

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 24.03.2025

Pronounced on : 20.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

**A.S(MD)No.48 of 2023
and
C.M.P(MD)No.3258 of 2023**

R.Jothivel

... Appellant/Defendant

Vs.

R.Palanisamy

... Respondent/Plaintiff

PRAYER :- This Appeal Suit is filed under Section 96 of the Civil Procedure Code, to set aside the judgment and decree, dated 06.09.2022 passed in O.S.No.21 of 2019 on the file of the Principal District Judge, Karur and allow the present appeal.

For Appellant : Mr.V.Balaji

For Respondent : Mr.K.Suresh



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JUDGMENT

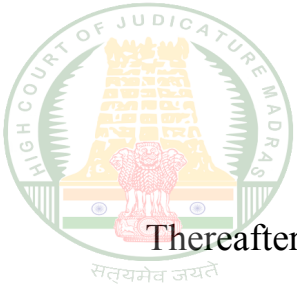
WEB COPY This Appeal Suit is filed against the judgment and decree, dated 06.09.2022 passed in O.S.No.21 of 2019 on the file of the learned Principal District Judge, Karur.

2. The appellant is the defendant in O.S.No.21 of 2019 on the file of the Principal District Court, Karur. The respondent is the plaintiff in that suit. The respondent/plaintiff has filed the suit for declaration that the respondent/plaintiff is the absolute owner of the suit property and for recovery of possession.

3. For the sake of convenience, the parties are referred as per their rank before the trial Court.

4. The brief facts are as below:

(a) The case of the plaintiff (Respondent herein):- The suit property originally belonged to one R.Krishasamy Pillai through Court auction sale in E.P.No.10358 of 1957 in O.S.No.429 of 1956 on the file of the District Munsif Court, Karur, as sale was confirmed on 18.12.1957. He sold the suit property to one Ramasamy Gounder by virtue of registered sale deed, dated 24.06.1958.



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Thereafter, Ramasamy Gounder died, leaving behind his wife Pappayee and his

sons R.Jothivel and R.Krishnan and daughters Dhananalakshmi @ Lakshmi and

Kokilam as legal heirs. One of his sons R.Krishan died intestate, leaving behind his wife, K.Rajalakshmi, son K.Chandrasekaran and his mother, Pappayee.

The mother Pappayee, executed a registered gift settlement deed in favour of his son Jothivel regarding her lawful share. Similarly, the daughters of Ramasamy Gounder namely Dhanalakshmi @ Lakshmi & Kokilam and deceased R.Krishan's wife Rajalakshmi and her son Chandrasekaran jointly executed release deed, dated 22.01.2014 in favour of R.Jothivel for valuable consideration of Rs.3,75,000/-.

So, the said Jothivel, who is the defendant herein, became the absolute owner of the suit property. The defendant Jothivel for himself and as guardian of his minor daughters Sukanya and Swetha sold the suit property to the plaintiff by means of registered sale deed, dated 02.04.2014 for consideration of Rs.10,00,000/-.

From the date of purchase, the plaintiff has been in possession and enjoyment of the suit property. Thereafter, the defendant came to the plaintiff and demanded additional consideration of Rs.2,00,000/-. On the plaintiff's refusal, the defendant made a threat and attempted to trespass into possession. So, the plaintiff filed suit in O.S.No.31 of 2015 before the District Munsif Court, Karur, for permanent injunction and that suit was dismissed as the plaintiff had not proved his possession. In such circumstances, during pongal holidays between 14.01.2019 to



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17.01.2019, when the plaintiff was away from Karur, taking advantage of the

dismissal suit and with the help of henchmen, the defendant trespassed into the suit property and unlawfully possessed of suit property. Therefore, the plaintiff has laid the suit for declaration that the plaintiff is the absolute and exclusive owner of the suit property and for recovery of possession.

