

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.02.2026

Pronounced on : 24.02.2026

CORAM :

The Hon'ble Mr.Justice N.SATHISH KUMAR
and
The Hon'ble Mr.Justice R.SAKTHIVEL

A.S.Nos.28, 50 and 106 of 2026
and
C.M.P.Nos.419, 1541, 3264 and 3268 of 2026

A.Ramya

.. Appellant in
A.S.Nos.28 and 50 of 2026

1.Uma Maheshwari
2.A.Sathishkumar
3.A.Maheshkumar

.. Appellants in
A.S.No.106 of 2026

Vs.

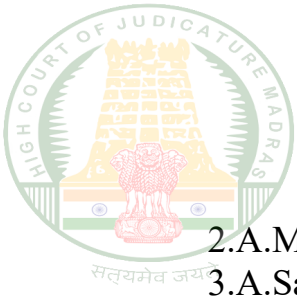
1.L.Thirunavukkarasu
2.Uma Maheshwari
3.A.Sathishkumar
4.A.Maheshkumar

Mrs.V.Shoba (deceased)
W/o.Vasanthakumar

5.V.Aravind

.. Respondents in
A.S.No.28 of 2026

1.A.Uma Maheshwari



A.S.Nos.28, 50 and 106 of 2026

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2.A.Maheshkumar

3.A.Sathishkumar

4.L.Thirunavukkarasu

.. Respondents in
A.S.No.50 of 2026

1.L.Thirunavukkarasu

2.A.Ramya

V.Shoba (died)

3.V.Aravind

.. Respondents in
A.S.No.106 of 2026

A.S.No.28 of 2026 has been filed under Section 96 of the Civil Procedure Code, 1908 seeking to set aside the decree and judgment dated 16.04.2025 passed in O.S.No.4642 of 2020 by the learned XVIII Additional City Civil Court, Chennai and to allow the appeal suit with costs and thus render justice.

A.S.No.50 of 2026 has been filed under Section 96 of the Civil Procedure Code, 1908 seeking to set aside the decree and judgment dated 16.04.2025 passed in O.S.No.4644 of 2020 by the learned XVIII Additional City Civil Court, Chennai and to allow the appeal suit with costs and thus render justice.

A.S.No.106 of 2026 has been filed under Section 96 and Order XLI Rule 1 of the Civil Procedure Code, 1908 seeking to set aside the decree and judgment dated 16.04.2025 passed in O.S.No.4642 of 2020 by the learned XVIII Additional City Civil Court, Chennai and to allow the appeal suit with costs and thus render justice.

For Appellant : Mr.V.Manohar
for Mr.A.Karthikeyan
in A.S.Nos.28 and 50 of 2026



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A.S.Nos.28, 50 and 106 of 2026

Mrs.G.Thilakavathy, Senior Counsel
for Mr.B.Balaji in A.S.No.106 of 2026

For Respondents : Mr.C.Uma Shankar for R1
in A.S.Nos.28 and 106 of 2026
and for R4 in A.S.No.50 of 2026

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COMMON JUDGMENT

N.SATHISH KUMAR, J.

These three appeal suits have been preferred against two separate judgments and decree passed by the learned XVIII Additional Judge, City Civil Court, Chennai made in O.S.Nos.4642 of 2020 and 4644 of 2020, dated 16.04.2025.

2.A.S.Nos.28 and 50 of 2026 have been filed by one Ms.A.Ramya (2nd defendant in O.S.No.4642 of 2020 and the plaintiff in O.S.No.4644 of 2020) against the judgments and decrees dated 16.04.2025 in O.S.Nos.4642 and 4644 of 2020 and A.S.No.106 of 2026 has been filed by one Ms.Uma Maheshwari and two others (defendants 1, 3 and 4 in O.S.No.4642 of 2020) against O.S.No.4642 of 2020.



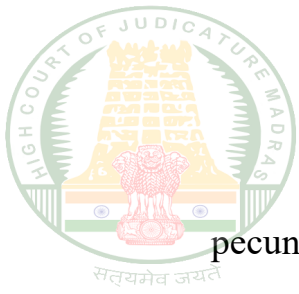
A.S.Nos.28, 50 and 106 of 2026

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3.The suit in O.S.No.4642 of 2020 has been decreed for declaration, for recovery of possession and also for permanent injunction and also for past mesne profits and also for damages for the use and occupation of the suit property from the date of the plaint till the date of handing over the possession to the plaintiff. The suit in O.S.No.4644 of 2020 filed for partition and also for declaration to declare the sale deed executed by her father as null and void, was dismissed by the trial court.

4.In this common judgment, the parties herein shall be referred to as per their rankings in the trial court in a judgment in O.S.No.4642 of 2020.

