

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO

APPEAL SUIT NO.103 OF 2020

DATED: 30th JANUARY, 2026

BETWEEN :

Tirunagari Venkateshwarlu and Another

... Appellants/Defendant Nos.1 & 2

AND

Rajput Vijaya Bai (maidan name) Tirunagary Vijaya Bai (Died per LR's

Represented by her daughter and G.P.A. Holder

Smt.P.Manjula, W/o.P.Sateesh Kumar, Hindu,
Aged about 49 years, Occ: House wife,
R/o.H.No.16-96, Flat No.101,
Sai Plaza, Road No.3, Srikrishna Nagar,
Dilsukhnagar, Saroornagar Mandal,
Ranga Reddy District – 500 060 and Others.

...Respondent/Plaintiff

JUDGMENT:

1. This Memorandum of Civil Appeal is filed under Section 96 of Civil Procedure Code, 1908, assailing the judgment and decree passed by the II Additional District Judge, Ranga Reddy District at L.B.Nagar, Hyderabad, in OS.No.1226 of 2013, dated 18.11.2019.

2. Appellants are defendant Nos.1 and 2. Respondent No.1 is the sole plaintiff in OS.No.1226 of 2013.

3. During pendency of the Appeal, respondent No.1 died and her LRs are brought on record as respondent Nos.2 and 3. Respondent No.2 is the GPA holder of respondent No.1 at the time of filing the suit. [P]
[SEP]

4.1. Respondent No.1-plaintiff through her GPA holder Smt. P.Manjula has filed suit for declaration, partition, separate possession and for perpetual injunction under Order 7 Rule 1 r/w Section 26 of CPC with a prayer to pass a judgment and decree declaring the gift settlement deed, dated 17.12.2012 *vide* document No.6959 executed by defendant No.1 (appellant No.1 herein) in favour of defendant No.2 (appellant No.2 herein) as null and void, to pass a decree for partition by allotting half share to the plaintiff (respondent No.1 herein) and to grant perpetual injunction restraining the defendants (appellants herein) and their henchmen from alienating/transferring or creating any charge over the suit schedule property.

4.2. The schedule of the property is as under:

“All that the House bearing No.7-14(old), 13-7-14 (New) on Plot No.H consisting of three floors (ground + 1st & 2nd Floors), Ward No.13, Block No.7, Road No.1, admeasuring 355 Sq.

Yards or its equivalent to 296.81 Sq.Mtrs. having its plinth area 1050.00 Sq.Feet on ground Floor, 1050.00 on 1st Floor and 400 Sft. on 2nd Floor, total plinth area 2,500.00 Sq.Feet, situated in Survey No.7, Madhurapuri colony, behind Konark Theatre, Dilsukhnagar, Gaddiannaram Village, Saroornagar Revenue Mandal & S.R.O, Ranga Reddy District”.

5.1. It is stated in the plaint that respondent No.1-plaintiff and appellant No.1-defendant No.1 are wife and husband, they are blessed with two daughters namely Manjula-GPA holder and Jayasree who are married and that respondent No.1-plaintiff worked in State Audit Department, Hyderabad, retired as Audit Officer. Appellant No.1-defendant No.1 worked in the same Department and retired as Deputy Director. During their service they have jointly purchased House Plot No.H admeasuring 355 square yards, situated in survey No.7, Madurapuri Colony, Dilsukhnagar, Gaddiannaram Village under a registered sale deed and with the joint funds constructed ground + two Floors which was assigned as door No.7-14 (old), 13-7-14 (new). Respondent No.1-plaintiff has obtained loan from her Department and also spent her entire salary for construction of the said house and for the maintenance, education and welfare of her two daughters and also spent amounts to perform her daughter's marriage. Respondent No.1-plaintiff gave Rs.2 Lakhs to appellant No.1-defendant No.1 for purchasing agricultural

land and she learnt that her husband has purchased Acs.05-00 guntas at Ganpur Village, Peddavura Mandal, Nalgonda District. The suit property is let out to the tenants which is fetching an amount of Rs.40,000/- per month and that the appellant No.1-defendant No.1 is collecting the same.