(b) The case of the defendant (appellant herein):-

The defendant approached the plaintiff, who is doing money lending business, and borrowed loan. At the time, the plaintiff and his allies compelled the defendant and got the deed, styled as sale deed registered in the name of the plaintiff. The plaintiff assured the defendant that he would transfer the property upon the settlement of loan. The alleged sale deed, dated 02.04.2014, was obtained by the plaintiff fraudulently, by misrepresentation and undue influence. So, the sale deed is not valid in law. Since the plaintiff demanded exorbitant interest and illegally attempted to vacate the defendant from suit property, the defendant lodged a police complaint on 30.12.2014. The averments that the defendant trespassed into the property and got unlawful possession of the property are denied. The daughters of the defendant, Suganya and Swetha, who are alleged to have executed the sale deed, have not been added as parties to the suit.



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5. In the reply statement, the plaintiff stated that the defendant traced title by means of registered settlement deed, dated 22.03.2010 and registered release deed, dated 22.01.2014, and accordingly sold the suit property to the plaintiff on 02.04.2014. So, the daughters do not have a share in the suit property. The defendant showed his daughters in the sale deed only as *eo nomine* parties, so they need not be added as parties.

6. The trial Court framed the following issues upon the pleadings of both parties.

(1) Whether the plaintiff is entitled for declaration of the title and consequent recovery of possession?

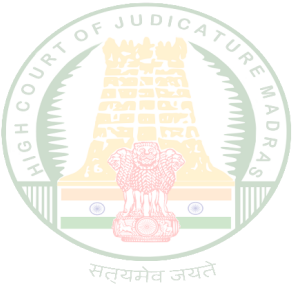
(2) What other relief?

Additional Issues:

(1) Whether the sale deed dated 02.04.2014 was obtained fraudulently, by misrepresentation and undue influence as alleged by the defendant?

(2) Whether the suit is bad for non-joinder of proper and necessary parties?

(3) Whether the relief claimed in the suit is barred by limitation?



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7. Before the trial Court, the plaintiff examined himself as P.W.1 and marked Ex.A.1 to Ex.A.15. The defendant examined himself as D.W.1 and examined one of the attestors, Siva as D.W.2 and marked Ex.B.1 to Ex.B.3.

8. On appreciation of evidence and the arguments made by either parties, the trial Court has concluded that the defendant has not proved that he executed the sale deed only for loan and hence, decreed the suit in favour of the plaintiff by its judgment and decree, dated 06.09.2022.

9. The judgment and decree of the trial Court are under challenge in this appeal suit.

10. The learned counsel for both parties have argued at length by relying on respective rulings. On hearing both sides and on perusing the material records along with grounds of appeal, both sides admitted that the suit property originally belonged to one R.Krishasamy Pillai, who purchased through Court auction sale in E.P.No.10358 of 1957 in O.S.No.429 of 1956 on the file of the District Munsif Court, Karur on 18.12.1957. The appellant/defendant's father, Ramasamy Gounder, purchased the suit property from the said Krishnasamy Pillai through

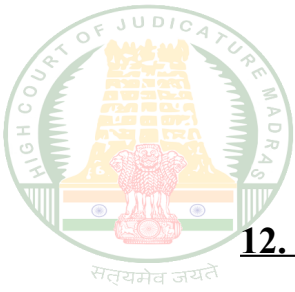


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Ex.A.1 - Registered Sale Deed, dated 24.06.1958. Thereafter, Ramasamy

WEB GOUNDER died, leaving behind his wife Pappayee and his sons R.Jothivel, the defendant herein and R.Krishnan and daughters Dhananalakshmi @ Lakshmi and Kokilam as legal heirs. One of the sons R.Krishan died intestate, leaving behind his wife, K.Rajalakshmi, son K.Chandraseakran and his mother, Pappayee. Then the appellant/defendant's mother Pappayee, executed Ex.A.2 - Settlement Deed, dated 22.03.2010 and other legal heirs executed Ex.A.3 - Release Deed, dated 22.01.2014, in favour of the appellant/defendant. Thus, the appellant/defendant became the absolute owner of the property.

