Andhra Pradesh High Court - Amravati

Smt.Madeti Ramadevi vs Smt.Vandanapu Basavamma on 10 September, 2025

HONOURABLE SRI JUSTICE V. GOPALA KRISHNA RAO

Second Appeal No.108 of 2021 Judgment: This second appeal under Section 100 of C.P.C is filed aggrieved against the judgment and decree, dated 08-02-2021, in A.S.No.95 of 2015 on the file of the VII Additional District Judge, West Godavari at Eluru, in confirming the judgment and decree, dated 10-9-2015, in O.S.No.157 of 2006 on the file of the Principal Senior Civil Judge, Eluru. 2. The appellants 1 and 2 herein are defendants 4 and 5, respondents 1 to 4 are plaintiffs and respondents 5 to 7 are defendants 1 to 3 in O.S.No.157 of 2006 on the file of the Principal Senior Civil Judge, Eluru. 3. The plaintiffs initiated action in O.S.No.157 of 2006 on the file of the Principal Senior Civil Judge, Eluru, with a prayer for partition of schedule property into seven equal shares by metes and bounds and for the allotment of four such shares to the plaintiffs, future profits and for costs of the suit. 4. The learned Principal Senior Civil Judge, Eluru, decreed the suit with costs against the defendants 1 to 3 by ordering partition of the schedule property into seven equal shares by metes and bounds and for allotment of three such shares to the plaintiffs 1 to 3 and three such shares to the defendants 1 to 3 besides delivery of possession; the remaining one such share shall be divided equally among all the plaintiffs 1 to 4 and defendants 1 to 3; and the defendants 4 and 5 can work out their remedies in final decree petition to the extent of shares of defendants 1 to 3. Felt aggrieved of the same, the unsuccessful defendants 4 and 5 in the above said suit filed A.S.No.95 of 2015, whereas the plaintiffs filed cross-objections, on the file of the VII Additional District Judge, Eluru. The learned Special Judge, POCSO Court, FAC/VII Additional District Judge, Eluru, dismissed the appeal suit while considering the cross-objections, by confirming the judgment and decree passed by the trial Court with modification that the plaintiffs 1 to 3 and

defendants 1 to 3 are entitled equally one such share each in respect of the plaint schedule property. Aggrieved thereby, the defendants 4 and 5 approached this Court by way of second appeal.

5. For the sake of convenience, both parties in the second appeal will be referred to as they are arrayed in the original suit.

6. The case of the plaintiffs, in brief, as set out in the plaint averments in O.S.No.157 of 2006, is as follows:

> *(a) It is pleaded that one Samayamanthula Sarvayya was a resident of Madisettivaripalem Village in Chintalapudi Mandal of West Godavari District.*

The plaintiffs 1 to 3 and defendants 1 to 3 are his children. After the demise of his first wife Satyavathi, he got married the 4th plaintiff. The plaintiffs 1 and 2 and the 1st defendant are his children born through his first wife, while the 3rd plaintiff and defendants 2 and 3 are his children born through his second wife.

(b) It is further pleaded that the plaint schedule property is the self- acquired property of S. Sarvayya, who purchased the same under a registered sale deed, dated 10-9-1957 and possession was also delivered to him. He died intestate on 03-7-1982 leaving behind him, the plaintiffs and defendants 1 to 3 as his Class-I heirs. When one Adapa Suryanarayana and his brothers trespassed into the schedule land, the plaintiffs and defendants 1 to 3 filed a suit in O.S.No.19 of 1985 on the file of Senior Civil Judge's Court, Eluru, for recovery of possession and for mesne profits and the said suit was decreed on 13-02-1996. The appeal preferred by the defendants in A.S.No.45 of 1996 on the file of I Additional District Judge's Court, Eluru, was dismissed on 21-8-1998 and later, the 4th defendant preferred second appeal before the High Court in S.A.No.744 of 1998 and the same was also dismissed on 23-9-1998.

