the other legal heirs were entitled to shares in the suit property and that Mrs. Rani Bai had no legal right to alienate the property. Consequently, the sale effected by her in favour of the plaintiffs was void ab initio.

33. The learned counsel further contended that the Release Deed dated 02.07.1962 was executed by the appellant's father, Mr. Narayan Sah, in favour of his son, Mr. Venku Sah, when the appellant was only a minor. It was submitted that the deed was executed without the appellant's knowledge and without obtaining prior permission from the competent Court, thereby alienating the minor's interest in the property in violation of Section 8 of the Hindu Minority and Guardianship Act, 1956.

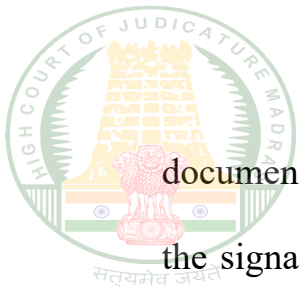
34. He further contended that although the Release Deed recited that a sum of Rs.3,335/- was paid towards the maintenance and welfare of the minor appellant, the said amount was never deposited or utilized for her benefit. According to the learned counsel, the release of the minor's share in the suit property was neither supported by legal necessity nor shown to be for the evident benefit of the minor. Therefore, it was contended that the Trial Court erred in denying the appellant's share in the suit property, particularly when she had been in possession and enjoyment of the property and the Release Deed had



been executed without her knowledge, without Court permission and without due regard to her welfare as a minor. In view of the aforesaid contentions, the learned counsel submits that the judgments and decrees impugned herein are liable to be interfered with and accordingly prays that the present appeals be allowed.

35. *Per Contra*, the learned Senior Counsel appearing on behalf of the respondents 6 and 7 in the second appeal submits that that learned Subordinate Court has rightly upheld the Trial Court's decision with respect to the appellant's claim that the suit schedule property exclusively belonged to Venkamma Bai, which is contrary to the recitals contained in the Sale Deed dated 26.05.1942, which clearly evidences that the property was purchased jointly in the names of Venkamma Bai on individual capacity and as a guardian to the her minor son, Venku Sah. The recitals therein unequivocally substantiates the intention to confer a beneficial interest upon the then minor Mr.Venku Sah. Therefore Mrs.Venkamma Bai could not have been regarded as the sole and absolute owner of the suit schedule property.

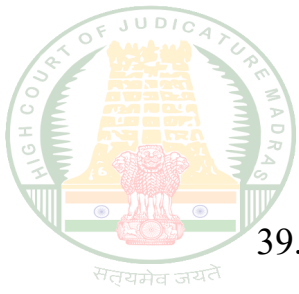
36. The learned Senior Counsel further submits that, after the death of Venkamma Bai, her husband Narayan Sah, defendants/respondents 2 to 4 and the appellant relinquished their respective rights in favour of Venku Sah under the Release Deed dated 02.07.1962. The execution and genuineness of the said



document is duly established through the evidence on record, which includes the signature and thumb impression records marked as Ex.B16 in the partition suit and the learned Trial Court has rightly held that the denial of the Release Deed by defendants 2 to 4 is unsustainable.

37. It is submitted that without prejudice to the above, even assuming that the appellant was entitled to challenge the Release Deed on the ground that it had been executed during her minority, such challenge ought to have been made within the period prescribed under Article 60(a) of the Limitation Act. The appellant admittedly attained majority several years prior to the institution of the suit and failed to take any steps to set aside the Release Deed within the limitation period. Hence the learned Senior Counsel contends that the Subordinate Court was right in affirming the learned Trial Court's decision that the claim of the plaintiff/appellant is barred by limitation.

38. The learned Senior Counsel further submits that upon the death of Venku Sah, the suit property devolved upon his widow, Mrs. Rani Bai, who became entitled to deal with the suit property. The plaintiffs in the connected suit purchased the property from her under a registered Sale Deed dated 12.07.1984 for valuable consideration and thereby acquired valid title. Therefore that learned Senior Counsel submits that appellant cannot seek to defeat the rights of bona fide purchasers on the basis of unsubstantiated claims.



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39. Therefore the learned Senior Counsel submits that in view of the above contentions the impugned judgments dated 08.03.1993 made in A.S.No.9 of 1993 by the Subordinate Court and in O.S.No.386 of 1990 by the Trial Court are duly made after the perusal of the evidences available on record which suffers no perversity and warrants no interference from this court, hence he seeks the present appeals to be dismissed.

40. In the present appeals, an application to receive additional documents had also been taken out by the appellants in support of their contention that the wife of Venku Sah, Mrs.Rani Bai, who claimed title in the property, was not legally entitled to the same, as she had deserted the deceased Venku Sah and had been living separately. The second appeal had been filed challenging the judgment and decree of the Courts below, refusing to grant partition in the suit schedule property and the consequential injunction as prayed for, wherein the Courts below had upheld the conveyance of the suit schedule property in favour of defendants 6 and 7. An independent suit had been filed by the purchasers of the property pursuant to the judgment and decree made in the partition suit, which is the subject matter of the second appeal, for a declaration of title, recovery of possession and damages, which was decreed as prayed for.



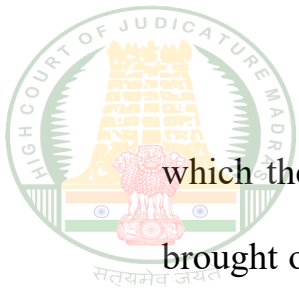
41. In that context, this Court is of the view that if the appellants are entitled for the judgment and decree for partition, which is the subject matter of the second appeal, the relief that had been granted in the suit filed against the appellants would have to be interfered with. While admitting the second appeal, the following substantial questions of law had been framed:

(1) Whether in law the Courts below are right in overlooking that the plaintiff has title to the suit property and that the alienation by a person who had no legal competence to act on behalf of the plaintiff is void ab initio?

