

## IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON  
02.03.2026PRONOUNCED ON  
20.04.2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

**AS No. 540 of 2017**  
**and CMP.No.17905 of 2017**

1. Smt.M.Jagadeeswari  
W/o Late R.Mannappan
2. Dhana Vasuki Alias Poongodi  
D/o Late R.Mannappan
3. M.Karthikeyan  
S/o Late R.Mannappan

..Appellant(s)

Vs

1. K.Manoharan  
S/o Kuppusamy
2. Devandran
3. Punniakodi
4. Babu
5. Bhaskar
6. Raju
7. Shankar

..Respondent(s)

**PRAYER:-** First Appeal filed under Section 96 of the Civil Procedure Code r/w Order XLI Rule 1 of Code of Civil Procedure, to set aside the judgement and decree dated 29/07/2016 made in OS.No.12039/2010, on the file of the Additional Judge - IV, City Civil Court, Chennai.

For Appellant(s): Mr. R. Thiagarajan

For Respondent(s): Ms.R.Gayatri for R1



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AS No. 540 of 2



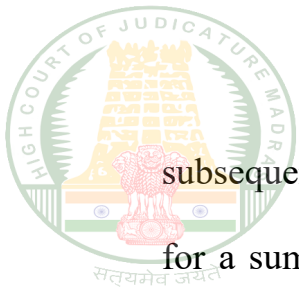
for M/s.P.B.Ramanujam Associates  
RR2 to 7 – Given up  
vide Court order dated 11.12.2017  
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### **JUDGMENT**

The Appeal has been filed challenging the judgement and decree dated 29/07/2016 made in OS.No.12039/2010, on the file of the Additional Judge - IV, City Civil Court, Chennai.

2. The appellants, being the wife and children of late R. Mannappan, instituted a suit seeking a declaration that the registered Sale Deed dated 27.03.2002 executed by Mannappan in favour of the first respondent in respect of the suit property is null and void and not binding upon them. Consequential reliefs of recovery of possession, mesne profits and permanent injunction were also sought. The appellants traced the title of the property to a settlement deed dated 01.09.1945 executed by K. Thiruvankada Mudaliar, under which life interest and remainder rights were created. Pursuant to the said settlement, the property devolved through successive holders and ultimately vested with K.T. Ramachandran and thereafter with his son, R. Mannappan. Upon Mannappan's death on 01.08.2002, the appellants claimed succession as his legal heirs.

3. The appellants pleaded that during his lifetime Mannappan had raised loans by creating mortgages over the property. These mortgages were



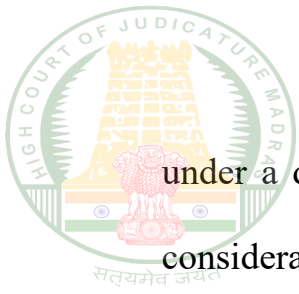
subsequently discharged. A simple mortgage in favour of the first respondent for a sum of Rs.1,00,000/-, executed subsequent to the mortgage with Vellala

Co-operative Bank Ltd., was also stated to have been discharged on 27.03.2002.

According to the appellants, immediately after such discharge the impugned Sale Deed dated 27.03.2002 came to be executed in favour of the first respondent for a stated consideration of Rs.14,50,000/-.

4. The appellants contended that the alleged consideration was never actually paid and that the recital acknowledging receipt of consideration was sham and nominal. It was further alleged that Mannappan was a chronic alcoholic and as a reason was never in a sound state of mind even during the time of execution of the document. The first respondent, taking advantage of the close relationship and alleged dominance over Mannappan, is said to have obtained the Sale Deed through fraud and misrepresentation. The appellants also claimed that possession was never delivered pursuant to the sale and that they continued to occupy the premises until they were forcibly dispossessed on 16.08.2002. On these grounds, cancellation of the Sale Deed and recovery of possession were sought.

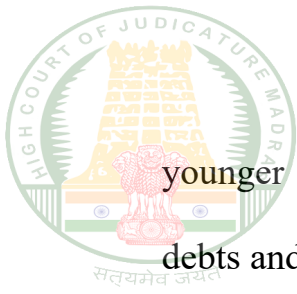
5. The first respondent denied the allegations and contended that the plaint was based on vague and unsupported claims aimed at invalidating a lawful transaction. According to the respondent, the property was purchased



under a duly executed and registered Sale Deed dated 27.03.2002 for a valid consideration of Rs.14,50,000/-. The document was executed before the competent Sub-Registrar and contained a clear recital acknowledging receipt of the entire sale consideration.