(c) It is further pleaded that thereafter, the plaintiffs and defendants 1 to 3 filed E.P.No.49 of 1996 and obtained delivery of possession of the VGKR, J.

sa_108_2021 property through Court on 27-10-1998. Since then, they have been in possession and enjoyment of the schedule property. The family of the plaintiffs is a business family, they requested the defendants 1 to 3 to arrange for sale of land. The defendants 1 to 3 promised them that they would inform the same to the plaintiffs, so that the land can be sold and sale proceeds can be equally shared among them. The plaintiffs reposed confidence upon them. But, the defendants 1 to 3 cheated the plaintiffs. The defendants 1 to 3 also obtained thumb marks and signatures of the plaintiffs on various blank stamp papers during the year 2001, representing that they are required the same for the purpose of obtaining pattadar pass books and also for some other Court proceedings. The plaintiffs came to know that the defendants 1 to 3 sold away the schedule property to the defendants 4 and 5 and the 1st defendant appeared to have sold Ac.4-50 cents to the 4th defendant and the defendants 2 and 3 appeared to have sold away Rs.4-92 cents of schedule property to the 5th defendant in the month of July, 2004. The said two sale deeds do not bind the plaintiffs. Hence, the plaintiffs were constrained to file the suit.

7. The defendants 1 to 3 remained ex parte.

8. The defendants 4 and 5 filed written statement before the trial Court. The brief averments in the written statement are as follows:

> *It is contended that the 1st defendant being absolute owner of the schedule property sold Ac.4-50 cents in R.S.No.1 to the 4th defendant for sale consideration of Rs.1,62,000/- under a registered sale deed on 12-7-2004. The defendants 2 and 4 sold Ac.4-92 cents in favour of the 5th defendant under a registered sale deed for sale consideration of Rs.2,27,500/- on 12-7-2004. The 1st defendant sold an extent of Ac.0-22 cents out of the schedule property to the 5th defendant under a registered sale deed, dated 13-7-2004, for Rs.9,000/-. The above transactions are bona fide transactions. The defendants 4 and 5 are bona fide purchasers of the property under the VGKR, J.*

> *sa_108_2021 said sale deeds for valuable consideration. The plaintiffs have no right or share in the schedule property as the plaintiffs gave a declaration before the Revenue authorities to that effect stating that they relinquished their share in the property and that they do not claim any share in the property. By recognizing their possession and enjoyment over the schedule property, the Revenue authorities granted pattadar pass books and title deeds. The plaintiffs were never in possession and enjoyment of the schedule property. The defendants 4 and 5 believed that defendants 1 to 3 are behind the plaintiffs and filed the present suit with a view to gain wrongfully. They prayed to dismiss the suit with costs.*

9. On the basis of above pleadings, the learned Principal Senior Civil Judge, Eluru, framed the following issues for trial:

> *(1) Did the plaintiffs relinquish their rights over the plaint schedule property as alleged in the written statement and is it valid relinquishment ?*

> *(2) Whether the plaint schedule properties are available for partition and whether plaintiffs are entitled to seek partition ? (3) If the 2nd issue is in the affirmation, what are the rights of defendants 4 and 5 over the plaint schedule property ?*

(4) Whether the plaintiffs are entitled for future profits ? and (5) To what relief?

10. During the course of trial in the trial Court, on behalf of the plaintiffs, P.W.1 was examined and Exs.A-1 and A-2 were marked. On behalf of the defendants 4 and 5, D.Ws.1 and 2 were examined and Exs.B-1 to B-14 were marked.

