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AS(MD) No.32 of 20



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

Reserved on : 27.02.2026

Pronounced on : 13.07.2026

CORAM

THE HON'BLE MR JUSTICE G. R. SWAMINATHAN

AND

THE HON'BLE MRS.JUSTICE R.KALAIMATHI

AS(MD) No.32 of 2024

and

CMP(MD)No.1975 of 2024

C.T.N.Narayanan Chettiar (died)

1.Hari Narayanan

2.Sivagami

3.Maiyammai Ramanathan (died)

4.V.P.Ramanathan

5.Avinash Chidambaram

6.Aryaman Narayanan

... Appellants

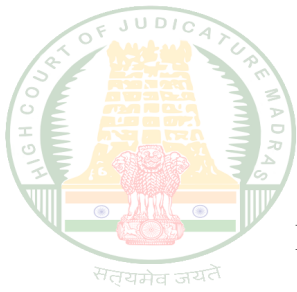
(Appellants 4 to 6 are suo-motu impleaded
as Lrs of the deceased 3rd appellant as per the order
of this Court dated 12.02.2026)

Vs

Gowri

..Respondent(s)

Prayer : Appeal Suit filed under Section 96 of CPC r/w.Order 41 Rule 1 and 2 of CPC to call for the records in O.S No.64 of 2015 and set aside the judgment and decree dated 21.11.2023 in O.S No.64 of 2015 on the file of the Additional District Judge (Fast Track Court), Tenkasi.



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AS(MD) No.32 of 20



For Appellants :

Mr.T.S.R.Venkatramana,
Senior counsel for A1, A2

Mr.N.Dilipkumar for Mr.Vivek bharathi for A4

Mr.Sricharan Rangarajan, Senior Counsel for
Mr. Katheresan for A5 and A6

For Respondent(s):

Mr.R.Suriyanarayanan for Mr.S.Saravanakumar

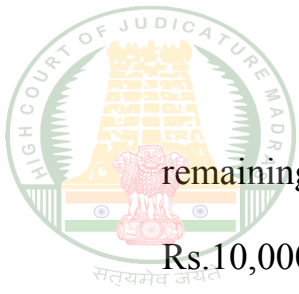
JUDGEMENT

(By G.R.SWAMINATHAN, J.)

This appeal arises out of a suit for partition. The defendants in O.S No.64 of 2015 on the file of the Additional District Judge, Tenkasi are the appellants herein.

2.The case of the plaintiff (Gowri) is as follows :

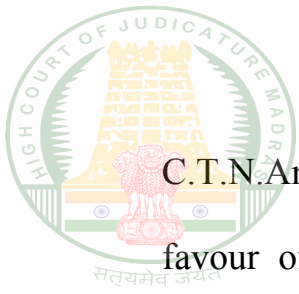
The suit property belonged to one C.T.Narayanan Chettiar. This property was allotted to the plaintiff's vendor under deed of partition dated 15.03.1962. C.T.N.Annamalai, son of C.T.Narayanan Chettiar, executed sale deed dated 15.04.2008 in favour of the plaintiff conveying 2/3rd share in the suit property. The plaintiff is in occupation of the entire suit property. She is remitting kist. She is also enjoying water connection and supply of electricity. She approached the defendants for purchase of the remaining 1/3rd share. CTN.Narayanan Chettiar stated that there was no necessity for him to sell the



remaining share but he chose to lease out the same for an annual rent of Rs.10,000/-. Since the sale in respect of the 1/3rd share did not fructify, the plaintiff instituted the said suit for partition and for handing over separate possession of her 2/3rd share.

3. C.T.N.Narayanan Chettiar who was the sole defendant filed written statement controverting the plaint averments. The substance of the written statement is as follows :

The suit property was not allotted to defendants' family in any partition as averred by the plaintiff. Instead, it was purchased vide sale deed dated 22.02.1951. The property belonged to C.T.Narayanan Chettiar (Senior), the father of the original defendant. The Hindu joint family comprised C.T.Narayanan Chettiar and his sons C.T.N.Narayanan Chettiar (junior) and C.T.N.Annamalai Chettiar. Umayal Chettiyappan, daughter of C.T.Narayanan Chettiar cannot be considered as a member of the joint family. When dispute arose between the two brothers, it was referred for mediation to Panchayatdhars H.Ramanathan and S.A.A.Ramakrishnan. The pachayatdhars passed award dated 26.04.1995. The award contained three schedules. The suit property was a part of "C" Schedule. It was to be jointly enjoyed with a condition that the person seeking to sell must make an offer to the other brother at the prevailing market value. The suit property thus belonged only to the two brothers. Umayal Chettiappan had already relinquished her share in the suit property.