11. It is the case of the plaintiff that he purchased the suit property from the defendant through Ex.A.4 - Registered Sale Deed, dated 02.04.2014, whereas it is the case of the defendant that he executed Ex.A.4 - Sale Deed only as security for the loan obtained by him from the plaintiff and through the said Sale Deed - Ex.A.4, title and possession were not conveyed to the plaintiff.. The trial Court held that the defendant has not established that he had executed Ex.A.4 - Sale Deed for security for the loan. The defendant approached this Court on appeal mainly agitating the following point and the same has to be decided in this appeal.



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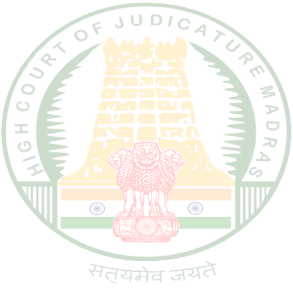
12. The point for consideration in this appeal is:

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Whether the defendant has established that Ex.A.4 - Sale Deed, dated 02.04.2014, was nominal and executed only for collateral security for the loan obtained from the plaintiff?

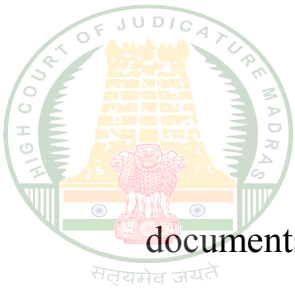
13. Point:

The learned counsel for the appellant/defendant has mainly argued that the defendant never executed the deed of sale on 02.04.2014 and he never handed over possession. The plaintiff admitted that the defendant's sister executed a release deed on 22.01.2014, so the title and possession of the defendant are admitted by the plaintiff prior to the alleged sale deed, dated 02.04.2014. The plaintiff filed a suit in O.S.No.31 of 2015 on the file of the District Munsif Court, Karur. against the defendant for permanent injunction from interfering with his possession over the suit property and made pleadings that the defendant approached the plaintiff and demanded an additional sale price of Rs.2 lakhs and threatened to disturb his possession. After full fledged trial, the learned District Munsif, Karur, held that the plaintiff was not in possession of the suit property and dismissed that suit in O.S.No.31 of 2015 on 19.11.2018. The plaintiff has not filed any appeal against the dismissal of his earlier suit, so the finding that the plaintiff is not in possession and enjoyment of the suit property reached finality.



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WEB COPY 14. The learned counsel has made further arguments that after dismissal of the suit in O.S.No.31 of 2015 on 19.11.2018, the plaintiff filed the present suit on 27.02.2019 for declaration and recovery of possession by false pleading with an imaginary cause of action that the plaintiff was dispossessed during pongal holidays between 14.01.2019 to 17.01.2019. In previous case, it was decided on 19.11.2018 that the plaintiff did not possess of suit property, if so, how he could be dispossessed of the suit property, so the plaintiff made false averments. It is the specific stand of the defendant that he never executed the sale deed, dated 02.04.2014 and the same was executed only for security for loan of Rs.1,00,000/- obtained from the plaintiff. When the defendant asked about the contents of deed, as it was sale deed, the plaintiff replied that he would convey the same at the time of settlement of loan. So, the alleged sale deed was never intended to convey title and possession over the suit property. No prudent man would get the sale deed executed without possession. Since the plaintiff demanded exorbitant interest, the defendant lodged a police complaint on 30.12.2014 and in order to escape from the criminal liability, the plaintiff filed the earlier suit in O.S.No.31 of 2015 with false cause of action. In fact, the plaintiff has not alleged about the earliest cause of action that happened 30.12.2014. The plaintiff as PW1 has admitted in his evidence about the police enquiry. Mere holding of the defendant's original



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documents by the plaintiff will not prove title and possession of the plaintiff over

WEB the suit property.

