
(2013) 01 MAD CK 0172

In the Madras High Court

Case No : A.S. No. 504 of 2010 and M.P. No. 1 of 2010

Pugazhenthhi and Another

APPELLANT

Vs

Sundari Ammal and Others

RESPONDENT

Date of Decision : 28-01-2013

Acts Referred:

Hindu Succession (Amendment) Act, 2005 — Section 6

Citation : (2013) 2 CTC 160

Hon'ble Judges : M. Duraiswamy, J

Bench : Single Bench

Advocate : N. Suresh, for the Appellant; Ravichandran, Advocate for Respondent No. 6, A.P. Neelamega Vannan, Advocate for Respondent Nos. 5 and 9, No appearance for Respondent Nos. 1 to 4 and Respondent Nos. 7 and 8: Ex parte in lower Court, for the Respondent

Final Decision : Dismissed

Judgement

M. Duraiswamy, J.—The above First Appeal arises against the judgment and decree in O.S. No. 5 of 2007 on the file of the Principal

District Judge, Villupuram. The Plaintiffs are the Appellants, the Respondents 1 to 8 were the Defendants and the Ninth Respondent, who is the

purchaser of the Suit schedule properties, was impleaded in the above Appeal.

2. The Plaintiffs filed the Suit in O.S. No. 5 of 2007 for Partition, separate possession, to declare the documents created by the Defendants viz.,

Partition Deed dated 24.7.2006 and the Sale Deeds created by the Defendants 1 to 4 in pursuance of the said Partition Deed in favour of third

parties are void ab initio and for permanent injunction.

3. The brief case of the Plaintiffs are as follows:

(i) According to the Plaintiffs, one Govindasamy Kounder had one daughter and

one son viz., the Second Plaintiff and Ramachandra Kounder respectively. The said Govindasamy Kounder died intestate in the year 1975. The First Defendant is the mother of the First Plaintiff, who is the wife of the said Ramachandra Kounder and Defendants 2 to 4 are the daughters of the First Defendant and Ramachandra Kounder. The Second Plaintiff is the aunt of the First Plaintiff. The said Ramachandra Kounder also died on 24.5.1982, leaving behind the First Plaintiff and Defendants 1 to 4 as his legal heirs.

(ii) According to the Plaintiffs, the suit properties and other properties are the ancestral properties of the Plaintiff's and Defendants 1 to 4. The properties were in possession and enjoyment of the Second Plaintiff's father till he was alive and after his death, the Second Plaintiff and his brother were in enjoyment of the same. The First Plaintiff's father Ramachandra Kounder was also dealing with the properties and the Second Plaintiff was also taken care of by her brother. The Defendants 1 to 4 had adopted hostile attitude against the Plaintiffs recently and without reference to them, they on their own had created a Partition Deed dated 24.7.2006 as if all the suit properties should be appropriated by them and without the knowledge and consent of the First Plaintiff, they had also illegally and unauthorisedly included his name in that Partition Deed. The Partition Deed dated 24.7.2006 created by the Defendants 1 to 4 is not valid in the eye of law and the properties were not even divided as per law for which the First Plaintiff was not a consenting party and signatory and it was created at his back. The said document is not binding on the First Plaintiff. So far as the Second Plaintiff is concerned, no one can deal with her share and none has got a right to deny her share also. The alleged Partition Deed is void ab initio and not binding on the Plaintiffs and is non est in the eye of law.

(iii) The First Defendant cannot become the Family Manager and the Plaintiffs never authorised her to divide the properties. The properties were always in possession and enjoyment of the Plaintiffs, especially the First Plaintiff being the sole male member of the family. The Defendants 1 to 4 had also created Sale Deeds in favour of the Defendants 5 to 8 on the strength of the Partition Deed. The Sixth Defendant had also created simple mortgage in favour of one Gnanavel, which is void and the same is ignored.