11. The learned Principal Senior Civil Judge, Eluru, after conclusion of trial, on hearing the arguments of both sides and on consideration of oral and documentary evidence on record, decreed the suit with costs. Felt aggrieved thereby, the unsuccessful defendants 4 and 5 filed the appeal suit in A.S.No.95 of 2015 and the plaintiffs filed cross-objections on the file of the VGKR, J.

sa_108_2021 Judge, Family Court cum VII Additional District Judge, Eluru, wherein the following points came up for consideration:

> *(i) Whether the plaintiffs got equal share in the plaint schedule property along with defendants 1 to 3 ?*
>
> *(ii) Whether the plaintiffs relinquished their right over the plaint schedule property as pleaded by the defendants 4 and 5 ?*
>
> *(iii) Whether the defendants 4 and 5 are the bona fide purchasers of the plaint schedule property ?*
>
> *(iv) Whether the plaintiffs are entitled for partition as prayed for as per cross- objections ? If so, to what extent of share ?*
>
> *(v) Whether the trial Court committed any error in applying the provisions of law while allotting the shares as raised by the plaintiffs in the cross- objections ? and*
>
> *(vi) To what relief ?*

12. The learned Special Judge, POCSO Court, FAC/VII Additional District Judge, Eluru, i.e., the first appellate Judge, after hearing the arguments, answered the points, as above, against the defendants 4 and 5 and dismissed the appeal suit filed by the defendants 4 and 5, while considering the cross-objections filed by the plaintiffs, by decreeing the suit with certain modification. Felt aggrieved of the same, the defendants 4 and 5 in O.S.No.157 of 2006 filed the present second appeal before this Court.

13. On hearing both side counsels at the time of admission of the second appeal on 28-4-2021, this Court framed the following substantial questions of law:

> *(a) Whether the suit filed by the plaintiffs/respondents for partition of the suit schedule property is maintainable without seeking the relief of cancellation of the sale deeds dated 12-7-2004 executed by defendants 1 to 3 and without seeking possession of the suit schedule property from the appellants/defendants 4 and 5 ? and*
>
> *(b) Whether the judgment and decrees of the Courts below can be justified when the appellants/defendants 4 and 5 are the bona fide purchasers of the VGKR, J.*

sa_108_2021 suit schedule property for valuable consideration under Exs.B-3 and B-4 from defendants 1 to 3, particularly when the plaintiffs have instituted the suit in collusion with the defendants 1 to 3 with unclean hands to deprive the appellants from claiming the suit schedule property under Exs.B-3 and B-4 ?

The following additional substantial questions of law were framed by this Court on 03-9-2025:

> *(1) Whether the Courts below are right in decreeing the suit without formulating an issue whether there was any partition as stated under Exs.B-3 and B-4 sale deeds or not ? and (2) Whether the Courts below are justified in decreeing the suit for partition when the defendants 4 and 5 are bona fide purchasers for valuable consideration based on the possession of defendants 1 to 3 and pattadar pass books issued in favour of defendants 1 to 3 and when possession was delivered to the defendants 4 and 5 based on Exs.B-3 and B-4 by defendants 1 to 3 ?*

14. Heard Sri K. Chidambaram, learned Senior Counsel, representing Sri Turaga Sai Surya, learned counsel for the appellants/defendants 4 and 5 and Sri Sunkara Rajendra Prasad, learned counsel for the respondents 1 to 3/ plaintiffs 1 to 3.

15. Law is well settled that under Section 100 of CPC, the High Court cannot interfere with the findings of fact arrived at by the first appellate Court which is the final Court of facts except in such cases where such findings were erroneous being contrary to the mandatory provisions of law, or its settled position on the basis of the pronouncement made by the Apex Court or based upon inadmissible evidence or without evidence.

In the case of Bhagwan Sharma v. Bani Ghosh1, the Apex Court held as follows:

> *"The High Court was certainly entitled to go into the question as to whether the findings of fact recorded by the first appellate Court which was the final Court of AIR 1993 SC 398 VGKR, J.*

> *sa_108_2021 fact were vitiated in the eye of law on account of non-consideration of admissible evidence of vital nature."*

In the case of Kondira Dagadu Kadam v. Savitribai Sopan Gujar 2, the Apex Court held as follows:

> *"The High Court cannot substitute its opinion for the opinion of the first appellate Court unless it is found that the conclusions drawn by the lower appellate Court were erroneous being contrary to the mandatory provisions of law applicable or its settled position on the basis of pronouncements made by the Apex Court, or was based upon inadmissible evidence or arrived at without evidence."*

16. The undisputed facts are that the plaintiffs 1 to 4 filed the suit against the defendants 1 to 5 for seeking the relief of partition of the plaint schedule property. The plaintiffs 1 to 3 and the defendants 1 to 3 are the children of one Samayamanthula Sarvayya and after the demise of his 1st wife Satyavathi, he got married the 4th plaintiff. The plaintiffs 1 and 2 and the 1st defendant are his children born through his 1st wife, while the 3rd plaintiff and the defendants 2 and 3 are his children born through his 2nd wife. The relationship in between both the parties is not in dispute. P.W.1 is the 1st plaintiff. Ex.A-1 clearly goes to show that the plaintiffs and the defendants 1 to 3 filed the suit in O.S.No.19 of 1985 on the file of Senior Civil Judge's Court, Eluru, seeking the relief of recovery of possession against third parties as legal heirs of late Sarvayya,

who died intestate on 03-7-1982 and who purchased the schedule property on 10-9-1957. Furthermore, the said suit was decreed in favour of the plaintiffs and first appeal was filed against which, second appeal has been filed before this Court. In the first appeal and second appeal, the plaintiffs herein succeeded. Ex.A-2 certified copy of the suit register extract in O.S.No.19 of 1985 contains reference about the registered sale deed dated 10-9-1957 in the name of the father of plaintiffs 1 to 3 and defendants 1 to 3, and the plaintiffs 1 to 3 and defendants 1 to 3 obtained delivery of possession of the plaint schedule property through Court in AIR 1999 SC 471 VGKR, J.

sa_108_2021 execution proceedings. Exs.A-1 and A-2 go to show that the father of plaintiffs 1 to 3 and defendants 1 to 3 purchased the plaint schedule property from Vangapati Venkata Rami Reddy and two others on 10-9-1957 itself and it is also an admitted fact that the father of plaintiffs 1 to 3 and defendants 1 to 3, by name Samayamanthula Sarvayya, died intestate on 03-7-1982 and the wife of Sarvayya i.e., the 4th plaintiff herein died during the pendency of first appeal. The defendants 4 and 5 are none other than the wife and husband, they are the purchasers of plaint-A schedule property purchased on the same date in the year 2004 from the defendants 1 to 3.

17. The learned Senior Counsel for appellants would contend that a simple suit filed by the plaintiffs for partition of the plaint schedule property is not at all maintainable without seeking the relief of cancellation of sale deeds under the originals of Exs.B-3 and B-4, dated 12-7-2004 and without seeking possession of the plaint schedule property from the defendants 4 and 5. In the case at hand, it is undisputed by both the parties that the plaint schedule property is self-acquired property of the father of plaintiffs 1 to 3 and defendants 1 to 3, who purchased the same under a registered sale deed on 10-9-1957 and he died intestate on 03-7-1982. It is also undisputed that when third parties trespassed into the suit schedule property, the plaintiffs and defendants 1 to 3 filed the suit vide O.S.No.19 of 1985 as legal representatives of late Sarvayya before Senior Civil Judge's Court, Eluru and they succeeded up to the High Court in second appeal proceedings and obtained possession of the plaint schedule property in execution of the decree. Ex.B-3 goes to show that the 1st defendant alienated part of the plaint schedule property in favour of the 4th defendant. Ex.B-4 goes to show that the defendants 2 and 3 executed a registered sale deed under Ex.B-4 in respect of the remaining plaint schedule property. The recitals in Exs.B-3 and B-4 go to show that in the sale deed itself, the vendors have mentioned that the schedule properties are joint family property and after demise of their father, VGKR, J.

sa_108_2021 defendants 1 to 3 i.e. sons only orally partitioned the same. The recitals in Exs.B-3 and B-4 sale deeds themselves go to show that the defendants 1 to 3, by leaving their sisters who are Class-I heirs, alienated the plaint schedule property to the defendants 4 and 5.