15. The learned counsel for the appellant further argued that the alleged sale was never acted upon either by conveying title and possession to the plaintiff till date, and it was executed only as a security for loan transaction between the plaintiff and the defendant. It is essential on the part of the plaintiff to prove his title by adducing cogent and positive evidence in order to establish his own title, and the plaintiff cannot take advantage of the loopholes in the defendant's case. But, the trial Court wrongly placed the burden on the defendant to disprove the case of the plaintiff without properly evaluating the evidence of D.W.2. Therefore, the finding of the trial Court has to be set aside and the appeal may be allowed. The learned counsel relied on the judgments of the **Hon'ble Supreme Court in 2014 (4) CTC 471 (SC) [Union of India and Others vs. Vasavi Co-op. Housing Society Ltd. and Others], 2023 Supreme (SC) 20 [Manik Majumder and Others vs. Dipak Kumar Saha (Dead) through Lrs. & Others] and 2023 (0) Sup (SC) 1165 [P.Kishore Kumar vs. Vittal K.Patkar].**

16. Per contra, the learned counsel for the respondent/plaintiff has vehemently contended that the defendant did not mention about the particulars of

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loan amount and when he obtained the loan. The defendant has not produced any

WEB documents to show the same. Without pleading, the defendant deposed in his evidence as if he obtained Rs.1,00,000/-, which is not acceptable in law. Moreover, he has not pleaded anything as to the loan amount, repayment etc., There is no reason put forth by the defendant why he executed a sale deed for Rs.10,00,000/- (Rupees Ten lakhs only) while he availed only meager loan of Rs.1,00,000/- (Rupees One lakh only). There is no valid reason why he gave the parental deeds to the plaintiff. Ex.A.4 - Sale Deed is a registered document, if so, there is a statutory presumption available U/s.114(e) of the Indian Evidence Act. Even though the plaintiff has filed the earlier suit based on Ex.A.4 - Sale Deed, the defendant has not challenged the sale deed at the time of that suit or after the dismissal of that suit.

17. He further argued that the defendant's contention that due to his financial inability he availed loan of Rs.1,00,000/- is unbelievable, because prior to sale deed, he redeemed his mortgage loan from one Chellamuthu through the Ex.A.11 and Ex.A.12. The defendant also obtained release deed from her sisters by paying Rs.3,75,000/- on 02.01.2014, so he was not in financial crisis, but the said contention strengthens the case of plaintiff that the defendant sold the suit property for Rs.10,00,000/- for settling those loans as per contents of the sale

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deed. It is the further argument that if really the defendant obtained Rs.1,00,000/-,

there is no reason for him to execute the sale deed for Rs.10,00,000/-, and also there is no necessity to hand over the previous original title deeds of the suit property to the plaintiff.

18. He further argued that the defendant as D.W.1, admitted in his evidence that the recitals of Ex.A.4 as sale deed even before the Sub Registrar at the time of registration. While being so, the defendant has not taken steps to challenge the sale deed. The defendant's side witness D.W.2 gave evidence in support of the plaintiff's case through Ex.A.13 and Ex.A.14, which are marked through D.W.2. As per defendant's version, the defendant is the absolute owner by way of settlement deed executed by his mother and release deed by his sisters. The suit property is not ancestral property. Therefore, the contention of the defendant that his daughters got share in the suit property is a false one, moreover, he executed for himself and also on behalf of his daughters. So, the plaintiff proved that he is the title holder of the suit property. The trial Court correctly appreciated the evidence of both sides and correctly shifted the onus of proof on the defendant, who contended that the sale deed was executed for security and came to the conclusion that the defendant failed to establish his case. The trial Court further held that after Ex.A.4, the name of the plaintiff has been transferred regarding

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property tax, electricity service, which are unchallenged and therefore, the trial

WEB COURT's finding is correct. Therefore, the appeal may be dismissed.