(iv) The Second Plaintiff being the daughter of Govindasamy Kounder, who died intestate in 1975, is entitled to 1/4th share in the joint family

properties and Ramachandra Kounder is entitled to the remaining 3/4th share. According to the Plaintiffs, the First Plaintiff and Defendants 1 to 4

together are entitled to 3/4th share. The First Plaintiff is entitled to 9/20th share and the Defendants 1 to 4 each are entitled to 3/40th share (i.e.)

12/40 or 3/10th share. Therefore, the First Plaintiff is entitled to 9/20th share, the Second Plaintiff is entitled to 1/4th share and the Defendants 1 to

4 are together entitled to 3/10th share in the joint family properties. Though the Sale Deeds created by the Defendants 1 to 4 in favour of the

Defendants 5 to 8 have no legal validity and they are void ab initio, out of abundant caution, the Plaintiffs prayed for declaration that those

documents are null and void and not binding on the Plaintiffs. In these circumstances, the Plaintiffs filed the Suit.

4. The brief case of the Defendants 1 to 4 are as follows:

According to the Defendants, since the Second Plaintiff did not agree for partition, the Defendants 1 to 4 were told to execute a Partition Deed

and allot a share to the First Plaintiff. According to the Defendants, the purchasers are their distant relatives and the purchasers only executed

promotes towards Sale Consideration and they have not paid any amount to the Defendants towards Sale Consideration. The Defendants also

stated that in case the Court comes to the conclusion that the Partition Deed is not a valid document, they should be given their share in the

property. In these circumstances, the Defendants 1 to 4 prayed for dismissal of the Suit.

5. The brief case of the Fifth Defendant is as follows:

(i) According to the Fifth Defendant, he purchased Items 2 & 3 of the suit properties for a valuable consideration on 27.12.2006 from the First

Defendant. The suit property originally belonged to Govindasamy Kounder. The said property is the self acquired property of the Ramachandra

Kounder. Since he died intestate, the First Plaintiff and the Defendants 1 to 4 are entitled to the property. The Second Plaintiff got married in the

year 1967 itself and she left Govindasamy Kounder's family after marriage. The Second Plaintiff did not claim partition in respect of the suit

property prior to the filing of the Suit.

(ii) Since the First Plaintiff was not looking after the family after the death of the Ramachandra Kounder, the First Defendant as the Kartha of the

family, executed Partition Deed dated 24.7.2006. The First Plaintiff was a mentally unsound person. The Second Plaintiff was living with her

husband for more than 32 years and she cannot claim any right in the suit properties. Since the First Plaintiff is a mentally unsound person, he can

be represented only by a guardian and he cannot file the Suit independently. The Sale Deed dated 27.12.2006 is a true, genuine and legally valid.

The Court fee paid is not correct. The Plaintiffs have not sought to set aside the Sale Deed. In these circumstances, the Fifth Defendant prayed for

dismissal of the Suit.

6. The brief case of the Sixth Defendant is as follows:

(i) According to the Sixth Defendant, the suit properties originally belonged to Govindasamy Kounder, who died intestate in the year 1975, leaving

behind a son and a daughter viz., Ramachandra Kounder and the Second Plaintiff respectively. There was a partition between Ramachandra

Kounder and the Second Plaintiff and the Second Plaintiff was allotted some of the family properties. After the said division, the remaining

properties vested in the hands of Ramachandra Kounder. The said Ramachandra Kounder died intestate, leaving behind the First Plaintiff and

Defendants 1 to 4 as his legal heirs. Therefore, the First Plaintiff and Defendants 1 to 4 are entitled to effect a partition. But at the advice of the

Second Plaintiff, the First Plaintiff did not agree for partition.