C.T.N.Annamalai Chettiar who had executed the sale deed dated 15.04.2008 in favour of the plaintiff did not have 2/3rd share in the suit property at all.

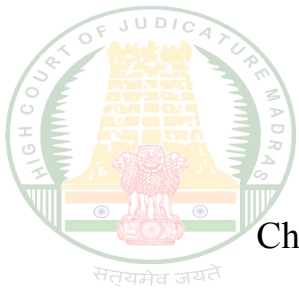
C.T.N.Annamalai Chettiar did not have competence to sell the suit property.

The plaintiff's husband, Madasamy, was appointed as a care taker/watchman for the suit property. He passed away and that is how, the plaintiff is in possession.

During the pendency of the suit, C.T.N.Narayanan Chettiar (junior) passed away and his children Harinarayanan and Meiyammai Ramanathan and wife Sivagami came on record.

4.The original defendant also made a counter claim for declaring that the sale deed dated 15.04.2008 is null and void insofar as it pertained to 1/3rd share attributed to Umayal Chettiappan. Possession of the suit property was also sought. Following the demise of the original defendant, his wife and children came on record. Hari Narayanan, the son made counter claim for directing the plaintiff to execute sale deed in his favour conveying 1/6th share in the suit property. His case was that the sale deed executed by Annamalai Chettiar could be valid, if at all only to the extent of 1/6th share. He also invoked the right of pre-emption.

5.Based on the rival pleadings, the court below framed the following issues :



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“1. Whether one of the plaintiff's vendor, namely, Umayal Chettiyappan has no right in the suit property ?

2. Whether the sale of 1/3rd share in the suit property by C.T.N. Annamalai is not valid in view of the pre-emption agreement in the panchayat award/muchalikka dated 26.04.1995 ?

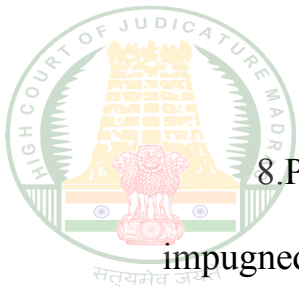
3. Whether the suit is bad for non-joinder of necessary parties ?

4. Whether the plaintiff is entitled for partition and separate possession of 2/3rd share in the suit property ?

5. To what other relief, the plaintiff is entitled ?”

6. The plaintiff examined herself as PW.1. Her son was examined as PW.2. Exs.A1 to A12 were marked. One of the panchayatdhars, namely, S.A.A. Ramakrishnan Chettiar was examined as DW.1. The third defendant was examined as DW.2. Exs.B1 to B10 were marked on the side of the defendants. After considering the evidence on record, the court below granted preliminary decree as prayed for. The counter claim made by the defendants was dismissed. Aggrieved by the same, this appeal has been filed.

7. The learned Senior Counsel and the counsel appearing for the appellants reiterated all the contentions set out in the grounds of appeal. They filed written notes and we were also taken through the same. They submitted that the impugned judgment suffers from perversity. They called upon this Court to set aside the impugned judgment and allow this appeal as prayed for.



8. Per contra, the learned counsel for the plaintiff submitted that the impugned judgment is well reasoned and that it does not call for interference.