5.2. Appellant No.1-Defendant No.1 developed illegal intimacy with Swarajya Lakshmi who is her younger sister and through her they gave birth to illegitimate children i.e., one son and one daughter.^[P]Son is shown as defendant No.2 in the suit (appellant No.2 herein). Appellant No.1-defendant No.1 has ill-treated respondent No.1-plaintiff and her two daughters after her retirement. Respondent No.1-plaintiff has demanded appellant No.1-defendant No.1 to partition the suit properties on 16.05.2012 and on 26.09.2012 to divide the same in two equal shares. As the appellant No.1-defendant No.1 neglected respondent No.1-plaintiff she lodged a complaint before A.P. State Human Rights Commission on 11.10.2012. A criminal case is registered against appellant No.1-defendant No.1 in Crime No.798 of 2012 under Section 24 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, at P.S. Saroornagar and the same is pending. Respondent No.1-plaintiff obtained Encumbrance Certificate, then she came to know that

appellant No.1-defendant No.1 has executed gift deed in favour of appellant No.2-defendant No.2 in respect of the suit schedule property. Respondent No.1-plaintiff and appellant No.1-defendant No.1 are in joint possession of the suit schedule property and prayed to partition the schedule property and allot half share to her and to declare the registered gift settlement deed as null and void and not binding.

6.1. [P] Appellant Nos.1 and 2-defendants have filed their common written statement and denied the contents of the plaint. They further stated in the written statement that agricultural dry land of Acs.03-06 guntas is purchased for Rs.25,200/- in two spells in the name of appellant No.2-defendant No.2 and the said amount was given by R.Swarajya Lakshmi who was working as Office Superintendant in Police Department by selling away the Quarter in LIGH allotted by the Government under HUDA Scheme in her favour. The suit schedule property is the self-acquired property of appellant No.1-defendant No.1 and he obtained permission from the Department while doing so and also obtained housing loan from the Bank and the suit schedule property is not the joint property of appellant No.1-defendant No.1 and respondent No.1-plaintiff. Swarajya Lakshmi worked in Police Department and retired in the month of July, 2008.

Appellant No.1-defendant No.1 has married Swarajya Lakshmi at the instance of respondent No.1-plaintiff as she was handicapped and was suffering from Polio attack and is lame. It is the respondent No.1-plaintiff who insisted the appellant No.1-defendant No.1 to marry her sister. Both the wives are own sisters.

6.2. Appellant No.1-defendant No.1 has gifted the suit schedule property to appellant No.2-defendant No.2 on 17.12.2012 by way of registered document. Respondent No.1-plaintiff has invested her earnings and savings for purchasing Flat bearing No.101 in Sai Plaza Apartments, Sri Krishna Nagar Colony, Dilsukhnagar for Rs.3,45,000/- and spent Rs.1,50,000/- lavishly on Gruhapravesham in the new Flat. Respondent No.1-plaintiff has invested Rs.1,50,000/- in GPR Chits & Finance and lost the amount as the Chit Fund Company was closed. Appellant No.1-defendant No.1 has spent his pensionary benefits for the marriage of his daughter Jayasree in the year 2001, he was bedridden and the respondent No.1-plaintiff has left his house long back at the instance of her daughter by name Manjula who developed evil eye over the suit schedule property and prayed to dismiss the suit.

7. The learned trial Court has framed the following issues:

1. Whether plaintiff is entitled to declare the gift deed vide Doc.No.6959/12 dated 17.12.2012 by D1 in favour of D2 as null and void?
2. Whether suit schedule property is available for partition?
3. Whether suit schedule property is liable for partition into two equal shares and plaintiff is entitled for half such share?
4. Whether plaintiff is entitled for permanent injunction restraining the defendants from alienating the suit schedule property as prayed for?
5. To what relief?

8. P.Manjula - GPA holder of respondent No.1-plaintiff is examined as PW.1. Sole plaintiff (respondent No.1 herein) is examined as PW.2, got marked Exs.A1 to A8. Appellants-defendants are examined as DW.1 and DW.2 and got marked Exs.B1 to B17.