18. The learned Senior Counsel for appellants relied on Section 31 of the Specific Relief Act, 1963. Section 31(1) of the Specific Relief Act says:

> *"31. When cancellation may be ordered.--(1) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.*
>
> *(2) ..... "*

Section 31 of the Specific Relief Act itself makes clear that the word used in Section 31 of the Specific Relief Act is "may sue" but not "shall sue"

> *and option is given to the plaintiffs, it is not mandatory to file a suit for cancellation of sale deed, moreover the plaintiffs are not parties to the sale deeds Exs.B-3 and B-4. The plaint schedule property is a joint family property of plaintiffs 1 to 3 and defendants 1 to 3 and all are Class-I legal heirs of late S. Sarvayya, who died intestate on 03-7-1982. Therefore, the plaintiffs 1 to 3 are having joint right itself in the suit schedule property since their father died intestate since they, being Class-I legal heirs of their father, are having joint rights in the plaint schedule property on par with the sons of late S. Sarvayya. Therefore, the sale deeds Exs.B-3 and B-4 obtained by defendants 4 and 5 are not binding on plaintiffs 1 to 3 to the extent of their share.*

19. Section 6(5) of the Hindu Succession Act, 1956 reiterated as follows:

> *"6. Devolution of interest in coparcenary property. --*
>
> *(1) .....*
>
> *(2) .....*

VGKR, J.

sa_108_2021 (3) .....

(4) .....

(5) Nothing contained in this section shall apply to a partition, which has been effected before the 20th day of December, 2004".

Admittedly, in the case on hand, no registered partition was happened in between the plaintiffs 1 to 3 and defendants 1 to 3 prior to the Hindu Succession (Amendment) Act, 2005 and no decree for partition was obtained by the plaintiffs 1 to 3 and defendants 1 to 3 prior to 20-12-2004. As stated supra, the father of plaintiffs 1 to 3 and defendants 1 to 3 died intestate on 03-7-1982, by leaving the plaintiffs and defendants 1 to 3 as legal representatives. Plaintiffs 1 to 3 and defendants 1 to 3 are Class-I legal heirs of late S. Sarvayya, who purchased the plaint schedule property with his own self-earnings on 10-9-1957 and died intestate on 03-7-1982. It is quite clear that the plaintiffs 1 to 3 and defendants 1 to 3, children of Sarvayya, were born prior to the Hindu Succession (Amendment) Act, 2005. The Hindu Succession (Amendment) Act, 2005 enables the daughters to exercise their co-parcenery right and co-parcenery is a birth right to daughters i.e. plaintiffs 1 to 3 herein. Admittedly, there is no oral partition or registered partition in between the plaintiffs 1 to 3 and defendants 1 to 3 and the plaint schedule property is the self-acquired property of their father, who died intestate on 03-7-1982.

20. In the case of Vineeta Sharma v. Rakesh Sharma3, a Full Bench of the Apex Court held as follows:

> *"129. .....*
>
> *(i) The provisions contained in substituted Section 6 of the Hindu Succession Act, 1956 confer status of coparcener on the daughter born before or after amendment in the same manner as son with same rights and liabilities.*
>
> *(ii) The rights can be claimed by the daughter born earlier with effect from 9.9.2006 with savings as provided in Section 6(1) as to the disposition or AIR 2020 SC 3717 VGKR, J.*

sa_108_2021 alienation, partition or testamentary disposition which had taken place before 20th day of December, 2004.

(iii) Since the right in coparcenary is by birth, it is not necessary that father coparcener should be living as on 9.9.2006.

(iv) The statutory fiction of partition created by proviso to Section 6 of the Hindu Succession Act, 1956 as originally enacted did not bring about the actual partition or disruption of coparcenary. The fiction was only for the purpose of ascertaining share of deceased coparcener when he was survived by a female heir, of Class I as specified in the Schedule to the Act of 1956 or male relative of such female. The provisions of the substituted Section 6 are required to be given full effect. Notwithstanding that a preliminary decree has been passed the daughters are to be given

share in coparcenary equal to that of a son in pending proceedings for final decree or in an appeal.