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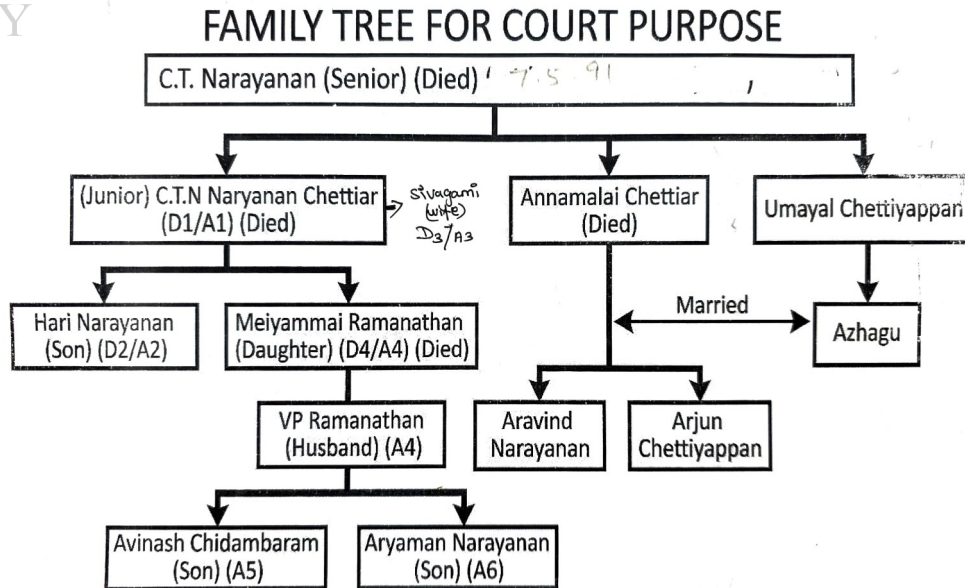
9. We carefully considered the rival contentions and went through the evidence on record. The points that arise for determination are as follows :

- a) Whether the panchayat award dated 26.04.1995 (Ex.B4) is valid and enforceable ?
- b) Whether the counter-claim is barred by limitation ?
- c) Whether Umayal Chettiappan, daughter of C.T.Narayanan Chettiar (senior) had 1/3rd share in the suit property ?
- d) Whether the defendants have the right of pre-emption ?
- e) Whether the sale deed dated 15.04.2008 (Ex.A1) is valid in its entirety ?
- f) Whether the suit is bad for non-joinder of necessary parties ?

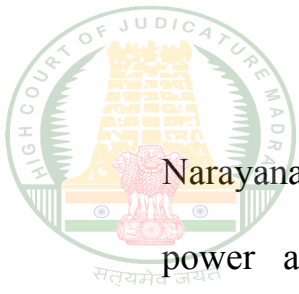


The genealogical tree is as follows :

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There is no dispute that the suit property belonged to C.T.Narayanan Chettiar (senior). Whether the suit property was a joint family property or not need not detain us. This is because, the defendants appear to have conceded that following the demise of C.T.Narayanan Chettiar (senior), each of the children had 1/3rd share in the suit property. Their defence was that Umayal Chettiappan, the daughter of C.T.Narayanan Chettiar (senior) had relinquished her 1/3rd share in the suit property. It is seen that dispute arose between C.T.N.Annamalai and C.T.N.Narayanan Chettiar (junior) and they sought to resolve the same through mediation. The mediators, namely, S.A.A.Ramakrishnan and H.Ramanathan, called upon all the interested parties for a meeting on 26.04.1995. Umayal Chettiappan, C.T.N.Annamalai, Sri Hari



Narayanan, the son of C.T.N.Narayanan (junior) and Sri P.V.Parthasarathy, the power agent of CTN.Narayanan (junior) appeared. Umayal Chettiappan declared before the panchayatdhars that she was not claiming her 1/3rd share in any of the assets that devolved on her through succession. An award was passed in the following manner :

“9.As regards division of the properties among the two brothers, we have categorised the properties as under :

- a. Properties to be exclusively taken by each of the brothers (as given in Schedule A herein below)
- b. Properties to be kept in common and to be enjoyed as joint tenants as undivided half share (as given in Schedule B herein below)
- c. Properties temporarily divided for the purpose of convenient enjoyment between the two brothers (as given in Schedule C herein below) subject to the condition
 - i. That each of the item to be sold as a whole within a reasonable time.
 - ii. That each of the item is to be offered for purchase by each of the brothers at the prevailing market price (right similar to the right of pre-emption) and to be sold to third parties only if not taken for the market value by any of the two brothers ; and
 - iii. That the sale proceeds (nett after expenses of sale) to be shared equally between them.”