9. The learned trial Court after analysing the evidence adduced by the parties has decreed the suit as prayed for holding that respondent No.1-plaintiff is entitled for half share in suit schedule property and further held that registered sale deed executed by defendant No.1 (appellant No.1 herein) in favour of defendant No.2 (appellant No.2 herein) is not binding on the plaintiff and also granted permanent injunction restraining the defendants from alienating half share in the suit schedule

property till partition and separate possession was delivered and that the plaintiff is entitled for mesne profits in a separate application.

10.1. [P]Learned Senior Counsel for the appellants submits that the learned trial Court ought not to have decreed the suit for partition as it failed to appreciate the evidence adduced by the parties especially the evidence of PW.2 where she herself admitted that the entire suit schedule property was purchased by appellant No.1-defendant No.1.

10.2. The learned trial Court failed to observe that respondent No.1-plaintiff has not come to the Court with clean hands and failed to produce any documentary evidence to prove her case that she has contributed the amount in purchasing the suit schedule property and the sale deed, dated 16.09.1978 (Ex.A8) stands in the name of appellant No.1-defendant No.1, there is no recital in the said document that respondent No.1-plaintiff has contributed the amount.

10.3. The learned trial Court failed to consider the basic element that every Government Employee has to disclose his/her assets to the Government under the A.P. Civil Services Conduct Rules but whereas the respondent No.1-plaintiff has

not disclosed any property during her service including the plaint schedule property. Respondent No.1-plaintiff has not filed her IT Returns to establish her case and she also admitted that she has not shown in her IT Returns about the amount contributed by her in purchasing the suit schedule property.

10.4. The learned trial Court failed to consider Ex.B2 permission granted by the Government in favour of appellant No1-defendant No.1 for purchasing the suit schedule property and erroneously held that registered gift deed under Ex.A6 is hit by doctrine of *lis pendence*. Ex.A6 is dated 17.12.2012 and the suit filed by respondent No.1-plaintiff is in the year 2013, therefore Ex.A6 is not hit by the doctrine of *lis pendence*.

10.5. The learned trial Court failed to consider the basic fact that one of the prayer of respondent No.1-plaintiff in the suit was to declare Ex.A6-registered gift deed, dated 17.12.2012 as null and void, hence the question of Ex.A6 hit by doctrine of *lis pendence* does not arise. Counsel to substantiate his contention has relied on the decisions in the cases of (1) D.S.Lakshmaiah and Another Vs. L.Balasubramanyam and Another¹, (2) Makhan

¹ (2003) 10 SCC 310

Singh (Dead) by LRs. Vs. Kulwant Singh², (3) Rangammal Vs. Kuppuswami and Another³ and prayed to allow the Appeal.

11. Learned counsel for the respondents submits that the learned trial Court has properly appreciated the evidence adduced by the parties by taking into consideration the documents marked thereon and rightly decreed the suit for partition and held that registered gift deed is null and void and not binding on respondent No.1-plaintiff and also granted perpetual injunction against the appellants- defendants from alienating the suit schedule property till the property is divided by meats and bounds. Counsel to substantiate his contention has relied on the decisions in the cases of (1) Government of Goa Vs. Maria Julieta Dsouza (D) and Others⁴, (2) Umadevi Nambiar Vs. Thamarasseri Roman Catholic Diocese⁵.

12. Counsel on record have filed written submissions in support of their contentions.

13. Heard learned counsel on record, perused the material.

² (2007) 10 SCC 602

³ (2011) 12 SCC 220

⁴ 2024 LawSuit(SC) 103

⁵ (2022) 7 SCC 90

14. Now the point for consideration is: Whether the judgment and decree passed by the learned trial Court in OS.No.1226 of 2013 dated 18.11.2019 suffers from any perversity or illegality, if so, does it require interference of this Court?