5.The suit in O.S.No.4642 of 2020 was originally filed before the Original Side of this Court in C.S.No.120 of 2012 and the suit in O.S.No.4644 of 2020 was also originally filed before the original Side of this Court in C.S.No.842 of 2013. When the suits were pending before this Court, this court by order dated 10.07.2018 directed the learned Master to conduct joint trial. The trial has been conducted and parties have been examined before this Court and later, in view of the pecuniary jurisdiction, both the suits were transferred to the City Civil Court, Chennai and renumbered as O.S.Nos.4642 and 4644 of 2020. But, the fact remains that after the transfer of the suits to the trial court due to



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pecuniary jurisdiction, though the subject matter of both the suits are one

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and the same and issues are almost one and the same, the evidence has been recorded independently in both the suits and both the suits have been disposed of by separate judgments. We are of the view that merely because this court has ordered joint trial when the matter was pending before this court and later on transfer to the trial court, the evidence was recorded separately in both the suits and there was no objection whatsoever and the trial court has passed separate judgments in both the suits, will not have any impact in deciding the above three appeal suits together and therefore, as the subject matter of the suits and the issues in both suits are one and the same, we are inclined to dispose of all the three appeal suits by way of this common judgment.

6.The suit filed before the trial court in O.S.No.4642 of 2020 is taken as a lead case in this common judgment. The facts in O.S.No.4642 of 2020 which are necessary for disposal of these appeals are as follows:

(i)The plaintiff one Thirunavukkarasu in O.S.No.4642 of 2020 has filed the suit for declaration and for recovery of possession and also for permanent injunction as against the defendants from dealing with the suit property. The case of the plaintiff is that the suit property was owned by one Mr.K.Arunkumar by virtue of purchase on 11.07.1994. The



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defendants 1 to 4 are wife and children of said Arunkumar and 5th

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defendant is said to be the mortgagee of the suit property. The said

Arunkumar has sold the property to the plaintiff on 28.11.2005. After

registration of the property, the said Arunkumar requested the plaintiff to

grant some time to vacate the premises on the ground that his wife has

some health problems and he had also agreed to pay rent for the

occupation. The said Arunkumar had paid Rs.3000/- as rent for fifteen

days. However, as the said Arunkumar has not vacated the premises, the

plaintiff has filed a rent control proceedings in R.C.O.P.No.470 of 2006.

The said RCOP proceedings was allowed in favour of the plaintiff.

However, even after the RCOP order, as the said Arunkumar did not

vacate the premises, the plaintiff has filed an execution petition in

E.P.No.549 of 2007. In the said execution petition, delivery was ordered

and the same was recorded on 21.02.2007. The delivery was recorded

with the police aid. After the delivery was recorded, the execution

petition was terminated by the court on 21.02.2007. After the delivery

was effected, on the same day, around 20 to 30 rowdy elements

trespassed into the suit property and broke open the locks. When the same

was questioned, the plaintiff was attacked. Despite the police complaint

lodged by the plaintiff, the plaintiff could not restore the possession.



Later, the plaintiff came to know that the first defendant and her husband started demanding extra money from the plaintiff.

(ii)The first defendant has also filed a suit in O.S.No.1034 of 2006 against the plaintiff before the IV Assistant Judge, City Civil Court, Chennai, which was dismissed on 07.11.2009. Similarly, another suit in O.S.No.2440 of 2007 on the file of the XIV Assistant Judge, City Civil Court, Chennai was filed and the same was also dismissed. The 5th defendant has also filed a suit in O.S.No.2053 of 2006 on the file of the XV Assistant Judge, City Civil Court, Chennai and the same was also dismissed. All the suits were dismissed after contest and some for default. Once again, the second defendant filed O.S.No.6432 of 2010 on the file of the XVIII Assistant Judge, City Civil Court, Chennai which was pending. Therefore, the defendants are indulging in forum shopping and initiating vexatious litigation to harass the plaintiff.

(iii)It is the contention of the plaintiff that there was marital dispute between Arunkumar, his vendor and the first defendant. The same has been taken advantage by the defendants. The defendants are denying the title of the plaintiff. Hence the suit has been filed for declaration of title, recovery of possession and for permanent injunction and for damages also.



