

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 18517-18518 of 2017  
(Arising out of SLP(C) No(s).25311-25312 of 2017)

S. JOHN ISIDORE (DIED)  
THROUGH HIS LEGAL HEIRS

Appellant(s)

VERSUS

S. STEPHEN

Respondent(s)

O R D E R

(1) Leave granted. Claim of the plaintiff-appellants is based on document dated 31<sup>st</sup> October, 1990 which is claimed to be a family settlement, entitling the appellants to the title of the first floor of house in question.

(2) This claim has been rejected by the High Court as follows:

"10. The second source of title for the plaintiff is the document/Ex.A.3, which is nothing but an unregistered and unstamped partition deed and the consent letter alleged to have been executed by the defendant and others in favour of the plaintiff. The consent letter is disputed by the defendant on the ground it is a rank forgery. The unregistered and unstamped family arrangement, by which partition or conveyance is effected cannot be relied upon for any purpose and it is settled that such document will not confer any right in favour of the plaintiff to establish his title. Further Soosaiammal, the owner of the property is also a signatory. Hence, this document has to be treated

as a conveyance. Since this document is neither registered nor duly stamped, it cannot be relied upon even for a collateral purpose."

(3) The relevant portion of the said document dated 31<sup>st</sup> October, 1990 is as follows:

"That our ancestral family properties and the municipal tax assessment etc. are in the name of person 1 above. Age of person 1 above is 94 years. Therefore, we have decided to make a family arrangement in the presence of person 1 above and therefore, we all together have made the following arrangements.

That person 2 above Arokiamary is suffering from paralytiks and she is staying with our mother without getting married at the above mentioned address at door number 5. Persons 3, 4 and 5 are married and settled well with their husbands. Person 6 above is settled well in Pondicherry. The deceased Xiever who the another son of person 1 above who is not included in this settlement was given a vacant plot on the east of the under described house and he has constructed a house at his own responsibility and is residing there. Person 7 John C Isidore is residing in the under described house with person 1 above from the time of our father.

Our joint decision are; that person 7 above John C Isidore shall get the under described house etc. with all exclusive and independent rights. Person 1 above and person 2 above shall have the right to reside in the under described house till their life time. They do not have any right or title or interest.

Person 7 above John C. Isidore shall have to meet

the funeral expenses of persons 1 and 2 above. Further person 7 above John C. Isidore has paid a sum of Rs.7000/- to each of us and we have received the same. Therefore, neither they nor their legal heirs or successors have any right or title in the above described property.

Other parties give their consent to John C. Isidore to transfer the municipality tax assessment etc. in his name. The original of this agreement shall be in possession of person 7 above John C. Isidore. This is the family arrangement executed with our whole consent."

(4) The above document was preceded by another document dated 2<sup>nd</sup> September, 1981 which was duly signed by the respondent.

(5) We have heard learned counsel for the parties. We are of the view that the High Court was not justified in holding that the document was required to be registered and duly stamped for treating the same as a partition conveyance. The document was, in fact, in respect of ancestral property and was by way of a family arrangement which is so mentioned in the said document. In our opinion, the view taken by the High Court is not right. The order of the High Court is accordingly set aside.

(6) Having regard to the fact that the respondent is not only handicapped but also one of the family members of the appellants, by way of equitable consideration we direct that he be allowed to continue to live in the said property for one year and he will vacate the suit property after the expiry of one year but on receiving a sum of Rs.10,00,000/- (Rupees Ten Lakhs) which will be paid by the appellants in two equal

instalments i.e. Rs.5,00,000/- (Rupees Five Lakhs) within six months from today and the remaining Rs.5,00,000/- (Rupees Five Lakhs) at the time of handing over of possession of the suit property. The respondent will file an undertaking in this Court within four weeks from today that he will vacate the suit property within one year subject to his receiving the aforesaid amount. The undertaking will also indicate that he will neither alienate the suit property nor create any third party therein.

(7) If any issue relating to execution of the order arises the same may be decided by the Executing Court.

The appeals are accordingly disposed of.

.....J.  
(ADARSH KUMAR GOEL)

.....J.  
(UDAY UMESH LALIT)

New Delhi,  
November 13, 2017.

ITEM NO.28

COURT NO.11

SECTION XII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).25311-25312/2017

(Arising out of impugned final judgment and order dated 29-11-2016 in SAMD No. 280/2013 29-11-2016 in SAMD No. 281/2013 passed by the High Court Of Judicature At Madras At Madurai)

S. JOHN ISIDORE (DIED) THROUGH HIS LEGAL HEIRS & ORS.Petitioner(s)

VERSUS

S. STEPHEN

Respondent(s)

(With Interim Reilef and IA No.92223/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA No.92224/2017-EXEMPTION FROM FILING O.T. and IA No.111772/2017-EXEMPTION FROM FILING O.T. and IA No.117477/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

Date : 13-11-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL  
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Guru Krishna Kumar, Sr. Adv.  
Mr. G. Balaji, AOR  
Ms. Vaishali Jain, Adv.  
Mr. Divaker Anand, Adv.

For Respondent(s)

Mr. S. Mahendran, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

In terms of the signed order, the appeals are disposed of.

Pending applications, if any, shall also stand disposed  
of.

(MAHABIR SINGH)  
COURT MASTER

(PARVEEN KUMARI PASRICHA)  
COURT MASTER

(Signed order is placed on the file)