(ii) Therefore, on 24.7.2006, the Defendants 1 to 4 executed a Partition Deed. In the said partition, a share in the suit properties was allotted to

the First Plaintiff. However, the First Plaintiff had not signed the Partition Deed. Though the First Plaintiff had not signed the document, he cannot

question the Partition Deed since the co-sharers were allotted their respective 1/4th share under the said document. The Defendants 1 to 4, being

co-parceners, are entitled to effect partition in the suit properties. Hence, as per law, the Partition Deed is absolutely valid and being purchaser of

the properties from the Defendants 1 to 4, the purchase made by the Sixth Defendant is also valid. The Plaintiffs cannot seek injunction against

another co-owner. That apart, the Defendants 1 to 4 alone are in possession and enjoyment of the suit properties. The Plaintiffs were never in

possession and enjoyment of the suit properties. The First Plaintiff was allotted 1/4th share under the Partition Deed dated 24.7.2006. The Second

Plaintiff was already allotted her share in the properties and she disposed of some of the properties on 3.12.1991 to Dhanam Ammal and Balan.

As per the recitals in the said Sale Deeds, the Second Plaintiff was allotted a share in the property of Govindasamy Kounder. The Second Plaintiff

is not the legal heir of the deceased Ramachandra Kounder. Being already allotted a share in the property of Govindasamy Kounder, she cannot

seek a share in the family properties of Ramachandra Kounder. The Suit is barred by limitation as against the Second Plaintiff. In these

circumstances, the Sixth Defendant prayed for dismissal of the Suit.

7. Before the Trial Court, on the side of the Plaintiffs, two witnesses were examined and 29 documents, Exs. A1 to A29 were marked and on the

side of the Defendants, Defendants 5 & 6 were examined as DW1 & DW2 respectively and 7 documents, Exs. B1 to B7 were marked.

8. The Trial Court after taking consideration the oral and documentary evidences of both sides, dismissed the Suit. Aggrieved over the judgment

and decree of the Trial Court, the Plaintiffs have filed the above Appeal.

9. Heard Mr. N. Suresh, learned Counsel appearing on behalf of the Appellants, Mr. Ravichandran, learned Counsel appearing on behalf of the

Sixth Respondent and Mr. A.P. Neelamega Vannan, learned Counsel appearing on behalf of the Fifth and Ninth Respondents.

10. On a careful consideration of the materials available on record and the submissions made by both the learned Counsels, the following points

arise for consideration in this Appeal:

1. Whether Ex. A1-Partition Deed dated 24.7.2006 is valid and binding on the Plaintiffs ?

2. Whether the Plaintiffs are entitled to a share in the suit properties ?

3. Whether the alienations made by Defendants 1 to 4 pursuant to Ex. A1-Partition Deed dated 24.7.2006 to the Defendants 5 to 8 are valid ?

4. Whether the Plaintiffs are entitled to a decree for permanent injunction ?

11. It is not in dispute that the Second Plaintiff and one Ramachandra Kounder are daughter and son of one Govindasamy Kounder, who died

intestate in the year 1975. The said Ramachandra Kounder died intestate in the year 1982, leaving behind the First Plaintiff (son), the First

Defendant (wife) and Defendants 2 to 4 (three daughters). The Defendants 5 to 8 are alienees from Defendants 1 to 4. Under Ex. B4-Partition

Deed dated 12.10.1962, one Murugesu Kounder and his brother Govindasamy Kounder partitioned the properties and the suit properties were

allotted in favour of the Govindasamy Kounder. The said Govindasamy Kounder died intestate in the year 1975, leaving behind his daughter the

Second Plaintiff and his son Ramachandra Kounder. Since the properties are joint family properties, Govindasamy Kounder and Ramachandra

Kounder are entitled to 1/2 share each in the suit properties. The Defendants 1 to 4 filed their Written Statement in the Suit. However, they did not

get themselves examined at the time of trial. Even in the Written Statement, they have not disputed that the suit properties are joint family

properties. The Defendants 1 to 4 executed Ex. A1-Registered Partition Deed dated 24.7.2006. In the said Partition Deed, though the First

Plaintiff was shown as a party, he had not signed the said document. In spite of the same, the Defendants 1 to 4 got the Partition Deed registered.