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7.It is the case of defendants 1, 3 and 4 in their written statement that the suit property was purchased by the husband of the first defendant out of the sale proceeds of the ancestral property and also from and out of the sale proceeds of the jewels belonging to the first defendant. The said Arunkumar was receiving a meagre salary which was not even enough to run the family consisting of three children. According to the first defendant, her father was a retired Havildar and after retirement from the military service, he had also contributed the amount to purchase the property. Hence, the property has been purchased in the name of the husband of the first defendant out of the ancestral nucleus and also the funds provided by the first defendant. The said Arunkumar died intestate on 23.09.2007 leaving behind defendants 1 to 4 as legal heirs. According to the her, Arunkumar was not at all residing in the suit property from the year 2002 and that he was residing with one Ruby in Redhills. The defendants 1 to 4 are in continuous and uninterrupted possession of the suit property. The said Arunkumar was suffering from Parkinson's disease and was living a wayward life and he was under the control of said Ruby and her inmate one Elangovan.

8.According to the first defendant, the third defendant, as landlord, has let out a portion of the suit premises and was collecting rents from the



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year 2002 without any interruption whatsoever. The electricity connection

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also stands in the name of the third defendant. The suit property was also mortgaged in the year 2001 and the mortgage was also not discharged. Hence it is the contention of the defendants 1, 3 and 4 that the said Arunkumar, the vendor of the plaintiff was not at all in possession to put his signature in the alleged sale deed dated 28.11.2005 said to have been executed in favour of the plaintiff. Besides, he was also suffering from Type-1 Diabetes, Parkinson's disease, Anemia and his vision was also totally affected due to diabetes for the past 20 years and therefore, the alleged sale deed is nothing but sham and nominal and not binding on the defendants. Further, the alleged mortgage deed was also suppressed in the suit. Hence it is the contention of the defendants that the sale deed is sham and nominal. These defendants also denied the contentions of the plaintiff relating to the execution petition being filed and possession has also been taken over later and the subsequent trespass of the suit property by the rowdy elements.

9.The first defendant has also filed O.S.No.1034 of 2006 for permanent injunction which was dismissed. The other suit filed in O.S.No.2440 of 2007 was dismissed for default and restoration petition was filed and is pending as on date. The second defendant has filed a suit



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for partition in respect of the suit property in O.S.No.6642 of 2010 and

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C.S.No.842 of 2013. Hence, it is the contention of these defendants that they are absolute owners of the suit property and therefore, they have resisted the claim of the plaintiff.

10.The second defendant, who is the plaintiff in O.S.No.4644 of 2020 which was filed for partition, has also filed a written statement reiterating some of the contentions of defendants 1 to 3. She has further stated that her father has purchased the suit property out of joint family nucleus and also the funds contributed by the first defendant mother. It is also her contention that her father was living a wayward life with one Ruby and her father was suffering from Diabetes and Parkinson's disease and was not in a position to sign the documents. The alleged sale deed is sham and nominal. The suit in O.S.No.4644 of 2020 is filed by the second defendant for partition alleging the same ground that the sale deed is not binding on them and the suit property belongs to them and therefore, she has sought for partition. She has further averred in her written statement that when she approached the defendants 1, 3 and 4 for amicable partition of the suit property, they were not inclined to do so. The said suit was resisted by the plaintiff/purchaser.



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11. Based on the pleadings, the trial court has framed the following

issues in O.S.No.4642 of 2020:

(i) Whether the plaintiff's vendor has any valid right or title in the suit property to convey the same to the plaintiff?

(ii) What are the rights of defendants 1 to 5 over the suit property?

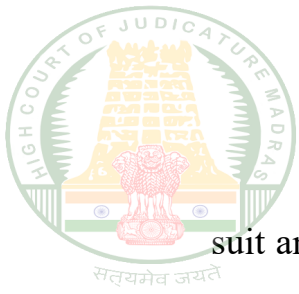
(iii) Whether the plaintiff is entitled for declaration of the title over the suit property and for recovery of possession as claimed in the suit?

(iv) Whether the plaintiff is entitled for the decree of permanent injunction as prayed for?

(v) To what other reliefs, the plaintiff is entitled to?

12. Before the trial court, the plaintiff was examined as P.W.1 and Exs.A.1 to A.14 documents were marked. On the side of defendants, the first defendant was examined as D.W.1 and 4th defendant was examined as D.W.2 and documents Exs.B.1 to B.7 were marked.

13. Another suit in O.S.No.4644 of 2020 has been filed by the second defendant in O.S.No.4642 of 2020 and she has reiterated most of the contentions stated in the written statement filed by her in the other

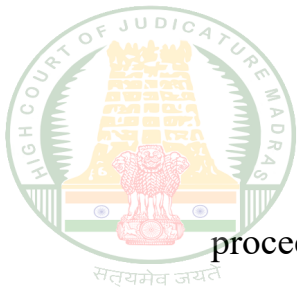


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suit and she has sought for declaration that the sale deed executed by her father Arunkumar is sham and nominal and not binding on the second defendant and defendants 1,3 and 4, for partition by allotting 1/4th share in the suit property, for direction to pay mesne profits and also for permanent injunction against the plaintiff.