19. In support of his argument, the learned counsel for the plaintiff has relied on the following citations:

1) AIR 1978 Mad 361 (P.Saraswathi Ammal /v/ Lakshmi Ammal alias Lakshmi Kantam)

2) 2014 SCC Online Madras 11585 (Prakash chand /v/ M/s. Velmurugan Constructions by its Partners)

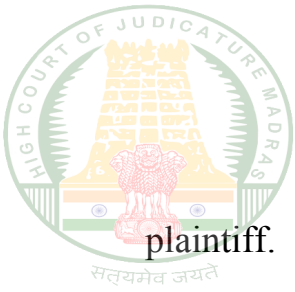
3) 2009-4 LW 357 (Rajeswari Ammal /v/ Arunachalam and Ors.)

4) 2014 SCC Online 12132 (Mallika /v/ Chellamuthu and Others)

5) Judgment of Madurai Bench of Madras High Court in S.A(MD)No.964 of 2010 (R.Subbiah and another /v/ Guruvammal)

6) 2003-2 Law Weekly 572 (Vanajakshi Ammal and Anr. /v/ Raniammal)

20. On perusal of records it is seen that entire case is rest on Ex.A.4 - Sale Deed, dated 02.04.2014. Ex.A4 - Sale Deed is duly registered document. There is no dispute that the original of Ex.A.4 along with its parent deeds, were handed over to the plaintiff by the defendant and the same are in possession of the



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plaintiff. However, there is also no dispute that the plaintiff is not in possession

of the suit property, even though there were rival contentions about the possession and dispossession of the plaintiff of the suit property. Therefore, the plaintiff laid the suit for declaration of his title over the suit property and for recovery of possession. The defendant's specific case is that Ex.A.4 was executed only for security of the loan obtained by him from the plaintiff.

21. The Supreme Court reiterated that the ownership of immovable property does not transfer until a registered sale deed is executed, even if possession has been transferred and consideration paid. This is based on Section 54 of the Transfer of Property Act for immovable property valued at Rs.100/- or more, a registered instrument is required for a valid transfer. The definition of 'transfer of property' under Section 5 of the Transfer of Property Act, 1882, (hereinafter referred to as the TP Act), which reads thus:-

“5. “Transfer of property” defined. —In the following sections “transfer of property” means an act by which a living person conveys property, in present or in future, to one or more other living persons, or to himself, [or it himself] and one or more other living persons; and “to transfer property” is to perform such act. [In this section “living person” includes a company or association



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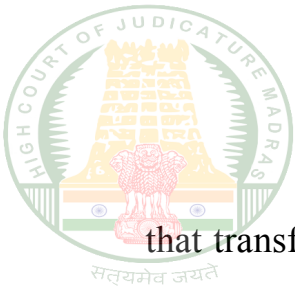
or body of individuals, whether incorporated or not, but nothing herein contained shall affect any law for the time being in force relating to transfer of property to or by companies, associations or bodies of individuals.]

22. It is appropriate and relevant to refer to the definition of ‘sale’ given under Section 54 of the TP Act, which reads thus:-

"54. "Sale" defined.—"Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised."

Section 17 of the Indian Registration Act governs the registration of different documents in respect of immovable property having value of Rs.100/- and more and it also lays down an obligation to register the document with the registrar office concerned, otherwise, the deed would be void.

23. The term ‘transfer’ is a word in a broader sense and the word ‘sale’ is a specific word. Sale, going by the definition under the T.P. Act, presupposes transfer from one person to another of the right in property and in other words, in sale, the ownership of the property is transferred. A conjoint reading of Section 54 of the TP Act and Section 17 of the Indian Registration Act, 1908, mandates



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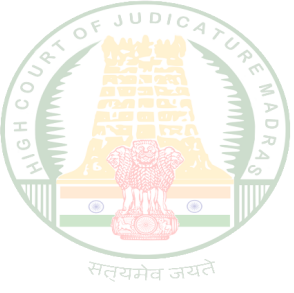
that transfer of ownership of any land worth more than Rs.100/- shall be effected