15. Respondent No.1-plaintiff has first approached A.P. Human Rights Commission, Hyderabad and lodged a complaint, on which HRC case No.2300 of 2012 is registered. Human Rights Commission has called for the Inquiry report from Asst. Commissioner of Police, Cyberabad. Asst. Commissioner of Police, Hyderabad has sent a report to the Secretary, Human Rights Commission, Nampally, Hyderabad, on 12.12.2012. It is stated in the report that respondent No.1-plaintiff marriage is performed on 18.08.1968 with appellant No.1-defendant No.1 and she was blessed with two children, when she gave birth to the second child, her younger sister by name Swarajya Lakshmi came to her house to take care of her. At that time, appellant No.1-defendant No.1 kept illegal intimacy with her sister and her husband has never taken care of her but he used to take her entire salary to run the family. Respondent No.1-plaintiff was summoned to the police station on 09.12.2012 and caused discrete inquiry about the allegations made by her against her husband (appellant No.1-defendant No.1) and her younger sister

by name Swarajya Lakshmi, in the enquiry she stated that she do not want to lead marital life with her husband and requested to arrange maintenance from her husband and she gave a complaint in Women Police Station. Basing on which case in Crime No.798 of 2012 is registered under Section 24 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, at Saroornagar Police Station. Appellant No.1-defendant No.1 refused to give maintenance to the petitioner and deserted her. Ex.A5 is the order passed by the Andhra Pradesh State Human Rights Commission dated 13.12.2012 which states that criminal case is registered at Saroornagar Police Station on the complaint given by respondent No.1-plaintiff and the same is under investigation which has to be taken to its logical end in accordance with law and disposed of the HRC No.2300 of 2012.

16. Respondent No.1-plaintiff has filed the suit on 21.01.2013, it was returned with office objections and finally the plaint was numbered on 07.10.2013 after a period of 9 months.

17. [P] Respondent No.1-plaintiff has not stated in her petition before Human Rights Commission that she has contributed amount in purchasing the suit schedule property but she only claimed maintenance from her husband.

18. Ex.A8 is the certified copy of sale deed, dated 16.10.1978 *vide* document No.7811 of 1978 in favour of appellant No.1-defendant No.1. The total extent shown in Ex.A8 is 355 square yards and the consideration is Rs.7,500/- which is paid by the purchaser (appellant No.1 herein) to the vendors. Ex.A8-sale deed does not say that respondent No.1-plaintiff has contributed the amount while purchasing the suit schedule property under Ex.A8-sale deed.

19. Appellant No.1-defendant No.1 has executed registered gift deed in favour of appellant No.2-defendant No.2 under Ex.A6 on 17.12.2012 i.e., after disposal of HRC No.2300 of 2012, dated 13.12.2012 under Ex.A5.

20. Ex.B4 is the Invitation card got printed by the children of appellant No.1-defendant No.1, respondent No.1-plaintiff and the children of Swarajya Lakshmi which card is of Sasti Poorthy of the appellant No.1-defendant No.1, respondent No.1-plaintiff and Swarajya Lakshmi which is held on 21.07.2000 at Crystal Coffee Club, RTC Crossroads, Hyderabad.

21. Ex.B7 is the letter in the handwriting of respondent No.1-plaintiff which states that the marriage of appellant No.1-

defendant No.1 with Swarajya Lakshmi is performed with her consent. [P]
[SEP]

22. Appellant No.1-defendant No.1 has obtained permission to purchase house site under Ex.B2 dated 04.01.1979 i.e., after the execution of the sale deed in his favour on 16.10.1978 (Ex.A8). Ex.B2 goes to show that appellant No.1-defendant No.1 has made application on 08.12.1978 seeking permission from his Department to purchase the property after two months of Ex.A8.

23. Ex.B1 is the permission for construction of the house in favour of appellant No.1-defendant No.1 issued by Grampanchayat, Gaddiannaram, dated 10.04.1987. Ex.B9 is the [P]letter issued by the Director of Local Fund Audit, Hyderabad to the Accountant General (A & E) Loans II Andhra Pradesh, Hyderabad which shows that an amount of Rs.60,000/- is sanctioned towards house building advance for repairs to the house of appellant No.1-defendant No.1 and the copy is also marked to the party dated 21.02.1998. Ex.B10 is the letter dated 02.06.1998 which is interest recovery particular statement in respect of house building advance repairs sanctioned to appellant No.1-defendant No.1 and Ex.B11 is the clearance certificate issued to appellant No.1-defendant No.1 dated 10.05.2001 which shows that house building advance of

Rs.60,000/- has been recovered completely together with interest and accrued interest thereon. Ex.B12 shows the purchase of teak wood from Atmaram Reddy by appellant No.1-defendant No.1 on 03.10.1987.