Three schedules were annexed to the award. The suit property is a part of the third schedule. The award was duly signed by all the three parties. That the award was duly acted upon was established by marking Exs.B5 and B6. Ex.B5 dated 03.06.1997 is the sale deed executed by C.T.N.Annamalai Chettiar in favour of one Chidambaram covering the property mentioned in Award “B” and “C” Schedule. Ex.B6 is the copy of the sale deed dated 01.09.1999 executed



by Annamalai Chettiar in favour of the first defendant Hari Narayanan. The property covered under the said sale deed was also a part of the award schedule.

It is seen that both these sale deeds were attested by Umayal Chettiappan. Attestation of Umayal Chettiappan became necessary on account of the insistence of the purchasers. In the said sale deeds, there is a copious reference to the award passed by the panchayatdhars.

10.As rightly contended by the learned Senior Counsel for the appellants, estoppel by attestation would operate in this case. Vide judgment dated 27.03.2026 in *A.S.(MD)No.35 of 2022 (Athayee v. Palaniammal)* after an exhaustive review of the case-laws, the Division Bench of the Madras High Court to which one of us (GRSJ) was a party had held that courts are obliged to raise a presumption that when a person having tangible interest in a document attests the same, he knew its contents. But the weight of this presumption will depend upon the facts and circumstances of each case. But a presumption has to be raised nevertheless. It is for the attesor concerned or any person claiming under him to rebut the presumption.

11.Since a presumption arose in favour of the defendants, the burden lay entirely on the plaintiff to rebut the same. In fact, this presumption could have been rebutted only by examining Umayal Chettiappan. The plaintiff did not do so. Therefore, applying the principle of estoppel by attestation, we hold that



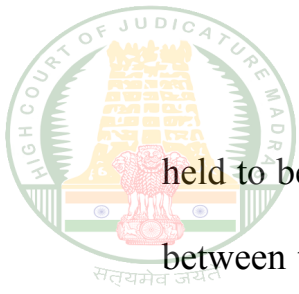
whatever share Umayal Chettiappan had in the suit property stood relinquished.

The sale deed executed by C.T.N.Annamalai in favour of the plaintiff, if at all, could have been valid only to the extent of his share in the suit property. The suit sale deed is thus not valid in its entirety. It is void insofar as it pertained to the share of Umayal Chettiappan. Annamalai Chettiar executed the sale deed on his behalf and on behalf of Umayal Chettiappan. It means he was acting as a power agent. But the power of attorney was not marked. Thus, the authority of Annamalai Chettiar to sell his sister's share, if at all, was not established. The third issue is answered accordingly.

12.The next issue is as to whether Ex.B4 is valid. The court below has held that Ex.B4 panchayat award is invalid on the sole ground that Ex.B4 award was not registered. Our attention was drawn to the decision reported in **(2016) 8 SCC 705 (Subraya M.N. v. Vittala M.N)**. It was held therein as follows :

“16....Binding family arrangements dealing with immovable property worth more than rupees hundred can be made orally and when so made, no question of registration arises. If, however, it is reduced to the form of writing with the purpose that the terms should be evidenced by it, it required registration and without registration it is inadmissible; but the said family arrangement can be used as corroborative piece of evidence for showing or explaining the conduct of the parties.”

In the context of the case, Panchayat resolution reduced into writing was

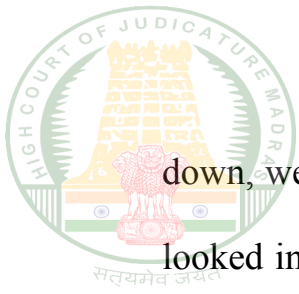


held to be a corroborative evidence for explaining the settlement arrived at between the parties and their conduct. In the decision reported in (2022) 3

SCC 757 (vide *K. Arumuga Velaiah v. P.R. Ramasamy*), the question of application of Section 17(2)(v) of the Registration Act to a panchayat resolution came up for consideration. It was held therein as follows:

“45. ...it can be safely concluded that the said award was a mere arrangement to divide the properties in future by metes and bounds as distinguished from an actual deed of partition under which there is not only a severance of status but also division of joint family properties by metes and bounds in specific properties. Hence it was exempted from registration under Section 17(2)(v) of the Act. A document of partition which provides for effectuating a division of properties in future would be exempt from registration under Section 17(2)(v). **The test in such a case is whether the document itself creates an interest in a specific immovable property or merely creates a right to obtain another document of title.** If a document does not by itself create a right or interest in immovable property, but merely creates a right to obtain another document, which will, when executed create a right in the person claiming relief, the former document does not require registration and is accordingly admissible in evidence.”