14.The defendants 1,3 and 4 in the said suit have filed written statement stating that the first defendant has already obtained injunction restraining the plaintiff purchaser from interfering with defendants' peaceful possession and enjoyment of the suit property. The plaintiff was not at all in possession of the suit property. The defendants 1,3 and 4 have constructed a shop in the suit property and were receiving monthly rents from the tenant. It is further stated that these defendants are also entitled to get 3/4th share jointly in the suit property.

15.The plaintiff purchaser has filed a written statement in O.S.No.4644 of 2020 stating that he has purchased the suit property from one Arunkumar vide a registered sale deed dated 28.11.2005. The said Arunkumar was employed in Indian Bank and he died during service. After the purchase, this defendant took possession of the suit property and the said Arunkumar requested some time to vacate the premises. As he has not vacated the premises, this defendant has initiated RCOP



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proceedings which was ordered and thereafter, he initiated execution proceedings and he took possession of the suit property. The suit filed by thesecond defendant is a vexatious one.

16. Based on the above pleadings, the trial court has framed the following issues in O.S.No.4644 of 2020:

- (i) Whether the suit property was purchased by father of plaintiff by utilizing the copy of the joint family nucleus or it is exclusive property of the father of plaintiff?
- (ii) Whether the plaintiff is entitled for declaration?
- (iii) Whether the plaintiff is entitled for preliminary decree for partition?
- (iv) Whether the plaintiff is entitled for the permanent injunction as prayed for?
- (v) To what other relief?

17. Before the trial court, the second defendant was examined as P.W.1 and Exs.A.1 to A.17 documents were marked. On the side of defendants, the first defendant was examined as D.W.1 and 4th defendant Magesh Kumar was examined as D.W.2 and documents Exs.B.1 to B.7 were marked.



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18. Based on the evidence and materials, the suit in O.S.No.4642 of 2020 has been decreed for declaration, recovery of possession and for permanent injunction and also for damages as prayed for and the suit in O.S.No.4644 of 2020 filed by the second defendant in O.S.No.4642 of 2020 was dismissed.

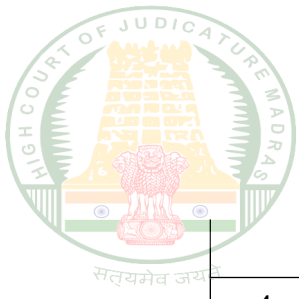
19. Aggrieved over the judgment and decree passed in O.S.No.4642 of 2020, A.S.Nos.28 and 106 of 2026 have been filed by the second defendant and first defendant respectively in the suit and as against the dismissal of the suit in O.S.No.4644 of 2020, the second defendant has filed A.S.No.50 of 2026.

20. Since the main issues in both the suits are one and the same and mainly with regard to the validity of Ex.A.2 sale deed dated 28.11.2005, all the three appeal suits are disposed of by this common judgment.

21. A petition in C.M.P.No.3268 of 2026 has been filed by the appellants in A.S.No.106 of 2026 to receive the following documents as additional evidence in the appeal:

LIST OF DOCUMENTS

<u>S.No</u>	<u>Date</u>	<u>DESCRIPTION OF DOCUMENT</u>
1.	11.07.1994	Certified copy of Sale Deed
2.	28.05.2001	Mortgage Deed
3.	15.04.2005	Rental Agreement executed between 4 th respondent and the tenant Mr.Uthira Sekaran



		(certified copy)
4.	23.11.2005	Admission record of 1 st respondent issued by the govt. hospital at Andhra Pradesh (original)
5.	27.09.2007	Copy of Legal notice sent by the plaintiff and her children to the 2 nd defendant
6.	02.02.2007	Rental Agreement dated executed by 4 th respondent in favour of tenant Mr.Uthira Sekaran (certified copy)
7.	10.10.2008	Rental agreement executed by 4 th respondent and the tenant (certified copy)
8.	07.11.2009	Judgement passed in O.S.No.1034 of 2006
9.	07.12.2016	Judgement passed in A.S.No.432 of 2010
10.	02.07.2010	Encumbrance certificate
11.		Valuation certificate
12.		Family Card in the name of Mr.Arun Kumar

22.In the affidavit filed in support of the said petition, it is contended that the plaintiff was not a bona fide purchaser and the possession was not at all legally handed over by Arunkumar as per the sale deed dated 28.11.2005 and in A.S.No.432 of 2010, the appellate court has rendered a finding that the plaintiff is not a bona fide purchaser and that finding has reached finality. That apart, the other documents are also necessary to show that the plaintiff is not a bona fide purchaser. Therefore, all the documents are absolutely necessary to dispose of the appeal. While filing this application, no notice whatsoever was given to the other side. Therefore, the counter has not been filed.