The First Plaintiff contended that he was not aware of the execution of Ex. A1-Partition Deed and that he was kept in dark by the Defendants 1 to

4.

12. In the Written Statement filed by the Defendants 1 to 4, they have stated that the Defendants 5 to 8 are the distant relatives of Second

Defendant's husband and that they asked the Defendants 1 to 4 to execute the Sale Deeds in favour of them and towards the Sale Consideration,

they executed only pronotes and promised that they would pay the money as early as possible. The Defendants 1 to 4 have also stated that till the

date of filing of the Written Statement, the purchasers/Defendants 5 to 8 have not paid any money towards the Sale Consideration. In the Written

Statement, they have also stated that if the Court comes to the conclusion that Ex. A1-Partition Deed executed by them is not a valid document,

they may be given their share in the properties. The Defendants 5 & 6, who were the alienees of the suit properties, were examined as DW1 &

DW2. The Trial Court, without any basis whatsoever, came to the conclusion that after the death of Govindasamy Kounder, Ramachandra

Kounder was enjoying the suit properties as its absolute owner. When it is the case of the Defendants 1 to 4 that Ramachandra Kounder was the

absolute owner of the suit properties, it is not known how the Trial Court came to such a conclusion.

13. The Defendants 5 & 6 have stated more than what has been stated by the Defendants 1 to 4, who are the co-owners. The Defendants 5 & 6

went to the extent of saying that the First Plaintiff is a mentally unsound person. When it is not the case of the Defendants 1 to 4 that the First

Plaintiff is a mentally unsound person, the Defendants 5 to 8, who are purchasers of the suit property have stated that the First Plaintiff is a person

of unsound mind. The First Plaintiff was examined as PW2 and he was subjected to cross-examination before the Trial Court. On a reading of the

evidence of PW2, one can easily come to the conclusion that his mental capacity was excellent. But, unfortunately, the Trial Court, without any

basis, whatsoever, believed the case set up by the Defendants 5 to 8, who are the alienees of the suit properties, and held that the First Plaintiff is a

mentally unsound person. The Trial Court should not have come to such a conclusion in spite of recording the evidence of PW2.

14. The case put forth by the Defendants 5 & 6 that the First Plaintiff was mentally unsound was only for the purpose of getting over the hurdle of

Ex. A1-Partition Deed, in which the First Plaintiff has not affixed his signature, though he was shown as a party. In case the Trial Court found the

first Plaintiff as a mentally unsound person, the Trial Court should have appointed a guardian to prosecute the Suit on his behalf. But the said

exercise was not done by the Trial Court. The First Plaintiff had signed the plaint and other documents before the Trial Court and also got himself

examined as PW2. His evidence is very cogent and clear and no person can come to a conclusion that he was mentally unsound. When it is not the

case of the Defendants 1 to 4 that the First Plaintiff was mentally unsound, the Trial Court erroneously found that the First Plaintiff was mentally

unsound. The said finding is without any basis or material. Therefore, the said finding is liable to be set aside and accordingly, the same is set aside.

15. The Defendants 1 to 4 executed Ex. A1-Registered Partition Deed dated 24.7.2006. In the said document, the First Plaintiff was shown as a

party, however, his signature was not obtained in the said document. In spite of the same, the Defendants 1 to 4 got the Partition Deed registered

in the Sub-Registrar's Office, Vikravandi. On a reading of Ex. A1-Partition Deed, it could be seen that the First Defendant had mentioned herself

as Family Manager. When the male heir of Ramachandra Kounder was very much available, it is not known as to how the First Defendant had

stated that she is the Family Manager of the joint family. It is not the case of the First Defendant that the First Plaintiff was living away in a far away

place and that she is in actual management of the joint family properties or that the other co-sharers are minors. The First Plaintiff being the only

male member of the joint family, is the Family Manager and Kartha of the joint family. The Defendants 1 to 4 cannot take away the said right from

the First Plaintiff.