13.The Hon’ble Supreme Court in *Kale v. Director of Consolidation, (1976) 3 SCC 119* observed that even if an unregistered family settlement is sought to be disturbed by the parties to the arrangement, rule of estoppel would kick in and that Courts should lean towards upholding the family arrangement and avoid disturbing it on trivial or technical grounds. Applying the ratio laid



down, we have to hold that the finding of the court below that Ex.B4 cannot be looked into is incorrect. The award by the panchayatdars appears to be more in

the nature of advice cum agreement. Clause 11 of the award states as follows :

“the parties have agreed to fix a date mutually convenient to them for effecting the oral partition as decided above by the panchayatdar..”. The award also

contemplates execution of sale deed mutually by the parties.

Thiru.P.V.Parthasarathy, the power of attorney of CT.N.Narayanan was to keep

the title documents till such sale. We are satisfied that since the division by

metes and bounds has not taken place by virtue of the award of the

panchayatdars, the award did not require registration. It did not convey any

right or interest in the immovable properties. It merely created a right to obtain

another document for acquiring title. Hence, the award could very well be

looked into notwithstanding the fact that it was not registered. It is relevant to

note that it was duly acted upon as evidenced by the conduct of the parties. The

consequence of invalidating such an award would be to put the clock back when

transactions had already taken place on its basis. Courts would always lean

against adopting an approach that may unsettle registered transactions that had

taken place in the past. The terms of the award in ***Arumuga Velaiah*** are similar

to the contents in Ex.B4. A careful perusal of the contents of Ex.B4 would make

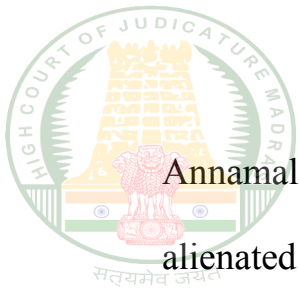
it clear that the award did not effect the division of all joint family properties by

metes and bounds. This point is answered accordingly.



14. This leads us to the next question as to what was Annamalai Chettiar's share in the suit property. Annamalai Chettiar's 1/3rd share got enhanced to half share following relinquishment by Umayal Chettiappan. But Annamalai Chettiar's sons, namely, Aravind Narayanan and Arjun Chettiappan claimed to be members of the joint family comprising their father and themselves. According to them, their father had only 1/6th share in the suit property. Aravind Narayanan and Arjun Chettiappan had conveyed 1/6th share in the suit property in favour of Hari Narayanan vide release deeds dated 14.05.2018 (Ex.B7). Even though Hari Narayanan in his written statement had taken the plea that Annamalai Chettiar did not have 2/3rd share and that his sons were also entitled to share in the suit property, neither Hari Narayanan nor the plaintiff took steps to implead them. Only then, the court below could have determined if the sons of Annamalai Chettiar were entitled to the share claimed by them. According to the sons of Annamalai Chettiar, their father had only 1/6th share in the suit property. But in their release deed, they had accepted the conveyance of 1/3rd share in the suit property. That is why, they released the remaining 1/6th share in the suit property in favour of Hari Narayanan. CTN.Narayanan Chettiar also in his written statement admitted the validity of the suit sale deed to the extent of 1/3rd share in the suit property.

15. The learned counsel for the plaintiff contended that since the sons of



Annamalai Chettiar no longer have any interest in the property and they had alienated their claimed share already, their non-impleading will not make any difference. But this contention overlooks a fundamental fact. It is not as if Annamalai Chettiar had title only over the suit property. He had several other properties in his name. Whether Annamalai Chettiar constituted a joint Hindu Family along with his sons is an issue that could have been answered only after impleading his sons. This is because an answer to this question will have a bearing on the other properties. It is for this reason, we have to hold that the suit suffered from the vice of non-joinder of necessary parties. However, on this ground, the plaintiff is not non-suited because the sons of Annamalai Chettiar have released 1/6th share in the suit property already during the pendency of the suit and with full knowledge of the suit proceedings.