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23. In the O.S.No.4642 of 2020, the plaintiff is the purchaser and

defendants 1 to 4 therein are legal heirs of the vendor of the purchaser and the 5th defendant is said to be the mortgagee and after her death, her legal heir has been impleaded in the main suit.

24. The main contention of the learned senior counsel for the first defendant is that though the earlier suit filed by the first defendant was dismissed, there was a finding in the first appellate court in A.S.No.432 of 2010 that the plaintiff is not a bona fide purchaser. Therefore, the above judgment has clearly proved the fact that the plaintiff who was the purchaser is not entitled for declaration and for recovery of possession. According to learned senior counsel, the additional documents now filed would show that her husband Arunkumar was admitted in the hospital at the relevant point of time as he was suffering from Diabetes and Parkinson's disease and his vision was also affected and therefore, those documents are relevant to show that Arunkumar has not executed the document. Therefore, the additional documents are relevant. It is the further contention that all along, the defendants 1 to 4 are in possession of the suit property and the Vendor, namely Arunkumar was leading a wayward life with one Ruby and he was residing separately in Redhills from the year 2002. These defendants are only enjoying the suit property



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and they let out the property and that the rental agreement executed by 3rd

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defendant has also substantiated their stand. Hence, the plaintiff purchaser is not entitled for declaration and for recovery of possession. The property has been purchased out of the joint family nucleus and also the contribution made by the wife of the vendor Arunkumar. Hence, it is submitted by the learned senior counsel that the judgment and decree of the trial court decreeing the suit for declaration and for recovery of possession and for damages have to be set aside.

25. The learned counsel for the second defendant submitted that the trial court dismissing her suit is not correct. The trial court did not appreciate the evidence properly. The plaintiff did not take possession of the suit property. The suit property was purchased and constructed by her father by utilizing the jewels of her mother and therefore, her mother, second defendant and her brothers are entitled to share in the suit property. Her father was not living with their family from 2002 but the trial court had not appreciated the evidence and materials properly and erroneously dismissed the suit filed by the second defendant and therefore, the suit filed by the second defendant for partition has to be decreed and the sale deed executed by Arunkumar is not valid in the eye of law.



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26.It is also the contention of the learned senior counsel appearing for the first defendant that admittedly, it is the case of the plaintiff that he has been wrongly dispossessed after delivery was recorded. In such a case, the plaintiff ought to have filed a suit under section 6 of the Specific Relief Act, 1963. However, he has not filed and therefore, the suit filed by him for recovery of possession is not maintainable.

27.The learned counsel appearing for the plaintiff purchaser submitted that these suits are nothing but abuse of process of law. The first defendant has also filed a suit for declaration to declare the sale deed as null and void and the suit was dismissed after contest. The various litigations initiated by the defendants were all dismissed and therefore, the suits are nothing but abuse the process of law. The Vendor was the bank employee. He died after two years of the sale. Even during his life time, the previous suits have been filed and suits have been dismissed and the RCOP proceedings initiated by him has also reached finality. After the delivery has been taken by the purchaser through the executing court, the defendants in O.S.No.4642 of 2020 have trespassed into the suit property and are squatting over the same. Therefore, the contention that there was contribution by the wife of the vendor and the purchase was made out of joint family nucleus are all nothing but abuse of the process of law.



Hence, he prayed for dismissal of appeals.

WEB COPY 28. In the light of the above submissions, now the points that arise for consideration in these appeals are as follows:

(i) Whether the judgment and decree of the trial court in O.S.No.1034 of 2006 filed by the first defendant is binding on the appellants herein?

(ii) Whether the purchaser, namely, the plaintiff in O.S.No.4642 of 2020 is entitled for declaration and for recovery of possession?

(iii) Whether the second defendant/plaintiff in O.S.No.4644 of 2020 is entitled for declaration and preliminary decree for partition of 1/4th share in the suit property?

(iv) Whether the additional documents filed by the first defendant/wife of the vendor are relevant to decide the present appeals?

(v) To what other reliefs, the parties are entitled to?

Issues I to V :

29. The petition for receiving the additional documents was filed in the last minute and that no notice whatsoever was given to the other side.