(v) In view of the rigor of provisions of Explanation to Section 6(5) of the Act of 1956, a plea of oral partition cannot be accepted as the statutory recognised mode of partition effected by a deed of partition duly registered under the provisions of the Registration Act, 1908 or effected by a decree of a court. However, in exceptional cases where plea of oral partition is supported by public documents and partition is finally evinced in the same manner as if it had been affected by a decree of a court, it may be accepted. A plea of partition based on oral evidence alone cannot be accepted and to be rejected outrightly."

In the case at hand, the plaint schedule property is the self-acquired property of the father of plaintiffs 1 to 3 and defendants 1 to 3, who purchased the same under a registered sale deed, dated 10-9-1957 and later, he died intestate on 03-7-1982, by leaving the plaintiffs 1 to 3 and defendants 1 to 3. The 4th plaintiff i.e. the 2nd wife of Sarvayya died during the pendency of first appeal. Therefore, the plaintiffs 1 to 3 and defendants 1 to 3 are having equal joint rights in undivided plaint schedule property. In the case at hand, there is no oral or registered partition or a decree of partition in between the plaintiffs 1 to 3 and defendants 1 to 3. The plaintiffs 1 to 4/daughters and wife of late Sarvayya approached the civil Court in the year 2006 for seeking the relief of partition of the plaint schedule property. As noticed supra, the 4th plaintiff i.e. VGKR, J.

sa_108_2021 the 2nd wife of Sarvayya died intestate during the pendency of first appeal. The defendants 4 and 5 have not obtained Exs.B-3 and B-4 sale deeds from the plaintiffs 1 to 3 along with defendants 1 to 3. Therefore, Exs.B-3 and B-4 sale deeds are not binding on plaintiffs 1 to 3 (daughters) to the extent of their share and plaintiffs 1 to 3 (daughters) can simply ignore the said sale deeds Exs.B-3 and B-4 to the extent of their shares, but sale deeds under Exs.B-3 and B-4 are binding on defendants 1 to 3 (sons) to the extent of their share. In the case at hand, the sons of late S. Sarvayya alienated the plaint schedule property by leaving their sisters, who are Class-I heirs of late Sarvayya, under Exs.B-3 and B-4 registered sale deeds. Therefore, the said alienations under Exs.B-3 and B-4 sale deeds are not valid transactions or not binding on the daughters/plaintiffs to the extent of their share.

21. The learned Senior Counsel for appellants placed reliance on Eda Mary v. Yedla Elzebeth Rani4. The facts in the aforesaid case are by the date of sale deed, the 2nd plaintiff is a minor on the date of its execution and the 1st plaintiff in that suit was not a party to the sale deed though

she was a major, as the 2nd plaintiff was a minor, the 2nd defendant acted as guardian and executed the said sale deed. Therefore, the facts and circumstances in that case law are different to the instant case.

22. The learned Senior Counsel for appellants placed reliance on a judgment of the composite High Court of Andhra Pradesh at Hyderabad in the case of Kasireddy Ramayamma v. Kasireddy Rama Rao5. The facts in the said case law are that the transaction under Ex.A1 settlement deed is complete and absolute rights had already flowed and vested and nothing remained in late Pothu Naidu to make any cancellation as such through Ex.B2 and there is no fraud or misrepresentation in the execution of Ex.A1. The facts in the aforesaid case law are quite different to the instant case.

MANU/HY/0478/2018 MANU/AP/0551/1999 VGKR, J.

sa_108_2021 The ratio laid down in the aforesaid case law is very plea of fraud, misrepresentation etc., are not sustainable in the absence of a suit filed challenging the document, whereas the facts in the present case are different to the case law relied by the learned Senior Counsel for appellants.