(2) Whether in law the Court below are right in overlooking that the suit, having been brought within 12 years from the date of alienation, is in time?

(3) Whether in law the Courts below are right in relying on the release deed when Section 8 of the Hindu Minority and Guardianship Act expressly prohibits such alienation without permission from the Court?

42. In a suit for partition of the respective shares, it had been admitted by the plaintiffs/appellants that the suit property was also the subject matter of another suit, wherein a judgment and decree based upon a mortgage had been granted in favour of the fifth defendant/plaintiff, who had also filed an Execution Petition to recover the same by selling the suit schedule property, in



which the plaintiff and defendants 2 to 4 had filed a Claim Petition. It is also brought on record that the claim petition filed by them had been rejected by the Executing Court.

43. Even though the plaintiff had claimed partition of the suit schedule property, there has been an admitted averment of a release deed having been executed by her father for himself and on behalf of her, as she was a minor, and defendants 2 to 4, which, according to her, was non-est and non-binding on her. The plaintiff had not sought for a prayer to declare such release deed as null and void. Similarly, defendants 2 to 4, who had filed a written statement supporting the claim of the plaintiff, had also not sought for a relief to declare such document to be null and void. It is further to be noted their father Narayan Sah who had a right in the property as being the legal heir of both Venkamma Bai and Venku Sah has not been made a party to the suit but has been examined as a witness.

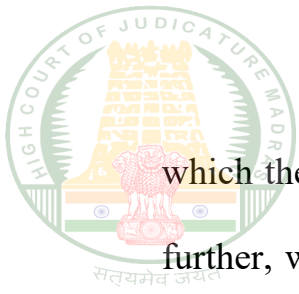
44. It is to be noted that defendants 2 to 4 had executed the release deed along with their father and they had not challenged the same within the period of limitation, and in that regard, they cannot also claim that they had no knowledge of the release deed to seek a claim for partition, and in that regard, their claim for partition in the written statement would have to be rejected. As regards the plaintiff, even though she claims to have had knowledge of the



release deed only on the filing of the counter by defendants 1, 6 and 7 in their claim petition in the Execution Petition, when such a claim had been made, it was incumbent upon the plaintiff to seek a relief of declaring such release deed to be null and void and not binding on her. No such relief had been sought for.

45. Neither the plaintiff nor defendants 2 to 4 had challenged the execution of the release deed. However, the plaintiff had attempted to raise the validity of its execution by her father on her behalf that too when her father was alive and examined on behalf of her. In the context of the release deed, mortgage decree and a sale deed executed by the first defendant, a relief of partition, ignoring the declaratory reliefs over the suit schedule property, in the view of this Court would only have to be rejected. Therefore, the first substantial question of law is held against the appellant. In that context, even answering the second substantial question of law with regard to limitation in favour of the appellant would be of no consequence.

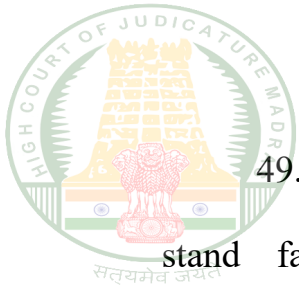
46. Similarly, without a challenge to the release deed on any grounds whatsoever, this Court is of the view that there is no necessity to dwell upon the third substantial question of law, which is related to the validity of the release deed vis-a-vis Section 8 of the Hindu Minority and Guardianship Act, 1956. When the plaintiff/appellant had failed to seek any relief for declaration of right or title in the suit property, nor had challenged the relevant documents under



which the first defendant had claimed title over the suit schedule property, and further, without a declaration or a challenge to a validly pronounced judgment and decree in a mortgage suit filed by the fifth defendant in respect of the very same suit property, this Court is of the view that the appellant/plaintiff would not be entitled to the decree of partition as prayed for.

47. In that regard, the civil miscellaneous petition that has been brought about to receive the additional documents to substantiate the claim also do not deserve any consideration. It is to be noted that there has been no valid dissolution of marriage on the ground of desertion, as claimed by the plaintiff/appellant, and in that regard, the first defendant would have all rights to inherit the property left behind by her husband. Hence, the civil miscellaneous petition is devoid of any merits.

48. In view of the aforesaid findings and reasoning in the second appeal, this Court is of the further view that the judgment and decree passed in the appeal suit pursuant to the judgment and decree made in O.S. No.338 of 1985, which has now been upheld by this Court in the second appeal, also deserves no interference.



49. For the aforesaid reasons, the second appeal as well as the first appeal stand fail and stand dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

24-07-2026

Index: Yes/No

Speaking/Non-speaking order

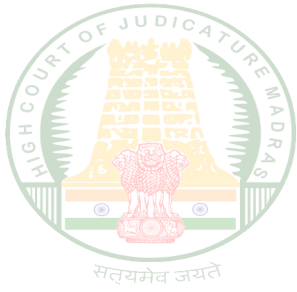
Neutral Citation: Yes/No

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To

1. The District Munsif's Court, Kancheepuram.

2. The Subordinate Judge's Court,
Kancheepuram.



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SA No. 594 of 1



K.KUMARESH BABU J.

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**S.A.No. 594 of 1993
and
A.S.No.703 of 1997
and
CMP No. 16718 of 2025**

24-07-2026