6. It was also stated that Mannappan was facing significant financial liabilities and was compelled to sell the property to discharge his debts. In this connection, an advertisement offering the property for sale was published in the Tamil daily “Dinamalar” on 21.02.2002. Despite such attempts to find a purchaser, no immediate buyer came forward. It was further pleaded that the property was subject to several mortgage liabilities prior to the sale. Among them was a simple mortgage in favour of the first respondent, well as an earlier mortgage with the Vellala Co-operative Bank Ltd. These mortgage debts were discharged on the very date of execution of the Sale Deed, thereby ensuring that the property was conveyed free from encumbrances. According to the respondent, these circumstances clearly demonstrate that the sale was prompted by financial necessity and not by any fraudulent design.

7. The respondent also claimed that the appellants had executed consent affidavits and letters of no objection prior to the sale, thereby indicating their knowledge and approval of the proposed transaction. It was further stated that the first respondent was closely related to Mannappan, his wife being the



younger sister of the deceased, and that all family members were aware of the debts and the attempts to sell the property.

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8. The allegations that Mannappan was incapable of understanding the transaction due to alcoholism were specifically denied. The respondent asserted that Mannappan executed the Sale Deed voluntarily and in a sound state of mind. The allegation of forcible dispossession on 16.08.2002 was also denied, the respondent stating that Mannappan and his family were allowed to continue residing in the property even after the sale was out of familial consideration. The respondent further contended that Mannappan was the absolute owner of the property and had full power of alienation during his lifetime. Upon execution of the Sale Deed, the property ceased to form part of his estate and no right of succession could arise in favour of the appellants.

9. On the aforesaid pleadings the following issues were framed:

- 1) *Whether the Sale Deed dated 27.03.2002 executed by late R. Mannappan in favour of the first defendant is vitiated by fraud, undue influence or misrepresentation?*
- 2) *Whether the Sale Deed dated 27.03.2002 is supported by valid consideration?*
- 3) *Whether late R. Mannappan was competent to execute the Sale Deed in respect of the suit property?*



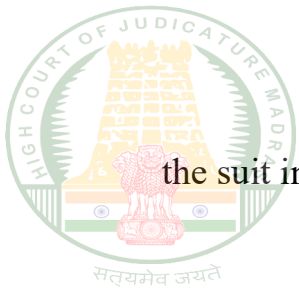
4) *Whether the plaintiffs are entitled to declaration, recovery of possession and mesne profits as prayed for?*

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5) *To what other reliefs are the parties entitled?*

10. On the Plaintiffs' side, PW1 was examined as the sole witness and documents Ex. A1 to Ex. A13 were marked. On the Defendants' side, DW1 was examined and documents Ex. B1 to Ex. B9 were marked

11. After considering all the pleadings, oral & documentary evidence, the Trial Court held that the burden of proving fraud or undue influence rested entirely on the Plaintiffs. The Court observed that such allegations require strict proof. Since the Plaintiffs failed to produce medical records or other independent evidence showing that Mannappan lacked capacity to execute the document, the plea of incapacity was rejected. On the second issue, the Court relying upon the recital contained in the registered Sale Deed marked as Ex. A9, which acknowledged receipt of consideration, in the absence of convincing evidence disproving payment, the Court concluded that the sale was supported by valid consideration. On the third issue, the Court found that Mannappan was the absolute owner of the property and possessed full authority to alienate it during his lifetime. Consequently, the execution of the Sale Deed was held to be legally valid. In view of these findings, the Court held that the plaintiffs were not entitled to the relief of declaration or recovery of possession and dismissed



the suit in its entirety, against which the present Appeal Suit.

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12. Heard Mr. R. Thiagarajan, learned counsel for the appellants and Ms.R.Gayatri, learned counsel appearing for M/s. P.B.Ramanujam Associates, on behalf of the first respondent.

13. The learned counsel for the appellant would submit that they are the rightful owners and successors to the suit schedule property. He contended that the entire case of the respondents hinges on the alleged fabricated Sale Deed dated 27.03.2002 registered as Document No.937 of 2002 on the file of the Sub-Registrar, Royapuram. The appellants have specifically challenged that document as having been brought into existence by fraud, misrepresentation and undue influence. According to him, the first respondent, being the brother-in-law of late R. Mannappan, occupied a position of trust and confidence and used his fiduciary relationship to obtain the impugned sale deed under suspicious circumstances when the executant was in a vulnerable state of mind and under severe financial distress.