16. The learned Counsel for the Appellants, in support of his contention, relied upon the following judgments:

(i) Ganduri Koteshwaramma and Another Vs. Chakiri Yanadi and Another, , wherein the Hon"ble Supreme Court held that the declaration in

Section 6 that the daughter of the co-parcener shall have same rights and liabilities in the coparcenary property as she would have been a son is

unambiguous and unequivocal. Thus, on and from 9.9.2005, the daughter is entitled to a share in the ancestral property and is a co-parcener as if

she had been a son.

(ii) Sugalabai Vs. Gundappa A. Maradi and Others, wherein the Karnataka High Court held that in so far as the pending matters are concerned,

be it Suit or an Appeal, the change effected by the Central Act of 2005 will have to be taken note of and hence, in respect of the pending

proceedings, the Central Amendment Act of 2005 brought into force with effect from 9.9.2005 will have to be applied.

17. Countering the submissions made by the learned Counsel for the Appellants, the learned Counsel appearing on behalf of the Respondents

submitted that the Trial Court had rightly dismissed the Suit filed by the Plaintiffs and they being the purchasers of the suit properties from

Defendants 1 to 4, they are absolute owners of the properties. Further, the learned Counsel also submitted that the purchase made by them from

the Defendants 1 to 4 are legally valid in view of Ex. A1-Partition Deed dated 24.7.2006. In support of the contentions, the learned Counsel

appearing for the Fifth and Ninth Respondents relied upon the following judgments:

(i) R. Anandavalli Vs. Alagammal and Others, a Division Bench of this Court held

that the admission is the best form of evidence and the Plaintiff

can certainly rely on it. In the absence of an attempt made by the Defendants to show that the said admission was wrong, the Court cannot on

some presumption think that the admission may not be true.

(ii) Ramachandran (died) and Others Vs. Balasubramaniam and Others, , wherein this Court held that denial of title and ouster must be to the

knowledge of others.

18. The learned Counsel for the Sixth Respondent relied upon the following judgments:

(i) E. Venkatakrishna Reddy and Others Vs. Amarababu and Others, , wherein a Division Bench of this Court held that where the eldest son who

would naturally be the Karta or the Manager of the family is incapacitated by minority from acting as Manager, the mother, who is the natural

guardian of the eldest minor, can take the place of that Manager and fully represent the minors.

(ii) Nachayal Vs. Pongiannan Gounder and Others, wherein this Court held that when the coparcenary consisting of the father and son came to an

end on the death of the father on 27.3.1975, unmarried daughter cannot claim to be a Coparcener, as she is not entitled to claim the benefit under

Tamil Nadu Amendment Act 1 of 1990, which came into effect on 25.3.1989.

(iii) Maniammai Vs. antharoori Ammal and others, wherein this Court held that as per the provisions of the Amendment Act, the benefits would

accrue to the women, who were not married as on 25.3.1989 and the said amendment was also carried in the Amendment Act, 2005.

(iv) K. Sengodan Vs. K. Dharmalingam and Others, wherein a Division Bench of this Court held that where in a property alleged to belong to

Hindu undivided family, the Plaintiff was excluded from it from 1968 and he filed the Suit only in the year 1983. The Suit is not brought within 12

years, exclusion becomes known, barred by Article 110 of the Limitation Act.

19. There is no dispute with regard to the proposition of law laid down in the above referred judgments relied upon by the learned Counsel for the

Appellants and Respondents. In the case on hand, the First Plaintiff is the eldest son, who would naturally be the Karta or the Manager of the joint

family. There is no dispute that he is a major and therefore, the First Defendant cannot act as Karta or the Manager of the joint family for executing

Ex. A1-Partition Deed. The Trial Court held that Ex. A1 document is a valid document even without the signature of the First Plaintiff, since he was mentally unsound. The Defendants 1 to 4 have not stated that the First Plaintiff was mentally unsound. I have also held that the finding of the Trial Court that the First Plaintiff was mentally unsound is erroneous.