23. The learned Senior Counsel for appellants relied on M. Meenakshi v. Metadin Agarwal (Dead) by LRs6. In that decision, the Apex Court held as follows:

> *"18. It is a well-settled principle of law that even a void order is required to be set aside by a competent court of law inasmuch as an order may be void in respect of one person but may be valid in respect of another. A void order is necessarily not non est. An order cannot be declared to be void in a collateral proceeding and that too in the absence of the authorities who were the authors thereof. The orders passed by the authorities were not found to be wholly without jurisdiction. They were not, thus, nullities."*

The facts in the aforesaid case law are that the competent authority under the 1976 Act was not impleaded as a party in that suit and during the pendency of the proceedings under the 1976 Act, parties entered into an agreement of sale of land, subject to permission of the competent authority and the competent authority refused permission on the ground that excess land of the size stipulated in the contract was not available and the competent authority under the 1976 Act was not impleaded as a party in that suit. Therefore, the ratio laid down in the aforesaid case law is not at all applicable to the present case on hand, since the facts and circumstances in the case at hand are different to the case law relied on by the learned Senior Counsel for appellants.

24. The learned Senior Counsel for appellants would contend that both the defendants 4 and 5 are bona fide purchasers of the suit schedule property from the defendants 1 to 3 and that the judgment and decree passed by both (2006) 7 SCC 470 VGKR, J.

sa_108_2021 the Courts below are unsustainable under law. The recitals in Exs.B-3 and B-4 sale deeds themselves show that the plaint schedule property is undivided joint family property of plaintiffs 1 to 3 and defendants 1 to 3, which is a self- acquired property of their father and he died intestate on 03-7-1982, by leaving the plaintiffs 1 to 3 and defendants 1 to 3 as Class-I legal heirs. The sons/defendants 1 to 3 by leaving Class-I legal heirs daughters/plaintiffs 1 to 3, alienated the total plaint schedule property to the defendants 4 and 5. Furthermore, the plaintiffs and defendants 1 to 3 obtained the possession through a Court of law when trespassers entered into the plaint schedule property as the same is visible in the sale deeds itself, but the defendants 4 and 5/purchasers, for the reasons best known to them, did not insist the plaintiffs 1 to 3 to join as parties along with defendants 1 to 3 in Exs.B-3 and B-4 sale deeds. Therefore, it cannot be said that the defendants 4 and 5 are bona fide purchasers to the extent of undivided share of daughters of late S. Sarvayya/plaintiffs 1 to 3.

25. The learned Senior Counsel for appellants would contend that the plaintiffs have given up their rights over the plaint schedule property under a letter alleged to have been addressed by them and that now, the plaintiffs cannot claim their share in the plaint schedule property. The recitals of copy of letter are not yet admitted by the plaintiffs and the signatures are only marked as Exs.B-1 and B-2. Moreover, original letters are not yet filed by the appellants and not marked as exhibits. The documentary evidence filed by the plaintiffs itself goes to show that the plaintiffs and defendants 1 to 3 filed a suit for possession against third parties, who trespassed into the schedule property, after the death of their father and they succeeded up to the second appeal proceedings and they obtained possession through Court of law. In fact, the suit particulars were also mentioned in the sale deeds itself. But, the defendants 4 and 5/purchasers have not evinced any interest to insist the defendants 1 to 3 to join plaintiffs 1 to 3 together with defendants 1 to 3 as VGKR, J.

sa_108_2021 vendors. Therefore, the said sale deeds are not binding on the daughters/ plaintiffs 1 to 3, the daughters can simply ignore the said sale deeds and they need not ask for cancellation of sale deeds.

26. Copy of consent letter cannot be considered in law to be a relinquishment of plaintiffs' rights, title and interest in the suit schedule property. The said consent letter might have been given for the purpose of entering the name of defendants 1 to 3 in the Revenue records. The said consent letter would not amount to relinquishment of right, title and interest of the plaintiffs in the suit schedule property and even the said consent letter was not believed by both the Courts below. Any deed of relinquishment would require registration as per Section 17 of the Registration Act, 1908. In the absence of there being any deed of relinquishment, which has been registered in accordance with law, it cannot be held that the plaintiffs have given up their right, title and interest in the plaint schedule property.