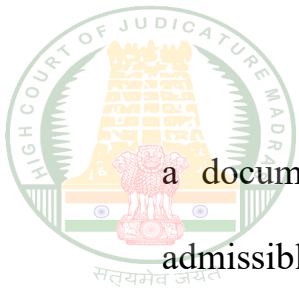
14. It was pointed out by him that the recitals in the sale deed themselves disclose serious inconsistencies. Though the document claimed payment of Rs.14,50,000/- as sale consideration, divided over several dates, no details of the same was indicated. No documentary proof such as receipts, bank entries,



vouchers or account statements were produced to substantiate the same. The absence of proof of payment, coupled with the highly inadequate value of consideration in respect of the schedule property, rendered the transaction intrinsically doubtful.

15. He would further contend that the burden of proving the genuineness of such a transaction lies squarely upon the beneficiary especially where the executant's capacity/state of mind is questioned and the transaction is challenged as vitiated by fraud. According to him, the first respondent having failed to enter the witness box, invites an adverse inference under Section 114(g) of the Evidence Act. His wife who was examined as DW1, whose testimony that her husband was engaged in money-lending activities and that she managed his accounts suggested that the alleged sale was, in truth, a money transaction disguised as conveyance.

16. It was further submitted that the so-called consent letters of the appellant, marked as Ex. B1, were not proved in accordance with law, unsupported by admissible evidence, and appear to be fabricated for the litigation. Mere marking of a document, it was argued, does not amount to proof of its contents under the provisions of the Indian Evidence Act, 1872. Reliance was placed on the decision in the case of *N. Krishna Gowda Vs T. Rangan* reported in (2013) 6 MLJ 175, where it was held that production or marking of



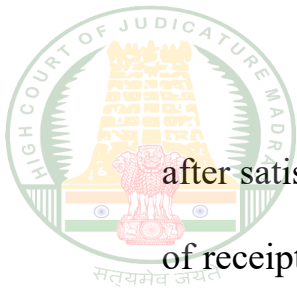
a document alone is insufficient unless the same is properly proved by admissible evidence.

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17. The appellants further submitted that late R. Mannappan died on 01.08.2002, scarcely four months after the alleged execution of the sale deed. Immediately after his death and funeral, the respondents attempted to dispossess the appellants from the property on 16.08.2002, which exposes the ulterior motive behind the purported transaction.

18. The learned counsel for the appellants also emphasized that their possession and enjoyment of the property were established through the oral evidence of PW1 and PW2, and that the Trial Court failed to properly appreciate or assign due weight to these testimonies. The alleged voluntariness of the transaction, the adequacy of consideration, and the payment thereof remained wholly unproved. The learned counsel for the appellants contended that the impugned Sale Deed dated 27.03.2002 was a sham and nominal document created to deprive the appellants of their lawful inheritance.

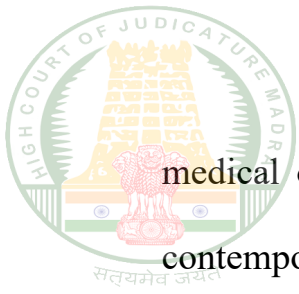
19. Per contra, the learned counsel for the respondents submitted that the appellants had miserably failed to discharge the burden of proving fraud, undue influence or misrepresentation. The Sale Deed dated 27.03.2002, executed by, late R. Mannappan, was duly registered before the competent Sub-Registrar



after satisfaction of legal formalities, and contained an explicit acknowledgment of receipt of Rs.14,50,000/-. In law, such recital carries evidentiary presumption of truth unless disproved by cogent evidence. Hence the onus is on the appellants/ plaintiffs that the same was a sham and nominal document.

20. The learned counsel for the respondents contended that late Mannappan was heavily indebted and under compelling necessity to discharge multiple mortgages. Efforts had been made to sell the property through public notice in Dinamalar newspaper dated 21.02.2002, well before the sale. Since no adequate purchaser came forward, the first respondent, being related to the family, agreed to purchase the property to enable repayment of debts. This clearly established the bona fide nature of the sale. The discharge of earlier mortgage debts and other encumbrances on the same date further corroborated the genuineness of the transaction.

21. It was further contended that the appellants were fully aware of the sale proposal. Consent letters and no-objection affidavits had been obtained in 2001 and again before the execution of the deed. The assertion that they were ignorant of the sale was therefore false. The respondents emphasized that the deceased was in full possession of his faculties, visited the Sub-Registrar's office personally, admitted the execution and the consideration. The appellant's allegations on mental incapacity due to alcoholism were unsupported by



medical or expert evidence. They did not examine any witness or produced contemporaneous proof to rebut the statutory presumptions attached to a registered document.