16. The next issue that calls for consideration is whether the counter claim is barred by limitation. It is seen that the counter claim was filed on 02.12.2015. While the learned counsel for the respondent would claim that limitation would start running from the date of execution of the sale deed dated 15.04.2008, the learned Senior counsel for the appellants would claim that the limitation would start running only from the date of knowledge of the said transaction. Counter claim has been filed to enforce the right of pre-emption. Article 97 of the Limitation Act, 1963 reads as follows :

To enforce a right of

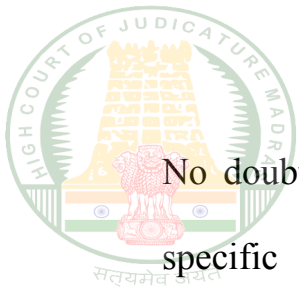
One year.



pre-emption whether the right is founded on law or general usage or on special contract. When the purchaser takes under the sale sought to be impeached, physical possession of the whole or part of the property sold, or, where the subject matter of the sale does not admit of physical possession of the whole or part of the property, when the instrument of sale is registered”

The Hon’ble Supreme Court in *Bishan Singh v. Khazan Singh*, AIR 1958 SC 838 summarised the general principles on the right of pre-emption in the following terms :

- “(1) The right of pre-emption is not a right to the thing sold but a right to the offer of a thing about to be sold. This right is called the primary or inherent right.
- (2) The pre-emptor has a secondary right or a remedial right to follow the thing sold.
- (3) It is a right of substitution but not of re-purchase, *i.e.*, the pre-emptor takes the entire bargain and steps into the shoes of the original vendee.
- (4) It is a right to acquire the whole of the property sold and not a share of the property sold.
- (5) Preference being the essence of the right, the plaintiff must have a superior right to that of the vendee or the person substituted in his place.
- (6) The right being a very weak right, it can be defeated by all legitimate methods, such as the vendee allowing the claimant of a superior or equal right being substituted in his place.”

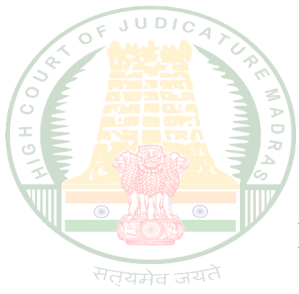


No doubt, CTN.Narayanan Chettiar had the right of pre-emption. There is a specific clause in the Ex.B4 award to that effect. Pre-emption has been recognised as a very weak right. However, the courts have to acknowledge and enforce the right of pre-emption when it is sought to be applied against family members (vide ***Ram Baran Prasad v. Ram Mohit Hazra, 1966 SCC OnLine SC 20***). Section 22 of the Hindu Succession Act, 1956 reads as follows :

“22.Preferential right to acquire property in certain cases.—(1) Where, after the commencement of this Act, an interest in any immovable property of an intestate, or in any business carried on by him or her, whether solely or in conjunction with others, devolves upon two or more heirs specified in class I of the Schedule, and any one of such heirs proposes to transfer his or her interest in the property or business, the other heirs shall have a preferential right to acquire the interest proposed to be transferred.

(2) The consideration for which any interest in the property of the deceased may be transferred under this section shall, in the absence of any agreement between the parties, be determined by the court on application being made to it in this behalf, and if any person proposing to acquire the interest is not willing to acquire it for the consideration so determined, such person shall be liable to pay all costs of or incident to the application.

(3) If there are two or more heirs specified in class I of the Schedule proposing to acquire any interest under this section, that heir who offers the highest consideration for the transfer shall be preferred.



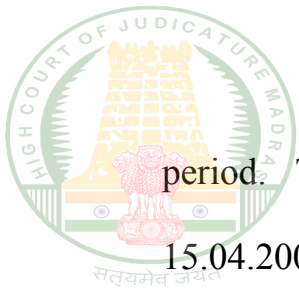
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Explanation.—In this section, “court” means the court within the limits of whose jurisdiction the immovable property is situate or the business is carried on, and includes any other court which the State Government may, by notification in the Official Gazette, specify in this behalf.

