

**IN THE COURT OF THE II ADDITIONAL SUBORDINATE JUDGE
OF SALEM**

**PRESENT: Tmt.V. Priya, M.L.,
II Additional Subordinate Judge
SALEM**

FRIDAY THIS THE 24th DAY OF JULY – 2026

O.S.No.147 of 2018

{CNR NO.TNSA No.05-000202-2018}

1) Pappal (Died) (**)

2) Palaniammal

3) Kanaga

4) Madhaiyan

...Plaintiffs

//Vs.//

1) Lakshmi

2) Thangarasu

3) Poonkodi

4) Chellam

5) Shakthivel

6) Kanagaraju

7) Palaniyammal

8) Vennila

9) Saraswathi

10) Pappathi

11) Shanthi

12) Shanmugam

13) Madhammal

14) Saraswathi

- 15) Dhanalakshmi
- 16) Gunasekaran
- 17) Jayammal
- 18) Mariappan
- 19) Anandha gounder (Died)(***)
- 20) Arumugham (*)
- 21) Elumalai(*)
- 22) Kuppayee(***)
- 23) Kamala (***)
- 24) Saminathan(***)
- 25) Sekar (***)

...Defendants

(*) → Amended as per order passed in I.A.No.135/2020 dated:10.08.2021

() → Amended as per order passed in I.A.No.3/2024 dated:30.04.2024**

(*) → Amended as per order passed in I.A.No.3/2025 dated:10.10.2025**

This suit was taken on file of the Principal Subordinate Court, Salem on 15.03.2018 and made over to this court and came up before me for final hearing on 20.07.2026 in the presence of Tr.R.Thirunavukkarasu, Advocate for the plaintiff and though summon served upon the defendants D1 to D9, the defendants D1 to D9 never appeared before this court and hence they were called absent being set exparte on 13.04.2018 and Tr.C. Natarajan, Advocate for the Defendants D10 to D13 and filed memo they admits the suit claim and Tr.D.Rajasekaran, Advocate for the Defendants No.14 to D25 and upon perusing the materials available on records and upon hearing the arguments of respective counsels appearing for both parties and having stood over till this day for consideration and this court delivers the following:-

JUDGMENT

1. The Suit has been filed by the Plaintiff seeking for relief of Partition, directing the defendants to divide the suit properties into 5 equal shares and allot one such divided share to the plaintiffs; failing which appoint a commissioner to divide the suit properties as per the preliminary decree and pass a final decree on the application filed by the plaintiffs and granting such other and further reliefs that the plaintiffs are entitled to in the circumstances of the case and costs of the suit.

2. GIST OF THE PLAINT AVERMENTS IS AS FOLLOWS:-

2.1. The plaintiff's submits that the 1st plaintiff is the wife of Late. Arthanari Gounder. Plaintiffs 2 and 3 are the daughters of the late. Arthanari Gounder. The 4th plaintiff is Son of Late Arthanari Gounder and they are the legal heirs of late Arthanari Gounder. Late Arthanari Gounder purchased the suit properties through a registered sale deed dated:20.03.1972 (Doc.No.886/1972, Joint-III SRO, Salem) along with his elder brother Nainamalai gounder, younger brothers Kandasamy Gounder, Vadivel Gounder and Anandha Gounder. The plaintiff submit that of the five brothers only the youngest brother Anandha Gounder the 19th defendant herein is alive and all other 4 brothers are dead. During pendency of the suit the 19th defendant Anandha Gounder died on 02.07.2024 leaving behind the Defendant No.22, 23, 24 and 25 as his legal heirs. The plaintiff submit that they are the legal heirs of late Arthanari Gounder and they are jointly entitled to 1/5th share in the suit properties. The defendants 1 to 9 are the legal heirs of the Late Nainamalai gounder and they are all jointly entitled to 1/5th share in the suit properties. The defendants 10 to 13 are the legal heirs of Late Kandasamy gounder and they are jointly entitled to 1/5th share in the suit properties. Defendants 14 to 18 are

legal heirs of Late Vadivel gounder and they are jointly entitled to 1/5th share in the suit properties. The legal heirs of deceased 19th defendant is entitled to 1/5th share in the suit properties. During the pendency of the suit, the 1st plaintiff died and her legal heirs are already on record as plaintiffs 2 to 4.