by a registered deed. Therefore, transfer of land worth more than Rs.100/- by a registered deed implies transmutation of all rights as the vendor possessed in the property concerned. A registered sale deed is presumed to be validly executed. This presumption is rebuttable, meaning that the party contesting the validity must provide evidence to the contrary, as held by the Hon'ble Supreme Court in the cases of **Ram Pravesh vs. Vijram Singh and Manik Majumder /v/ Dipak Kumar Saha**. If the seller placed the contention that the sale deed was executed to secure a loan, then he needs to provide evidence to support his claim. It is settled position that a registered sale deed is a conclusive document of title if executed in due compliance, as long as it is not proven to be a sham transaction, then the burden of proof shifts to the seller to demonstrate that the sale deed was not intended for transfer of ownership, but was merely a security for a loan. It is also reiterated by the Hon'ble Supreme Court in the case of **Damodhar Narayan Sawale (Died) through LRs. /v/ Tejrao Bajirao Mhaske and Others** reported in **2023 SCC Online SC 566**. The seller has to adduce evidence by way of loan agreement, repayment schedules and other documents to support his claim that the sale was only a security for a loan.



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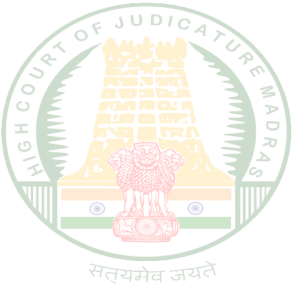
24. In the case on hand, the defendant submitted that the sale deed was executed without intention of transferring ownership and only as collateral financial security. Such a nature of case came for adjudication before the Hon'ble Supreme Court, in which the Apex Court referred to Section 54 of the Transfer of Property Act along with Section 17 of the Indian Registration Act, which conclusively mandates for registration of sale deed of an immovable property for its enforcement. While the execution and registration of the sale deed was not in dispute, the seller disputes only the nature of transaction as security for loan, it is to be noted that a registered sale deed having recitals for transfer of right, title and interest in favour of the recipient along with recitals of sale consideration shall give a presumption of valid title. Moreover, the defendant in his written statement stated that when he borrowed loan from the plaintiff, he was compelled to execute the sale deed as security for the loan. Therefore, the onus of proof is entirely upon the seller to establish otherwise and to prove that the sale deed did not reflect the true nature of transaction. In this case, on perusal of records, the trial Court has correctly shifted the onus on the defendant, appellant herein, to prove that the sale deed was executed only for security for the loan. There is no error in it as the appellant's side argued that the trial Court committed an error on this aspect.



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25. On perusal of Ex.A4, the sale deed is registered one for immovable property more than Rs.100/-. The defendant has not placed any material to show that he received a loan of Rs.1,00,000/- from the plaintiff, for which he executed Ex.A.4 - Sale Deed only as nominal. On perusal evidence of the defendant as D.W.1, who admitted as follows:

“வா.சா.ஆ.4 கிரயப்பத்திரத்தில் உள்ள கையொப்பம் என்னுடையதுதான். ... பழனிச்சாமிக்கு கிரயம் எழுதிக் கொடுப்பதற்கு முன்பாகவே எனக்கு பதிவுத்துறை சம்மந்தமான அனுபவம் உள்ளது என்றால் சரிதான். வா.சா.ஆ.4 பத்திரத்தில் கிரயசாசனம் என்று எழுதியிருந்தது என்றால் கிரயசாசனம் என்றுதான் எழுதியிருந்தது..... அடமானப்பத்திரம் எழுதிக்கொள்வதற்காகத்தான் என்னை அழைத்துச்சென்றார்கள். ஏன் கிரயசாசனம் என்று எழுதியுள்ளீர்கள் என்று கேட்டேன், நான் பணத்தை திருப்பிக்கொடுத்தால் மீண்டும் கிரயம் எழுதித்தருவதாக என்னிடம் சொன்னார்கள். நான் அவ்வாறு கேட்டதாக சொல்வது கிரய ஆவணத்தில் கையெழுத்து போடுவதற்கு முன்பாக என்றால் சரிதான். வா.சா.ஆ.4 ஆவணத்தில் சிவா என்பவர் சாட்சி கையொப்பமிட்டுள்ளாரா என்றால் அவர் யாரென்று எனக்கு தெரியாது.வா.சா.ஆ.4 ஆவணம் செல்லாது என்று வழக்கு எதுவும் தாக்கல் செய்துள்ளேனா