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Be that as it may, the additional documents are in the nature of sale deed,

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dated 11.07.1994, mortgage deed dated 28.05.2001, rental agreement, admission record of Arunkumar in the hospital, copy of the legal notice, a copy of the rental agreement executed by the son of Arunkumar in favour of the tenant dated 02.02.2007, a copy of rental agreement dated 10.10.2008 executed between the same parties, copies of judgments passed in O.S.No.1034 of 2006 and A.S.No.432 of 2010, copies of encumbrance certificate, valuation certificate and family card in the name of Arunkumar. The certified copies of sale deed dated 11.07.1994 and the mortgage deed dated 28.05.2001 have already been marked in the suit as Exs.B.1 and B.2 respectively. Except, the judgments in O.S.No.1034 of 2006 and A.S.No.432 of 2010, the other documents, such as rental agreement said to have been executed in favour of tenant and other documents are no way relevant to the case. The certified copy of the judgment in O.S.No.1034 of 2006 was also marked as Ex.A.5. In the entire affidavit filed by the first plaintiff for reception of additional documents, it is no way pleaded that despite the exercise of due diligence, such documents were not within her knowledge and those documents could not be produced at the time when the trial was proceeding before the trial court. Therefore, in the absence of any exercise of due diligence,



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as a matter of right, the additional documents cannot be received. It is relevant to note that only the photocopy of the medical certificate said to have been issued by the Government hospital at Andhra Pradesh dated 23.11.2005 has been produced. Even if the said document is considered, the same is not useful for any purpose to prove the contention of the petitioner in the miscellaneous petition that Arunkumar was suffering from Parkinson's disease at the relevant point of time. The said document dated 23.11.2005 was a document to show that Arunkumar was discharged from the hospital on 27.11.2005 and he was in the hospital for five days for Anemia, B.P., sugar. The fact remains that the earlier suit itself clearly establishes that he was working in the Bank and he died after two years and therefore, the same is not relevant. It is relevant to note that there are previous proceedings even during the life time of the vendor, namely Arunkumar, the husband of first defendant and father of defendants 2 to 4 in O.S.No.4642 of 2020. In fact, the first defendant has also filed a suit in O.S.No.1034 of 2006 not only against the purchaser, namely the plaintiff in the lead suit but also against her husband Arunkumar. The said suit also came to be dismissed. Therefore, after many years, in the absence of any pleadings with respect to the exercise of due diligence, as a matter of right the additional documents cannot be



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received. However, it is admitted position that the appeal in A.S.No.432

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the said judgment was not marked before the trial court. Therefore, the

copy of the judgment passed in A.S.No.432 of 2010 alone can be

received as additional document for enabling the court to dispose of the

lis effectively. **Accordingly, the webcopy of the judgment passed in**

A.S.No.432 of 2010 on the file of the IV Additional City Civil Court,

Chennai is received and the same is now marked as Ex.B.8 in

O.S.No.4642 of 2020 and C.M.P.No.3268 of 2026 is ordered

accordingly.

30.It is relevant to note that one Arunkumar was the absolute owner of the suit property vide Ex.A.1 sale deed dated 11.07.1994. The suit property has been purchased by the plaintiff in O.S.No.4642 of 2020 from the said Arunkumar vide Ex.A.2 sale deed dated 28.11.2005, which clearly shows that it is the absolute sale in favour of the plaintiff. The said deed was sought to be annulled by the first defendant by filing O.S.No.1034 of 2006, wherein the first defendant has sought for declaration that the said sale deed is not binding on her and her children, namely defendants 2 to 4. It was the case of the first defendant that the purchase of the suit property was made fully out of her own contribution.



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It was not her pleadings in the previous suit that the purchase was made with the joint family nucleus, by the sale of her jewels and also the contribution by her father. Whereas in the present litigations, it is pleaded as if the purchase was made out of joint fund nucleus as well as the contributions by her by the sale of her jewels. In the said suit, a specific issue was framed as to whether the sale deed under document No.4979 of 2005 is not binding on the first defendant [plaintiff in the said suit] and her children? The trial court dismissed the suit filed by the first defendant and held that the sale deed executed by her husband is valid and binding on the first defendant. In an appeal filed as against the said judgment, the appellate court in A.S.No.432 of 2010 dismissed the said appeal and confirmed the judgment and decree of the trial court and the same is now marked as Ex.B.8. Therefore, the prayer sought for challenging the sale deed was negatived and thus, it has reached finality.

31.It is relevant to note that the appellate court has held that since the sale was effected during the pendency of the mortgage, the plaintiff cannot be considered as bonafide purchaser. However, in respect of the validity of the sale deed, it has been clearly recorded that the fact that the sale deed has been properly executed and the signature in the sale deed has not been disputed and that the vendor was working in the bank and he



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died in harness and thereby, the appellate court upheld the validity of the sale. Therefore, merely because a passing observation has been made that without noticing the mortgage, the plaintiff has purchased the property and therefore, he cannot be considered as bona fide purchaser, it cannot be held that the entire sale is not valid in the eye of law. The title has already been decided between the parties and the judgments and decrees passed in O.S.No.1034 of 2006 and in A.S.No.432 of 2010 have already reached finality.