2.2. The plaintiff submit that the defendants 20 and 21 have purchased specific portions of the suit property and hence they have been added as parties to the suit in order to have complete adjudication of the suit. All the legal heirs of the all the deceased brothers are enjoying the suit properties without any division by metes and bounds. There is no valid partition till date. The plaintiffs submit though the parties are enjoying portions of the suit property individually, it has become difficult to continue to do the agriculture without a partition by metes and bounds and the consequent change of Patta in their names. The plaintiffs submit that what is now enjoyed by the parties are only convenient enjoyment. The plaintiffs submit that all the parties are deemed to be in joint possession of the suit properties. The plaintiff submits that they find it difficult to enjoy the suit property as before since without partition and necessary changes in the revenue records they are unable to obtain loan or make any improvement in the suit properties. Last week on 25.12.2017 the plaintiffs requested all the defendants to effect a partition of the property. The plaintiffs submit that the defendants did not evince any interest to divide the suit properties by metes and bounds. Therefore, the plaintiffs have been constrained to approach this Court for the relief of partition and separate possession.

3. THE BRIEF AVERMENTS OF THE WRITTEN STATEMENT FILED BY THE 18th DEFENDANT AND ADOPTED BY THE DEFENDANTS 14 t 17 AND 19 to 25 ARE AS FOLLOWS:-

3.1. The suit is false, fraudulent and unsustainable in law and on facts. The plaintiffs who are the legal heirs of Arthanari gounder are not entitled to

1/5th share in the suit properties. The said Arthanari goudner's son Madhaiyan (4th Plaintiff) along with Arthanari gounder's four brothers namely Nainamalai gounder, Kandasami gounder, Vadivel gounder and Anandha gounder have sold portion of property to one Arumugham on 18-9-1989 by means of registered sale deed measuring 33 cents with specific boundaries and in the Well portion measuring 5 cents giving rights to 1/7 share in the Well and the 3 HP electric motor pump set. The said Arthanari goudner's son Madhaiyan (4th Plaintiff) along with Arthanari gounder's four brothers namely Nainamalai gounder, Kandasami gounder, Vadivel gounder and Anandha gounder have also sold portion of property to one Elumalai on 18-9-1989 by means of registered sale deed measuring 16 cents with specific boundaries and in the Well portion measuring 5 cents giving rights to 1/7 share in the Well and the 3 HP electric motor pump set. But the plaintiffs have not added said Arumugam and Elumalai who are also having shares in the suit property as per the sale deeds dated 18-9-1989.

3.2. The total extent of suit property is 8 acre 90 cents. In these 8 acres 90 cents the plaintiffs 2 to 4's father and 1st plaintiff's husband namely Arthanari gounder is entitled 1/5th share measuring 1 acre 78 cents. After deducting 1/5th share sold by 4th plaintiff measuring 9.8 cents, the plaintiffs are entitled only 1 acre 68 cents. Earlier to this above sale deeds the said Arthanari gounder along with his other three brothers namely Nainamalai gounder, Kandasamy gounder, Vadivel gounder jointly sold 48.5 cents of land in S.No.183 in the suit property to the 19th defendant Andandha gounder by means of registered sale deed dated 23-4-1981. On the same date of 23-4-1981 the said Arthanari gounder along with this other three brothers namely Nainamali gounder, Kandasamy gounder, Andandha gounder jointly sold 50.5 cents of land in S.No.183 to Vaivel gounder. Vadivel gounder legal heirs are defendants 14 to 18. As per the two sale deeds dated 23-4-1981 the said Arthanari gounder sold 24.75 cents of land. After

deducting this land of 24.75 cents in the land as stated above measuring 1 acre 68 cents of land, the remaining land is measuring 1 acre 43 $\frac{1}{4}$ cents of land. Therefore the plaintiffs are entitled only to 1 acre 43 $\frac{1}{4}$ cents of land alone.

3.3. The said Arthanari gounder's brother Vadivel gounder has purchased 1/3rd share out of 1 acre which is measuring 33.33 cents of land in the suit property by means of a registered sale deed dated 12-11-1973 from Kandasamy and his family members. Again on 16-9-1984 Vadivel gounder has purchased 47 $\frac{1}{2}$ cents of land in S.No.183 from the said Kandasamy by means of registered sale deed. On 23-4-1981 the said Vadivel gounder has purchased 50 $\frac{1}{2}$ cents of land in S.No.183 from his brothers namely Nainamali gounder, Arthanari gounder, Kandasamy gounder and Anandha gounder. On 18-2-1985 the said Vadivel gounder has purchased 25 cents of land in S.No.183 from his brother Nainamalai. The said Vadivel gounder is entitled to 1.78 acres of land in the suit property as per the sale deed dated 20-3-1972 towards his 1/5th share. In this the said Vadivel gounder jointly sold along with his brothers 22 cents of land, the remaining land is measuring 1 acre 56 cents. The property purchased by Vadivel gounder is 1 acre 53 cents. Therefore the said Vadivel gounder is entitled 3 acres 9 cents of land. The said Vadivel gounder died leaving behind him the defendants 14 to 18 as his legal heirs. Therefore the defendants 14 to 18 are entitled 3 acres 9 cents in the suit property.