24. PW.1- P.Manjula is the GPA holder of respondent No.1-plaintiff, her chief-examination affidavit is the replica of the plaint averments. In her cross-examination she stated that she has not filed any document to show that her father and mother together purchased the suit property and Ex.A8-sale deed stands in the name of her father (defendant No.1), the sale consideration is Rs.7,500/- which is paid by her father-defendant No.1 to the vendor and Ex.A8 does not say that her mother also contributed for purchasing the property. So also it does not refer her mother's name and Ex.A8 shows that it is purchased by her father and she has not filed any document to show that her mother also contributed while purchasing the property covered under Ex.A8 and her father is the owner. Her mother is an Income Tax assessee and she owns a Flat No.101, First Floor, Sai Plaza Apartments at Saibaba Temple, Krishna Nagar, DSNR, Hyderabad and her mother has obtained loan from the Department for construction of ground Floor, first Floor and second Floor on plot No.H admeasuring 355 square yards.

Defendant No.1 has obtained permission for construction of house from Grampanchayat Gaddiannaram under Ex.B1 dated 10.04.1987 and Ex.B2 is the permission obtained by defendant No.1 (appellant No.1 herein) from the Department for purchasing the property. She has not filed any document to show that her mother gave Rs.2 Lakhs to her father for purchasing the agricultural land at Ganpur Village, Peddavura Mandal, Nalgonda District. PW.1 denied the suggestion that suit schedule property is the self-acquired property of defendant No.1 (appellant No.1 herein) and that respondent No.1-plaintiff has no joint ownership over the property and she also denied the suggestion that her father being the owner of the suit schedule property is entitled to gift the same to his son i.e., defendant No.2 (appellant No.2 herein).

25. PW.2 is the plaintiff and her evidence in chief is the same with that of the plaint averments. ^[P]_{SEP}In her cross-examination she stated that Sasti Poorthi is performed to her, defendant No.1 and Swarajya Lakshmi under Ex.B4 and Ex.B3- photographs shows herself, defendant No.1 and Swarajya Lakshmi and her marriage is performed on 18.08.1968 and her husband has purchased suit schedule property on 16.12.1978. Ex.A8 does not reveal her name in the entire document and there is also no

recital of payment made by her for purchasing the property and her husband has obtained permission from his office while purchasing the suit schedule property in his name and she has not taken any permission from her office to contribute for purchasing the plot covered under Ex.A8-sale deed. Her husband has obtained construction permission in his name under Ex.B1 and made construction with his own funds i.e., ground + two, witness adds that she has contributed her funds for purchasing the plot and for construction purpose and she has no proof to show that she is the joint owner of the suit schedule property, so also she has no proof to show that she gave Rs.2 Lakhs to her husband for purchasing agriculture land at Ganpur and she has not filed any document to show that she is having joint ownership and she left her husband on 16.09.2010, living with her daughter since 12 years and she owns a Flat No.101, Sai Plaza at Gaddiannaram Village. PW.2 denied the suggestion that defendant No.1 (appellant No.1 herein) is the absolute owner of the suit schedule property and he gifted the same to his son (defendant No.2).

26. The evidence of appellant No.1 as DW.1 is the replica of his written statement. In his cross-examination he stated that he is getting rents of Rs.40,000/- per month from the suit schedule