The property belonged to CT.Narayanan Chettiar (Senior). It devolved on his sons. CTN.Narayanan Chettiar was a Class I legal heir. He was therefore entitled to assert his preferential right to purchase the share of his co-owner. This statutory right was reinforced on account of the agreement between the brothers before the panchayatdars. It is fashionable to characterise the right of preemption as a weak right. It has even been held that courts would not go out of way to uphold the right of the preemptor. We are of the view that so long as the claimant is able to bring his case within the four corners of a statutory provision, courts are bound to uphold the same. This is all the more so because Section 22 of the Hindu Succession Act was inserted in the statute book only to keep out strangers from the family property and to maintain the integrity of the property. Such a preferential right being a statutory incident of property inherited by Class I heirs, it runs with the land and binds a stranger purchaser (vide **2002 SCC OnLine Mad 125 (Kulasekaran Chettiar v. Meenakshiammal)**).

17.The right of preemption has to be exercised within the limitation



period. The court below had held that since the sale deed was registered on 15.04.2008 and the preemption claim was made in 2015, it was barred by

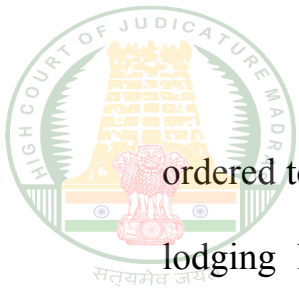
limitation. Article 97 has already been extracted. Limitation of one year will start running from the date of registration of the sale deed where the subject matter of sale does not admit of physical possession of the whole or part of the property. Since limitation operates to extinguish a legal right, it has to be strictly construed. Article 97 has two parts. The subject matter of the sale deed in this case is a dwelling house. It admits of physical possession. Therefore, limitation cannot be reckoned from the date of registration. That leads to the previous part of the Article. It states that limitation would start running from the date when the purchaser takes physical possession of the whole or part of the property sold under the sale sought to be impeached. In the case on hand, the property was already in the custody of Madasamy as he was the care taker of the property. Following his demise, the plaintiff continued to be in physical possession. That is why, the counter claim is for recovery of possession. The plaintiff had not taken possession of the property under the suit sale deed. Therefore, this part of the article also will not be attracted. Hence, the date of knowledge alone can be the reckoning factor. The original defendant has taken a specific stand that only from the plaint averments, he became aware of the sale in favour of the plaintiff. The counter claim was lodged in the very same year when the suit was filed. The son of the original defendant who was examined as a defence witness deposed that there was a police complaint and enquiry involving the parties



shortly before the institution of the suit. The plaintiff was said to have produced the suit sale deed during the said enquiry. If according to the plaintiff, the counter claim was barred by limitation, the burden lay on her to establish the same. She ought to have proved that the defendants had knowledge of the suit sale deed even three years prior to the lodging of the counter claim. This burden cast on her was not discharged. Therefore, we hold that claim for preemption cannot be said to be barred by limitation.

18.The plaintiff relying on Ex.A12 Demand Draft in favour of Sivagami, wife of CTN.Narayanan Chettiar wanted to attribute knowledge of the transaction to the original defendant. Admittedly, Ex.A12 is not in the name of CT.N.Narayanan Chettiar. Sivagami is not a Class I legal heir of C.T.Narayanan Chettiar. The plaintiff has not at all established as to how knowledge can be imputed to the original defendant on the strength of Ex.A12. The reason assigned by the court below is utterly unconvincing.

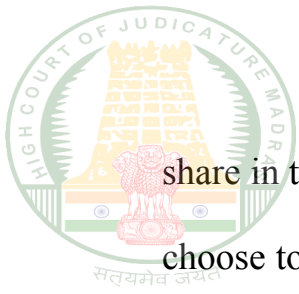
19.The plaintiff had made an audacious claim that CTN.Narayanan Chettiar had granted lease in her favour in respect of his undivided share for a sum of Rs.10,000/- p.a. During the pendency of the suit, CT.N.Narayanan Chettiar filed I.A.No.36 of 2017 for appointing him as party receiver. The I.A was dismissed. Aggrieved by the same, he filed CMA(MD)No.662 of 2017. The CMA was allowed by one of us (GRSJ) on 29.11.2017. Auction was



ordered to be conducted because the plaintiff by then had let out the property as lodging house. In the public auction that followed, the property fetched Rs.3,60,000/- p.a. This itself indicates the sheer improbability of the plaintiff's claim that Rs.10,000/- was the annual lease rent.