22. The argument regarding non-production of the first respondent as a witness was refuted by relying on Section 120 of the Evidence Act, which renders a spouse to be a competent witness in civil proceedings. DW1 is the wife of the first respondent and sister of the deceased who has testified the background of the sale, the existence and discharge of mortgage debts, publication of advertisement, and the voluntary nature of the transaction.

23. She further pointed out that the appellant's allegation of forcible dispossession on 16.08.2002 was wholly unsubstantiated. No police complaint or contemporaneous correspondence supported such a claim. On the contrary, until his death, late Mannappan and his family were permitted to reside in the premises on compassionate grounds, and possession was peacefully taken thereafter.

24. It was also emphasized by the learned counsel of the respondents that there was nearly a two-year delay before the institution of the suit, which undermined the appellant's credibility and strengthened the inference that the suit was an afterthought intended to disturb a concluded sale.



25. I have considered the submissions made by the learned counsel for the respective parties & perused the materials available on record, on which basis the following issues arise for the consideration: -

- a) *Issue No.1 – Whether the evidence of DW1, being the wife of the first respondent, can be relied upon to establish the genuineness of the transaction and surrounding circumstances?*
- b) *Issue No.2 – Whether the Sale Deed dated 27.03.2002 is vitiated by fraud, undue influence or misrepresentation on account of an alleged fiduciary relationship between Mannappan and the first respondent, and whether the said transaction is supported by valid consideration?*
- c) *Issue No.3 – Whether the documentary evidence on record, including Ex. A9, Ex. B7 and Ex. B9, corroborates the case of the respondent regarding the genuineness and validity of the transaction?*

26. On Issue 1, The Appellants had contended that the testimony of DW1 is liable to be discarded on the ground that she is an interested witness, being the spouse of the first respondent. It is submitted that her evidence lacks independence and is inherently biased in favour of the respondent. According to the appellants, such testimony cannot be safely relied upon to prove material aspects such as the financial condition of Mannappan, the circumstances leading



to the sale, and the alleged discharge of mortgage liabilities.

**WEB COPY** 27. The respondent had contended that the mere fact that a witness is related to a party does not render her evidence inadmissible or unreliable. DW1, who was examined on behalf of the defence, was the wife of the first respondent. Her testimony was admissible under Section 120 of the Indian Evidence Act, which recognises the competence of a spouse to testify in civil proceedings. In her evidence, DW1 described the financial difficulties faced by Mannappan, the existence of mortgage liabilities and the steps taken to sell the property, including publication of the advertisement in “Dinamalar”. She also spoke about the execution of the registered Sale Deed dated 27.03.2002 marked as Ex. A 9.

28. It is contended that DW1 has spoken consistently with regard to the financial distress of Mannappan, the issuance of the public advertisement in “Dinamalar,” and the discharge of mortgage encumbrances prior to the execution of the Sale Deed. The cross-examination of DW1 did not reveal any material contradiction regarding the execution or validity of Ex. A 9. Her cross-examination has not elicited any materials to her not being aware of the facts and circumstances of the case nor there was contradiction or inconsistency so as to discredit her testimony. The testimony of DW1 finds corroboration from the documentary evidence on record, particularly Ex. A9, Ex. B7, and Ex. B9,

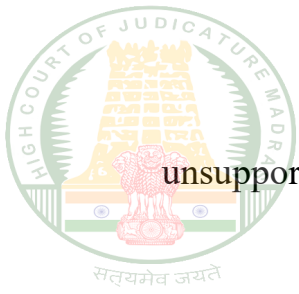


which collectively support the case of the respondent. Hence this issue is answered against the appellants sustaining the evidence of DW1.

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29. On Issue 2 & 3, The learned counsel for the appellants contended that the first respondent occupied a position of dominance and confidence over late Mannappan by virtue of a close fiduciary relationship, as the respondent's wife was the younger sister of the deceased. It was argued by the counsel of appellants that such proximity created a fiduciary relationship, enabling the respondent to wield undue influence over Mannappan. The appellants further submit that Mannappan was a habitual alcoholic and was not in a sound and disposing state of mind to comprehend the nature and consequences of the transaction. On this basis, it is alleged that the Sale Deed dated 27.03.2002 is not a genuine transaction but one procured through exploitation of his vulnerable condition. Ex. B9, the reply notice dated 29.04.2002, formed part of the contemporaneous correspondence between the parties. The Trial Court noted that no effective rejoinder contradicting Ex. B9 was produced, and relied on the exchange of notices to conclude that the transaction was not clandestine.