property and that the plaintiff (respondent No.1 herein) is residing in House No.16-96, Flat No.101, Krishna Nagar, Hyderabad and that his wife has lodged a complaint in HRC which was closed and police investigation is pending and he has not given divorce to his first wife (respondent No.1- plaintiff) and it is not mentioned in Ex.A8-sale deed that the schedule property is purchased with loan amount and the said plot was not covered in his IT Returns. He has constructed the ground Floor in the year 1980, First and Second Floor in the year 1988 and he has not given the details of the land to his wife. Ex.B16 stands in the name of defendant No.2 (appellant No.2 herein) and the source of income is not mentioned therein. He has not taken permission from his Department to marry Swarajya Lakshmi and his wife (respondent No.1-plaintiff) has purchased Flat No.101 and he do not know whether she got Rs.8 Lakhs towards retirement benefits and his wife has gifted Flat No.101 to Manjula-PW.1 and Manjula husband by name Satish Kumar expired on 26.05.2018. He has not attended the house-warming ceremony of his wife in Flat No.101 and Ex.B17-chit pass book stands in the name of his wife (respondent No.1-plaintiff) and his wife has paid 32 installments towards Chit No.GN1K0-27 and it comes to Rs.1,60,000/-. Three FDRs stands in the name of his wife Vijaya Bai each valued at Rs.50,000/- and Ex.B9-Audit

Recovery Statement is signed by him with office seal as he was Drawing and Disbursing Officer and handwriting in Ex.B12 belongs to him and he is a nominee to the family pension of his wife Vijaya Bai.^[P]DW.1 denied the suggestion that his wife (respondent No.1-plaintiff) has contributed the amount at the time of purchasing the suit schedule property under Ex.A8 and also denied the suggestion that his wife Vijaya Bai has paid an amount of Rs.2 Lakhs for purchasing the agriculture land at Ganpur Village, Nalgonda District and he has created Ex.B8 Chit Fund Pass Books to show that he saved amount for the purpose of construction of suit schedule property.

27.1. The evidence of DW.2-T.Deepak Chandra is that his father has two wives living in one house, his mother and respondent No.1-plaintiff are own sisters and his father-DW.1 has purchased the suit schedule property under registered sale deed, dated 20.12.1978 out of his own funds and later constructed the house after obtaining permission and his father has gifted the schedule property to him on 17.12.2012 under registered document No.1659 of 2012. Since then he is the absolute owner and in exclusive possession thereof.

27.2. In his cross examination he stated that the suit schedule property is purchased from the own funds of his father-

defendant No.1 and he has not stated the same in the chief affidavit and that the plaintiff (respondent No.1 herein) lived in the joint family till 2010, he do not know whether the plaintiff has contributed her salary and savings towards purchasing the suit schedule property and also for maintaining the family and that the plaintiff has filed a case before Human Rights Commission against his father and during the pendency of the case, Ex.A6 came to be executed. He denied the suggestion that Ex.A6-Gift Deed is null and void as the suit properties are purchased from joint funds of the plaintiff and DW.1, he also denied the suggestion that he has colluded with his father DW.1 and deposing false.

28. The marriage of respondent No.1-plaintiff with that of appellant No.1-defendant No.1 is performed on 18.08.1968, out of lawful wedlock they are blessed with two daughters. Appellant No.1-defendant No.1 retired from service as Deputy Director in the year 1998-99 and respondent No.1-plaintiff has retired as Audit Officer in the month of October, 2000. There is no dispute with regard to lodging of complaint by respondent No.1-plaintiff before Andhra Pradesh State Human Rights Commission and passing of the orders on 13.12.2012 (Ex.A5).

29.1. There is no presumption of a property being joint family property only on account of existence of a joint Hindu family. The one who asserts has to prove that the property is a joint family property. If, however, the person so asserting proves that there was nucleus with which the joint family property could be acquired, there would be presumption of the property being joint and the onus would shift on the person who claims it to be self-acquired property to prove that he purchased the property with his own funds and not out of joint family nucleus that was available : See D.S.Lakshmaiah and Another¹, the same view is followed in Makhan Singh².

29.2. Section 101 of the Evidence Act has clearly laid down that the burden of proving a fact always lies upon the person who asserts the fact. Until such burden is discharged, the other party is not required to be called upon to prove his case. The court has to examine as to whether the person upon whom the burden lies has been able to discharge his burden. Until he arrives at such conclusion, he cannot proceed on the basis of weakness of the other party : See Rangammal³.

30.1. In civil cases, sufficiency of evidence is determined by preponderance of probability, not solely by burden of proof : Maria Julieta Dsouza⁴.