20. Even though the suit property is being used as a lodging house for fetching revenue, it is very much a dwelling house. Therefore, Section 4 of the Partition Act, 1893 will come into play. Since the plaintiff is having only 1/3rd share in the suit property, the defendants who are holding the remaining extent can apply to the court during final decree proceedings for directing the plaintiff to part with her share on appropriate terms. Thus, even if the claim for preemption fails, the appellants can acquire the plaintiff's undivided share through the aforesaid route. The question of limitation will not arise in such an event.

21. Thiru. Annamalai Chettiar had purported to convey 2/3rd undivided share in the suit property. This was on the premise that he had 1/3rd share and his sister Umayal Chettiappan had 1/3rd share. We have already held that the sale deed could not be valid insofar as it purported to convey Umayal Chettiappan's share. Therefore, the sale deed can be said to be valid if at all only to the extent of 1/3rd share. Even in respect of this right, there is serious doubt. There cannot be any controversy only over Annamalai Chettiar's 1/6th



share in the suit property. However, the children of Annamalai Chettiar did not choose to get themselves impleaded in the present suit. They were aware of the pending litigation. When Annamalai Chettiar executed the sale deed in favour of the plaintiff, he was clear in his mind that he had only 1/3rd share in the suit property. Even the original defendant sought to exercise his right of preemption over 1/3rd share only. The sale deed executed in favour of the plaintiff by Annamalai Chettiar has not been sought to be declared invalid in its entirety. Even though Annamalai Chettiar had only 1/6th share in the suit property, his sons have admitted the validity of sale to the extent of 1/3rd share as evidenced by Ex.B7. Therefore, while the sale deed has not been upheld by us in its entirety, we hold that it is valid to the extent of 1/3rd share in the suit property.

22. That leaves us with the next question if the plaintiff can be allowed to remain in possession. Even according to the plaintiff, she had taken only an undivided share in the suit property. It is well settled that a stranger purchasing an undivided share in a property can only sue for the relief of partition and separate possession. Therefore, the plaintiff has no legal right to remain in the property on the strength of the undivided share purchased by her. The plaintiff cannot validly resist the defendants' plea for possession. At present, it is being used only as a lodging house. We do not agree with any of the reasons assigned by the court below. It failed to note that the panchayat award is very much enforceable. The entire judgement of the court below rests on its finding that the



award of the panchayatdhars is invalid. Once this finding stands undermined, the judgment of the court below has to be necessarily interfered with.

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23.Hence, the judgment and decree of the court below is set aside. This appeal is allowed in the following terms :

1.The plaintiff is entitled to 1/3rd share in the suit property.

2.The prayer for directing the plaintiff to convey 1/3rd share in the suit property in favour of the defendants is granted. The terms of conveyance will be determined in final decree or execution proceedings. If the defendants fail to exercise their right of preemption by taking out an application pursuant to this decree, the plaintiff can file final decree proceedings for enforcing her 1/3rd share in the suit property and preliminary decree is granted accordingly.

3.The counter claim made by the defendants for possession is decreed.

The defendants can take possession subject to Clause 2 above.

No costs.

(G.R.S.,J.) & (R.K.M,J)
13-07-2026

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

To



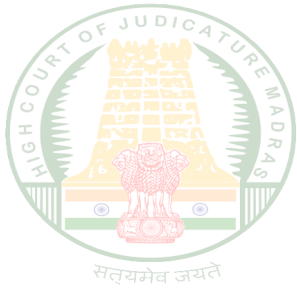
1. The Additional District Judge (Fast Track Court), Tenkasi.

Copy to :

The Record Clerk,

V.R.Section, Madurai Bench of the Madras High Court.

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AS(MD) No.32 of 20



**G.R.SWAMINATHAN J.
AND
R.KALAIMATHI, J.**

SKM

**AS(MD) No.32 of 2024
and
CMP(MD)No.1975 of 2024**

13-07-2026