32.In fact, the trial court ought to have framed necessary issues with regard to res judicata. However, the trial court has omitted to frame the issue on res judicata. The issue in the previous suit, namely O.S.No.1034 of 2006 was directly and substantially an issue in the subsequent suits filed by the parties. Be that as it may, when the issue with regard to the validity of the sale has already been decided and went against the first defendant, once again relitigating the same issue in the subsequent suits filed by her daughter in view of this court is nothing but a relitigation. Further, the contention of the first defendant in O.S.No.4642 of 2020 and also the second defendant to the effect that the suit property has been purchased out of joint family nucleus and the



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contribution made by selling of jewels, has not been established. As already pointed out, the pleadings in the earlier suit is totally different in the present suit. The first defendant in her cross examination clearly admitted that she has no document to show that she has sold the jewels to contribute the money. Therefore, when the title has already been declared and the validity of the sale deed has already been decided, once again the same cannot be questioned in the subsequent suit filed by different parties in the same family.

33.It is relevant to note that the 5th defendant in the suit has also filed O.S.No.2053 of 2006 based on the so called mortgage deed, that suit was also dismissed. Those suits were filed during the life time of the vendor. The other suit filed by the first defendant in O.S.No.2440 of 2007 was also dismissed. The appellant in A.S.No.50 of 2026 (second defendant) who was examined as P.W.1, in her cross examination has clearly admitted that the suit property belonged to her father and he has purchased the vacant land with the amount given by one Vadivel. Her evidence clearly shows that she has also admitted the purchase made by her father. Her mother's contention that she had contributed for the construction of the house has not been established and her mother's plea has also been negated in the previous suit and therefore, they cannot



assail the document on the same ground.

WEB COPY 34. Admittedly, the rent control proceedings have been filed by the plaintiff purchaser against the vendor in RCOP No.470 of 2006. The first defendant in O.S.No.4642 of 2020 has filed a suit for declaration to declare the eviction order passed in RCOP No.470 of 2006 dated 26.04.2006 as null and void. In the said suit, the plaint filed by the first defendant was marked as Ex.A.7, wherein she has clearly admitted the rent control proceedings and the execution proceedings initiated wherein the bailiff has recorded the possession taken. Though it is the contention that the possession has actually not been taken, the fact remains that the execution petition has been terminated after the delivery has been effected. The said suit was also dismissed for default. Not stopping with that the suit filed by the 5th defendant claiming to be the mortgagee for declaration that the sale deed in favour of the plaintiff is not binding on her and also for the grant of permanent injunction was also dismissed. The plaint copy of the same was marked as Ex.A.11.

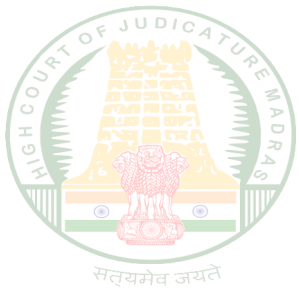
35. The appellate court has clearly recorded a finding in A.S.No.432 of 2010 that the vendor was working in the bank and obtained loan for construction of the building in the suit property. The trial court in O.S.No.1034 of 2006 has recorded that the vendor died



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while he was in service and that his service was not terminated or suspended which was admitted by P.Ws.1 and 2 in their evidence. The appellate court has appreciated all the documents and found that the suit property has been purchased by the vendor himself and that he was working in the bank. The signature of the vendor was also admitted by the parties. Therefore, the contention of the second defendant that her father was not in a position to sign the documents cannot be accepted. Till his death, he was working in the bank. The appellate court recorded the findings on appreciation of oral and documentary evidence that the vendor was in stable condition and was able to work in the bank. The medical records now sought to be filed as additional documents were also filed in the earlier suit and that was also discussed. The trial court and the appellate court have come to the conclusion that he was hale and healthy and was working in the bank. All the tenant agreements were also placed before the trial court and were marked. Hence the matter has reached finality with regard to the validity of the sale and therefore, once again raising the similar issue by the family members by filing different suits on the same allegations is nothing but a clear relitigation and abuse of the process of law.