27. The learned Senior Counsel for appellants would contend that both the Courts below ignored the evidence of D.W.2. As seen from the evidence of D.W.2, who was working as a Special Deputy Tahsildar, Chintalapudi, he deposed that a common statement dated 29-11-2001 of the defendants and plaintiffs was there in their office along with notarized affidavits, dated 19-4-2001, were returned to them on 22-01-2007 furnishing sworn affidavit by the 1st defendant. In cross-examination, D.W.2 admitted that their office file did not contain signatures of party for taking return of the original of the common statement and notarized affidavits, referred above. Therefore, the evidence of D.W.2 itself is no way helpful to prove the defence of defendants 4 and 5. Furthermore, the alleged original affidavits or letters, alleged to have been given by the plaintiffs, were not produced before both the Courts below and also in the second appeal proceedings and those VGKR, J.

sa_108_2021 documents were not marked as exhibits. As stated supra, any deed of relinquishment would require registration as per Section 17 of the Indian Registration Act, 1908, in the absence of there being any deed of registered relinquishment in accordance with law, it cannot be held that the plaintiffs have given up their right, title and interest in the plaint schedule property.

28. The law is well settled that Section 17 of the Registration Act mandates registration of a document under which any party acquires any right or loses any right, no contrary procedure can be adopted.

29. The learned Senior Counsel for appellants would contend that pattadar pass books were issued on behalf of defendants 1 to 3 only and no pattadar pass books were issued in favour of the plaintiffs and that the plaintiffs are not entitled to the relief of partition of the plaint schedule

property. The law is well settled that mutation of Revenue records does not take or extinguish any title and those entries are relevant only for the purpose of collection of land revenue. The legal position in this regard is no more res integra and the same has been well settled by the Apex Court in the case of Sawarni v. Inder Kaur7 as under:

> *"7. ... Mutation of a property in the revenue record does not create or extinguish title nor has it any presumptive value on title. It only enables the person in whose favour mutation is ordered to pay the land revenue in question. The learned Additional District Judge was wholly in error in coming to a conclusion that mutation in favour of Inder Kaur conveys title in her favour. This erroneous conclusion has vitiated the entire judgment.'*

30. On appreciation of the entire evidence on record, the learned trial Judge as well as the learned first appellate Judge arrived at concurrent finding that the plaintiffs 1 to 3 are entitled to the relief of partition of the plaint schedule property. The general rule is that High Court will not interfere with concurrent findings of the Courts below. But it is not an absolute rule. Some (1996) 6 SCC 223 VGKR, J.

sa_108_2021 of the well recognized exceptions are where (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. The present case does not come within the ambit of aforesaid exceptions as stated supra.

31. In the case at hand, on appreciation of the entire evidence on record, the learned trial Judge decreed the suit for partition filed by the plaintiffs and on re-appreciation of the entire evidence on record on all issues decided by the trial Court and after framing the points for consideration as required under Section 96 of C.P.C., the learned first appellate Judge rightly dismissed the first appeal. In the light of the material on record and upon earnest consideration now, it is manifest that the substantial questions of law including the additional substantial questions of law raised in the course of hearing in the second appeal on behalf of the appellants did not arise or remain for consideration. This Court is satisfied that this second appeal did not involve any substantial question of law for determination.

32. In the result, the second appeal is dismissed, confirming the judgment and decree passed by the first appellate Court. Pending applications, if any, shall stand closed. Each party do bear their own costs in the second appeal.

_____ V. GOPALA KRISHNA RAO, J.

10th September, 2025.

Ak VGKR, J.

sa_108_2021 HONOURABLE SRI JUSTICE V. GOPALA KRISHNA RAO 10th September, 2025.

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