30.2. It is a fundamental principle of the law of transfer of property that "no one can confer a better title than what he himself has" (nemo dat quod non habet). The appellant's sister did not have the power to sell the property to the vendors of the respondent. Therefore, the vendors of the respondent could not have derived any valid title to the property. If the vendors of the respondent themselves did not have any title, they had nothing to convey to the respondent, except perhaps the litigation : See Umadevi Nambiar⁵.

31. Ex.B5 are the bunch of photographs (18 in number) taken at the time of Sasti poorthi. Respondent No.1-plaintiff has gifted Flat No.101 in favour of her daughter-PW.1 under Ex.B14-Gift Deed, dated 31.07.2012. Exs.B8 and B17 are Chit Fund Pass Books of respondent No.1-plaintiff. The admissions made by PW.1 and PW.2 in their cross-examination is that Ex.A8-sale deed stands in the name of appellant No.1-defendant No.1 and he has paid the consideration, they also admitted that they have not filed any document to show that the schedule property is purchased from the joint funds. Appellant No.1 has obtained permission from Grampanchayat under Ex.B1 for construction of the house and he has obtained House building loan for carrying out repairs and the loan amount is cleared as per

Ex.B11. PW.2 has admitted in her cross-examination that she has not obtained any permission from her Department for contributing the amount to purchase the suit schedule property.

Ex.A8-sale deed dated 16.10.1978 goes to show that it is the appellant-defendant No.1 who purchased the property in his name by paying the sale consideration of Rs.7,500/-.

32. Ex.A6 is the certified copy of Gift Settlement Deed, dated 17.12.2012 and the suit was filed at the first instance on 21.01.2013. The learned trial Court wrongly arrived at a conclusion that Ex.A6 is hit by *lis pendence*. The said observation is perverse in view of the fact that Gift Deed came to be executed much prior to the filing of the suit and after disposal of the case under Ex.A5 by A.P. Human Rights Commission on 13.12.2012.

33. The observation of the learned trial Court that with a single person income it is difficult for DW.1 (appellant No.1) to maintain the family consisting of seven members including himself to provide education to four children, to contribute amounts to the chits is perverse as the learned trial Court has lost sight that respondent No.1-plaintiff, appellant No.1-defendant No.1 and Swarajya Lakshmi are all Government Employees.

34. Respondent No.1-plaintiff has failed to discharge initial burden cast on her that she has contributed amount to purchase the suit schedule property, no record is placed before the learned trial Court to show that respondent No.1-plaintiff has contributed the amount to purchase the suit schedule property and also contributed the amount for construction of ground + First and Second Floor. When the documents filed by the appellants-defendants goes to show that the suit schedule property is purchased by appellant No.1-defendant No.1 in his name, construction permission is also obtained by him under Ex.B1.

35. The learned trial Court has erred in arriving at a conclusion that the respondent No.1-plaintiff is entitled for partition of the suit schedule property and also gave a perverse finding holding that Ex.A6 is a void Gift Settlement Deed.

36. The decision cited by appellant counsel stated supra at para Nos.29.1 and 29.2 supports his contention that the respondent No.1-plaintiff failed to prove that she contributed amount while purchasing the suit schedule property. [P]

37. The decision cited by the respondent's counsel stated supra in Para Nos.30.1 & 30.2 are distinguishable from the facts of the

present case and thus the ratio of those cases would not apply to the case on hand.

38. The findings of the learned trial Court are perverse in view of the reasons stated supra and the admissions made by PW.1 and PW.2 which goes against their case and the judgment and decree of the learned trial Court is liable to be set aside and is accordingly set aside.

39. In the result, Appeal is allowed and the judgment and decree passed by the II Additional District Judge, Ranga Reddy District at L.B.Nagar, Hyderabad in OS.No.1226 of 2013, dated 18.11.2019 is set aside, consequently the suit filed by respondent No.1-plaintiff is dismissed without costs.

Interim Orders if any stands vacated. Miscellaneous application/s stands closed.

B.R.MADHUSUDHAN RAO, J

30th January, 2026

PLV