30. The plea of fiduciary relationship was rejected as the appellants failed to prove that the respondent exercised any dominant influence over Mannappan. The evidences instead suggested that Mannappan acted independently as the owner of the property. The allegation of forcible dispossession was also



unsupported by documentary/oral evidence.

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31. In addition, the appellants challenged the genuineness of the consideration stated in the Sale Deed, contending that the sum of Rs.14,50,000/- is merely nominal and that no actual payment was made. According to them, the recital acknowledging receipt of consideration is false and inserted only to lend credibility to an otherwise sham transaction. PW1, examined on behalf of the appellants, reiterated the allegations in the plaint and deposed that the Sale Deed was obtained by fraud and undue influence. PW1 asserted that Mannappan was a habitual alcoholic and lacked the capacity to execute the document. However, no medical records, hospital documents or expert testimony were produced to substantiate this claim. In cross-examination, PW1 was unable to produce contemporaneous evidence showing that Mannappan was incapable of understanding the transaction.

32. The mere fact of relationship as brother-in-law would not give rise to any presumption of dominance or control. There is absolutely no material on record to show that the 1st Respondent was in a position to dominate the will of Mannappan or that the transaction in question was unconscionable. In the absence of such foundational facts, the plea of undue influence is wholly untenable, as laid down by the Hon'ble Supreme Court in *Anil Rishi v. Gurbaksh Singh (2006) 5 SCC 5*. Ex. B9 (reply notice dated 29.04.2002), would



show that the late Mannapan has offered the property to be sold to Respondent 1 for the amount payable by him to Respondent 1.

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33. The learned counsel for the respondent would also submit that the documentary evidence available on record clearly establishes that the transaction was a bona fide one, supported by valid consideration and necessitated by compelling financial circumstances. In this regard, reliance is placed on Ex. B6, which evidences acknowledgment of substantial debt, Ex. B7 and Ex. B9, which are legal notices indicating subsisting liabilities, and Ex. B8, being a public notice offering the property for sale. These documents clearly demonstrate that Mannappan was under severe financial distress and had consciously decided to alienate the property to discharge his liabilities. 33. The Trial Court has rightly relied upon Ex. A2, Ex. A5 and Ex. A13, which are prior mortgage transactions, to conclude that Mannappan alone was treated as the absolute owner of the property. The appellants were only formal parties to such transactions and had no independent right therein. Significantly, Ex. A13 contains a clear admission on the part of the appellants disclaiming any ownership right. The Ex. B1 series (affidavits dated 13.08.2001) would clearly show that the appellants had expressly consented to the mortgage and possible sale of the property. The signatures contained therein have been admitted during cross examination. Having once consented to the alienation and acknowledged the authority of Mannappan, the appellants cannot now be permitted to



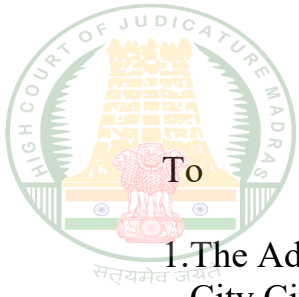
approbate and reprobate. Hence the contention that no consideration was passed that the sale was a nominal sale on coercion cannot stand. It is a settled principle of law that a registered document carries a presumption of genuineness and due execution. The Hon'ble Supreme Court in *Hemalatha (D) by LRs v. Tukaram (D) by LRs* has held that such presumption can be displaced only by cogent and convincing evidence. Therefore, Issue 2& 3 is answered confirming the findings of the trial court. In the present case, the appellants have utterly failed to adduce any such evidence, and therefore the presumption in favour of the Sale Deed remains wholly un rebutted.

34. In fine, the appeal deserves no merit and is accordingly dismissed. Consequently the connected miscellaneous petitions stands closed. There shall be no orders as to costs.

**20.04.2026**

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

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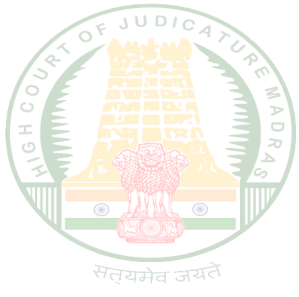
1. The Additional Judge - IV,  
City Civil Court, Chennai.

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

AS No. 540 of 2





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AS No. 540 of 2



**K.KUMARESH BABU, J.**

**PBN**

A Pre-delivery order made in  
**AS No. 540 of 2017**  
**and CMP.No.17905 of 2017**

**20.04.2026**