3.4. The said Arthanari gounder's another brother Anandha gounder (19th Defendant) has purchased 1/3rd share out of 1 acre which is measuring 33.33 cents of land in the suit property by means of a registered sale deed dated 12-11-1973 from Kandasamy and his family members. Again on 9-7-1986 Anandha gounder (19th Defendant) has purchased 20 cents of land in S.No.183 from the said Kandasamy by means of registered sale deed. On 23-4-1981 Anandha

gounder (19th defendant) has purchased 48 $\frac{1}{2}$ cents of land in S.No.183 from his brothers namely Nainamali gounder, Arthanari gounder, Kandasamy gounder and Vadivel gounder. On 18-2-1985 Anandha gounder (19th defendant) has purchased 61 cents in S.No.183 from his brother Nainamalai gounder. Anandha gounder is entitled to 1.78 acres of land in the suit property as per the sale deed dated 20-3-1972 towards his $\frac{1}{5}$ th share. In this Anandha gounder jointly sold along with his brothers 22 $\frac{3}{4}$ cents of land, the remaining land is measuring 1 acre 55 $\frac{1}{4}$ cents. The total land purchased by Anandha gounder is 1 acre 63 cents. Therefore the Anandha gounder is entitled to 3 acres 18 $\frac{1}{4}$ cents of land. Therefore it is false to allege that the defendants 14 to 18 who are the legal heirs of Vadivel gounder is entitled $\frac{1}{5}$ th share only in the suit property which measuring 1 acre 78 cents. Whereas as per the purchase stated above by the Vadivel gounder, the defendants 14 to 18 are entitled to 3 acres 9 cents of land in the suit property. Likewise it is also false to allege that Anandha gounder 19th defendant is entitled only $\frac{1}{5}$ th share in the suit property measuring 1.78 cents of land. Whereas, as per the purchase stated above the Anandha gounder the 19th defendant is entitled to 3 acres 18 $\frac{1}{4}$ cents of land in the suit property.

3.5. The respective shares are enjoying the property as per their share and also the land purchased by them separately with specific boundaries. But there is no division by metes and bounds. Therefore it was decided to execute a regular partition deed between the shares and for that purpose land was measured four years back. Since the Ardhanari gounder was sold some properties, the plaintiffs being the legal heirs are entitled only to an extent 1 acre 43 $\frac{1}{4}$ cents of land alone in the suit property. But the plaintiffs were falsely claiming $\frac{1}{5}$ th share in the suit property and not cooperated for executing the partition deed. The said Kandasamy gounder has also sold his entire $\frac{1}{5}$ th share in the suit property. Therefore the defendants 10 to 13 have no share in the suit property. The said

Nainamalai gounder has also sold 95 ½ cents of land out of his 1/5th share in the suit property. After deducting the land belonged to plaintiffs and defendants 14 to 19 the defendants 1 to 9 are entitled to the remaining lands in the suit property.

3.6. It is false to allege that on 25-12-2017 the plaintiffs requested all the defendants to effect a partition of the property and the defendants did not evince any interest to divide the suit property by metes and bounds. The plaintiffs have suppressed the real facts and come forward with this suit on false allegations. There is no cause of action for the suit and the cause of actions stated in the plaint are all false. The plaintiffs have suppressed the real facts and come forwarded with false case to get unlawful gain.

4. Based on the pleadings and documents, the following issues were framed for trial on 12.10.2018:-

ISSUES:-

1.	<i>Whether the plaintiffs and defendants are in joint possession of suit properties?</i>
2.	<i>Whether the suit is bad for non joinder of parties?</i>
3.	<i>Whether the plaintiffs are entitled to preliminary decree for partition as prayed?</i>
4.	<i>To what other relives the parties are entitled to?</i>

5. In order to substantiate the case of the plaintiff, the 4th plaintiff was examined himself as PW.1 and Ex.A1 and Ex.A2 were marked on his side. On the side of the defendants, the 24th defendant was examined as DW1 and Ex.B1 to Ex.B10 were marked, with this both side evidence were closed.