20. Even in Ex. A1-Partition Deed, it has not been mentioned that the First Plaintiff was mentally unsound, therefore, the First Defendant was acting as Manager of the joint family. Further having shown the First Plaintiff as a party in the Partition Deed, the Defendants 1 to 4 should have obtained the signature of the First Plaintiff in Ex. A1 document. The First Plaintiff being the manager of the joint family, is entitled to execute the document on behalf of the joint family. In the case on hand, the First Defendant on her own, took the rights of the Manager of the joint family and executed Ex. A1-Partition Deed along with her daughters, Defendants 2 to 4. Therefore, it is clear and evident that the First Plaintiff was kept in dark and the document was executed behind his back by Defendants 1 to 4.

21. That apart, after the death of Govindasamy Kounder in the year 1975, the Second Plaintiff was entitled to 1/4th undivided share in the suit properties. Therefore, she is also a necessary party for the partition. But, the Second Plaintiff was not included in Ex. A1-Partition Deed.

Therefore, from looking at Ex. A1 from any angle, the document cannot stand and is liable to be set aside. Therefore, I am of the considered view that Ex. A1-Partition Deed dated 24.7.2006 is liable to be set aside. Accordingly, the same is set aside and the Plaintiffs are entitled for a declaratory decree in respect of Ex. A1-Partition Deed dated 24.7.2006 as an invalid, null and void document.

22. Pursuant to Ex. A1-Partition Deed, the Defendants 1 to 4 have also executed Sale Deeds in favour of the Defendants 5 to 8. It is the case of the Defendants 1 to 4 that the Defendants 5 to 8 have not paid any consideration for purchasing the properties from them, till the date of filing of the Written Statement. That apart, the Defendants 1 to 4 have also stated that the Defendants 5 to 8 had only executed pronotes towards Sale Consideration. However, it is pertinent to note that the Defendants 1 to 4 did not get themselves examined at the time of trial of the Suit. Since the alienations made by the Defendants 1 to 4 were made pursuant to Ex. A-Partition

Deed, since I have declared Ex. A1-Partition Deed dated 24.7.2006 as invalid, null and void document, the alienations made pursuant to the said document are also invalid, null and void ab initio. The alienations made by the Defendants 1 to 4 in favour of the Defendants 5 to 8 are not binding on the Plaintiffs. The Ninth Respondent was impleaded in the above Appeal since he had purchased the suit property from the Defendants 7 & 8 under a Sale Deed dated 19.11.2007, the said Sale Deed is also an invalid document, which is void ab initio.

23. Since it has been held that Ex. A1-Partition Deed dated 24.7.2006 as invalid, null and void document and also that the alienations made pursuant to Ex. A1-Partition Deed by Defendants 1 to 4 in favour of Defendants 5 to 8 are also invalid and void ab initio, the next point that arises for consideration is with regard to the share of the Plaintiffs and Defendants 1 to 4. As already stated, Govindasamy Kounder and his son Ramachandra Rounder had 1/2 share each in the suit properties. After the death of Govindasamy Kounder in the year 1975, his 1/2 share was shared equally by his daughter, the Second Plaintiff and Ramachandra Kounder. Therefore, the Second Plaintiff is entitled to 1/4th share in the suit properties. Ramachandra Kounder, after the death of Govindasamy Kounder, was entitled to 3/4th share and he along with his son, the First Plaintiff shared the said 3/4th share equally (i.e.) each entitled to 3/8th share. After the death of Ramachandra Kounder in the year 1982, his 3/8th share was divided equally among his 5 legal heirs viz., the First Plaintiff and the Defendants 1 to 4. Therefore, his wife, the First Defendant is entitled to 3/40th share; his son, the First Plaintiff is entitled to $\frac{3}{8} + \frac{3}{40} = \frac{3}{40}$ th share and his three daughters, Defendants 2 to 4 are each entitled to 3/40th share. In other words, the First Plaintiff is entitled to 18/40th share; the Second Plaintiff is entitled to 10/40th share and the Defendants 1 to 4 are each entitled to 3/40th share.