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என்றால் வழக்கு தாக்கல் செய்யவில்லை..... நான் கொடுத்த புகாரின் அடிப்படையில் முதல் தகவல் அறிக்கை பதிவு செய்தார்களா என்று தெரியவில்லை. அந்த காலக்கட்டத்தில் வாதியும் ஒரு புகார் கொடுத்தார்..... நாங்கள் இருவருமே புகார் கொடுத்ததால் சீவில் சம்பந்தப்பட்ட பிரச்சனை என்பதால் நீதிமன்றத்திற்கு செல்லுமாறு காவல்கண்காணிப்பாளர் அலுவலகத்தில் சொன்னார்கள் என்றால் சரிதான்.....”.

26. On perusal of the written statement filed by the defendant, it is clear that he has stated that he borrowed loan from the plaintiff and as security for the loan borrowed by the defendant, the plaintiff and his allies compelled the defendant and got a deed styled as sale deed registered in his name. The defendant examined the aforesaid Siva as D.W.2. He has also not deposed about the loan amount. D.W.2 deposed as “பிரதிவாதி வாதியிடம் கடன் எதுவும் வாங்கியுள்ளாரா என்றால் எனக்கு தெரியாது..... பிரதிவாதி எவ்வளவு கடன் வாங்கினார் என்று தெரியாது.....”. Therefore, as rightly observed by the trial Court, the defendant has not pleaded how much he borrowed as loan from the plaintiff and when he obtained loan, simply in his deposition, he stated that he obtained Rs.1,00,000/- that too without any pleading and so the defendant has not established his case of loan. Moreover, the plaintiff has marked Ex.A.13 and Ex.A.14. In those statements, D.W.2 clearly



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stated that Ex.A.4 - Sale Deed was executed by the defendant as sale document

and not for security for loan. The defendant has not adduced any other evidence to support his case.

27. The plaintiff proved the market value of the suit property as Rs.10,00,000/- by producing Ex.A.3 - Registered Release Deed, dated 22.01.2014, executed by the defendant's sisters and his deceased brother's legal heirs. In Ex.A.4 - Sale Deed, dated 02.04.2014, the sale price is mentioned as Rs.10,00,000/-. On perusal of the records, in the earlier suit in O.S.No.31 of 2015, the plaintiff stated about Ex.A.4 - Sale Deed and in that suit, the defendant took stand that the sale deed was executed on compulsion and undue influence while borrowing loan. In the present suit, the plaintiff also pleaded the same version. But the defendant has not taken any effective steps to file suit or any legal proceedings to set aside or cancel the sale deed, as rightly held by the trial Court. The defendant has also admitted in his evidence that the name of the plaintiff has been transferred in respect of property tax, revenue records and electricity connection after Ex.A.4 - Sale Deed. As per the provision of Section 114(e) of the Indian Evidence Act presumption is made in favour of the document holder, which has been duly registered. Moreover, as per Sections 91 and 92 of the Evidence Act, the defendant cannot give oral evidence against the registered document.

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There can be no reason to disbelieve a recital contained in a registered sale deed

regarding payment of consideration, executed by the vendor.

28. The next contention of the appellant is that the plaintiff has not added the daughters of the defendant as they also shown as sellers in Ex.A.4. As rightly argued by the plaintiff side that the suit property is not an ancestral property and it was purchased by defendant's father through Ex.A.1 and that after demise of father of defendant, his mother executed settlement deed - Ex.A.2 and his sisters with other legal heirs executed the release deed Ex.A.3 and therefore, the defendant is the absolute owner and hence, the daughters of the defendant would have got any right over the suit property. It is pertinent to note here that the defendant executed Ex.A.4 for himself and also on behalf of his minor daughters. The trial Court has rightly appreciated in its judgment in this regard.