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36.The very possession recorded by the bailiff in the execution petition was also admitted by the parties in the previous litigation which was also filed in Ex.A.7, plaint. In fact, the plaintiff has substantiated the case that after delivery has been recorded and possession was taken through the process of law, the first defendant barged into the property and took possession illegally once again. Therefore, being the title holder, the plaintiff in the lead case is entitled to seek for declaration in view of the various litigations filed by the other side for recovery of the suit property. When the delivery by process of court has been admitted, it has to be held that their possession is nothing but illegal and their possession is considered to be taken after the delivery is effected. In such a case, the suit filed by the plaintiff for recovery of possession was within a period of 12 years and was well within the time. Further, the contention that the suit for recovery of possession ought to have been filed under section 6 of the Specific Relief Act, 1963 and should have been filed within a period of six months and therefore, the suit filed by the plaintiff is not maintainable, cannot be countenanced since being the title holder, the plaintiff is entitled to maintain the suit for recovery of possession in accordance with Article 65 of the Limitation Act, 1963. Further, the appellate court has already held that the sale deed is valid, wherein the



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mother of the second defendant was a party to challenge the decree and that the same has reached finality. Therefore, on the same ground, the second defendant cannot assail the sale deed executed by her father. Her evidence in the cross examination clearly shows that her father has purchased the property and he has also borrowed money from one Vadivel and the vendor was a bank employee and his signature has also been admitted in the earlier proceedings. Therefore, the contention that he was not in a position to sign the documents has no legs to stand. That apart, having suffered a decree and judgment by her mother in the earlier proceedings challenging the sale deed, now her daughter has filed the present suit on the same ground. In the suit, the relief was sought that the sale deed is not binding on the daughter (second defendant), mother and the other children. Though the specific issue of res judicata has not been framed by the trial court, this Court is of the view that the present suit is nothing but relitigation on similar issue which has already reached finality. It is relevant to note that the father of the second defendant, namely, vendor was a bank employee and died in harness two years after the execution of the sale deed and he was a party in the earlier proceedings and even in the earlier proceedings, he himself admitted that he has purchased the property and constructed the house. All the facts



clearly indicates that it is nothing but relitigation and a clear case of abuse of process of law.

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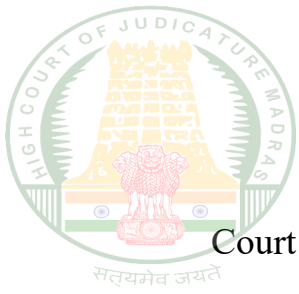
37.The Hon'ble Supreme Court in a judgment in ***K.K.Modi Vs.***

K.N.Modi reported in (1998) 3 SCC 573, has held as follows:

‘44. One of the examples cited as an abuse of the process of the court is relitigation. It is an abuse of the process of the court and contrary to justice and public policy for a party to relitigate the same issue which has already been tried and decided earlier against him. The reagitation may or may not be barred as res judicata. But if the same issue is sought to be reagitated, it also amounts to an abuse of the process of the court. A proceeding being filed for a collateral purpose, or a spurious claim being made in litigation may also in a given set of facts amount to an abuse of the process of the court.’

38.Considering all the aspects, this court is of the view that the two suits are nothing but relitigation and cannot be encouraged and therefore, all the three appeals are nothing but abuse of process of law and all the issues are answered accordingly.

39.In the result, all the three appeal suits are dismissed confirming the judgments and decrees passed by the XVIII Additional City Civil



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Court Chennai, dated 16.04.2025 in O.S.Nos.4642 and 4644 of 2020.

There shall be no order as to costs. Consequently, connected C.M.P.Nos.419, 1541 and 3264 of 2026 are closed. C.M.P.No.3268 of 2026 in A.S.No.106 of 2026 is ordered as indicated above.

(N.S.K., J.) (R.S.V., J.)
24.02.2026

Index : Yes / No
Speaking Order /Non speaking order
Neutral Citation : Yes
vvk

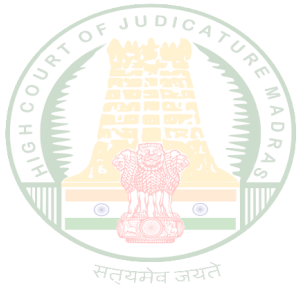
Note to Registry :

The webcopy of the judgment passed in A.S.No.432 of 2010 on the file of the IV Additional City Civil Court, Chennai which is marked as Ex.B.8 vide this common judgment shall form part of the document in O.S.No.4642 of 2020.

To

1.XVIII Additional Judge,
City Civil Court,
Chennai.

2.Section Officer,
VR Section,
Madras High Court,
Chennai.



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N.SATHISH KUMAR, J.
and
R.SAKTHIVEL, J.

vvk

common judgment in
A.S.Nos.28, 50 and 106 of 2026
and
C.M.P.Nos.1541, 3264, 419 and 3268 of 2026

24.02.2026