24. The learned Counsel appearing on behalf of the Appellants submitted that in view of the amendments to the Hindu Succession Act, 1956, the Second Plaintiff, being a co-parcener along with Ramachandra Kounder, is entitled to 1/2 share in the suit properties and therefore, she is entitled to 1/2 share. It is pertinent to note that her brother Ramachandra Kounder died in the year 1982 and after the death of Ramachandra Kounder in

1982 itself, succession had opened. Though the present Suit for Partition was filed by the Plaintiffs on 19.2.2007 (i.e.) after the coming into force

of the Amendment Act, 2005, the provisions of the Amendment Act have no application. In view of the judgments reported in Sheela Devi and

Others Vs. Lal Chand and Another, the benefits under the amendments to Hindu Succession Act, 1956 would be applicable to a female heir, only

if the succession had not opened prior to the coming into force of the Amendment Act on 9.9.2005. In other words, the Act is applicable to a

female heir only if the succession had opened after the coming into force of the Amendment Act. Therefore, the Second Plaintiff is not entitled to

1/2 share u/s 6 of the Hindu Succession Act (Amended Act, 2005) for the reasons that the succession had opened as early as in 1982 itself (i.e.)

on the death of Ramachandra Kounder.

25. With regard to the relief of permanent injunction is concerned, since it is found that the alienations made to the Defendants 5 to 8 are invalid,

void ab initio and also that the Plaintiffs have proved their possession by oral and documentary evidences, it is clear that they are in possession of

the suit property. On the contrary, the Defendants 5 to 8 have not produced any documents to prove their possession. In these circumstances, the

Plaintiffs are entitled for a decree for permanent injunction as against the Defendants 5 to 8 and also against the Ninth Defendant.

26. The facts and circumstances of the judgments relied upon by the learned Counsel for the Respondents differ from the case on hand, therefore,

they are not applicable to the present case.

27. In these circumstances, the judgment and decree of the Principal District Court, Villupuram, made in O.S. No. 5 of 2007 are set aside and a

decree is granted as follows:

a. The Plaintiffs are entitled for a preliminary decree for Partition.

b. The First Plaintiff is entitled to 18/40th share in the suit properties.

c. The Second Plaintiff is entitled to 10/40th share in the suit properties.

d. The Defendants 1 to 4 are each entitled to 3/40th share in the suit properties.

e. Ex. A1-Partition Deed dated 24.7.2006 is hereby declared as invalid, null and void document.

f. The Sale Deeds created by the Defendants 1 to 4 pursuant to Ex. A1-Partition

Deed dated 24.7.2006 in favour of Defendants 5 to 8 and the purchase made by the Ninth Defendant from Defendants 7 & 8 are declared as invalid documents and are void ab initio and the Sale Deeds

executed in favour of the Defendants 5 to 8 in the Suit in O.S. No. 5 of 2007 on the file of the Principal District Court, Villupuram, and the Ninth

Respondent in the above Appeal are not binding on the Plaintiffs.

g. There shall be a decree for permanent injunction restraining the Defendants 5 to 8 in the Suit in O.S. No. 5 of 2007 on the file of the Principal

District Court, Villupuram, and the Ninth Respondent in the above Appeal from interfering with the Plaintiffs' peaceful possession and enjoyment

of the suit properties.

h. The Plaintiffs and Defendants 1 to 4 are entitled to file Final Decree Applications before the Trial Court for division of the suit properties with

metes and bounds by appointment of an Advocate Commissioner and take possession of their respective shares.

The Appeal stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.