29. On scanning of entire material records along with oral and documentary evidence, it is clear that Ex.A.4 - Sale Deed, dated 02.04.2014, is registered and its executant, namely, the defendant, endorsed its execution and fully endorsed its contents and its execution, but deposed differently on its intention. Thus, the admitted position is that its execution and registration are not in dispute. Since it is a registered sale deed and its execution is not in dispute, it must carry a



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presumption that the transaction was a genuine one. Thus, evidently, the dispute is

only in regard to the nature of transaction. Being a registered one and apparently

containing the stipulations of transfer of right, title and interest in favour of the plaintiff over the suit property described therein and also recital regarding receipt

of sale consideration, the burden was entirely on the defendant to establish otherwise and to prove that it did not reflect the true nature of transaction.

But, the defendant's side has failed to establish so as rightly held by the trial

Court. Therefore, the trial Court has correctly held that the registered sale deed

Ex.A.4 has been properly executed for sale consideration and the defendant failed

to establish that Ex.A.4 was executed only for security for loan. Though, as per

citations relied on by the defendant that the plaintiff cannot take advantage of loop

holes of the defendant, in this case, the facts and circumstances are entirely

different, so the citations are not applicable to the facts of this case. As held by

the Hon'ble Supreme Court, while the seller takes a stand in respect of registered

sale deed that the sale deed was nominal and executed for security for loan, the

seller has to establish his version. The citations relied on by the defendants are

squarely applicable to the facts of the case.

30. The very object of the mandate for registration of transfer of an immovable property worth more than Rs.100/- under Section 54 of the Transfer of



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Property Act, 1882, r/w Section 17 of the Indian Registration Act, is primarily to

give certainty to title. When execution is challenged, registration by itself is no proof of execution and proof of complying with Section 67 of the Evidence Act is necessary. I do not think it proper or necessary to enter into the extrinsic evidence relating sale transaction covered by sale deed, dated 02.04.2014. It is pertinent to note here that by virtue of Section 54 of the Transfer of Property Act and Section 17 of the Registration Act and since the immovable property was worth more than Rs.100/-, Ex.A.4 was reduced in writing and registered. The intention of the parties is also reflected specifically in Ex.A.4 and at the same time, nothing reflects a contra-intention not to pass the title and ownership. In other words, the need to take into consideration the surrounding circumstances and the conduct of parties in deciding the passing of title would arise only if the recitals in the document are indecisive and ambiguous. The oral evidence of the defendant could not override the registered Ex.A.4 - Sale Deed. In such circumstances, the trial Court has correctly come to the decision in decreeing the suit.

31. Therefore, in view of the above facts and circumstances, the trial Court has correctly appreciated the evidence adduced on both side and after considering the arguments and citations relied on by both side, the trial Court correctly held that the respondent/plaintiff is entitled to the reliefs of declaration and recovery of



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possession as sought in the suit and that the defendant failed to establish his case

that he executed the registered sale deed for security for loan. For all these reasons, the judgment and decree of the trial Court are sustainable in law and the same need not be interfered by way of this appeal suit. Thus, the Appeal Suit fails.

32. In the result, this Appeal Suit is dismissed. No costs. The judgment and decree, dated 06.09.2022 passed in O.S.No.21 of 2019 on the file of the learned Principal District Judge, Karur, is confirmed. Consequently, the connected Civil Miscellaneous Petition is closed.

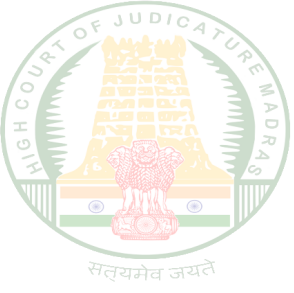
20.06.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
VSD

To

- 1.The Principal District Judge,
Karur.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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P.VADAMALAI, J.

VSD

Pre-Delivery Judgment made in
A.S(MD)No.48 of 2023
and
C.M.P(MD)No.3258 of 2023

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