6. ARGUMENTS:-

6.1. The learned counsel for the plaintiff argued that 1 to 4 plaintiffs are the legal heirs of one late Arthanari Gounder as the wife, daughters, and the son. Arthanari Gounder purchased the suit properties through the registered sale deed dated 20.03.1972 along with his elder brother Nainamalai Gounder and his younger brothers Kandasamy Gounder, Vadivel Gounder, and Ananda Gounder. It is also submitted that only the youngest brother, the Ananda Gounder, 19th defendant, is alive and all other brothers are died. During the pendency of the suit, the 19th defendant Ananda Gounder died on 02.07.2024 leaving behind the defendants 22 to 24 as his legal heirs. All the plaintiffs as legal heirs of Arthanari Gounder and the brothers of Arthanari Gounder and their legal heirs jointly enjoyed their share of 1/5th each. The defendants 1 to 9 are legal heirs of late Nainamalai Gounder. Defendants 10 to 13 are legal heirs of late Kandasamy Gounder. 14 to 18 are the legal heirs of late Vadivel Gounder. Legal heirs of 19 are defendants 22 to 25, and they all jointly enjoyed 1/5th share each. It is also pleaded by the plaintiff that the defendants 20 and 21 have purchased specific portions of the property and hence they have been added as parties to the suit. The legal heirs of all the deceased brothers are enjoying the suit properties without division by metes and bounds. There is no valid partition till date. Hence, on 25.12.2017, the plaintiff requested the defendants to effect the partition. The plaintiff submits that the defendant did not evince any interest to divide the suit property by metes and bounds and hence, he has approached this court for the relief of partition. Thus, the plaintiff prays the Honorable Court to pass a decree directing the defendants to divide the suit property into five equal shares and allot one such divided share to the plaintiff, and for other reliefs.

6.2. The learned counsel for the plaintiff argued that as far as the defendants are concerned, 1 to 9 defendants have been set ex-parte. 10 to 13

defendants have admitted for the partition and they have filed the required court fee before this court. As far as the defendants 14 to 25 are concerned, they have filed the written statement stating that the legal heirs of the Ardhanari Gounder are not entitled to 1/5th share in these suit properties. The Ardhanari Gounder's son Madhaiyan and fourth plaintiff, along with Ardhanari Gounder's four other brothers namely Nainamalai Gounder, Kandasamy Gounder, Vadivel Gounder, and Ananda Gounder had sold portion of the property to one Arumugam in 18.9.1989 by means of the registered sale deed measuring 33 cents and a well portion measuring 5 cents giving rights to 1/7th share in the well and the 3 HP motor pump set and they have also sold one portion of the property to one Elumalai on the same day 18.9.1989 by means of a registered sale deed measuring 16 cents with specific boundaries in the well portion measuring 5 cents giving rights to 1/7th share and 3 HP motor. And they pleaded that the Arumugam and Elumalai, having share in the suit property, are not added as the suit property. The total extent of the suit property is 8 acres 90 cents. Each brothers Ardhanari Gounder, Nainamalai Gounder, Kandasamy Gounder, Vadivel Gounder, Ananda Gounder each were entitled to 1 acre 78 cents. After deducting the sold portion of the property by the fourth plaintiff measuring 9.8 cents, the plaintiffs are entitled only to 1 acre 68 cents. On 23.04.1981, the Ardhanari Gounder along with his other three brothers Nainamalai Gounder, Kandasamy Gounder, Vadivel Gounder jointly sold 48.5 cents in S.No.183 to the 19th defendant Ananda Gounder. And on the same day, Ardhanari Gounder along with his three brothers namely Nainamalai Gounder, Kandasamy Gounder, Ananda Gounder jointly sold 50.5 cents to Vadivel Gounder. As per the two sale deeds, the Ardhanari Gounder had sold 24.75 cents of land. So after deducting the land of 24.75 cents in the land in the land of 1 acre 68 cents, the remaining is measured as 1 acre 43 1/4 cents of land. Thus, the plaintiffs are entitled to only 1 acre and 43 1/4 cents of land. The Vadivel Gounder had purchased 1/3 share out

of 1 acre, measuring 33.33 cents of land in the suit property by way of registered sale deed dated 12.11.1973 from Kandasamy and his family. Again on 16.09.1984, Vadivel Gounder purchased $47 \frac{1}{2}$ cents in S.No.183 from Kandasamy. On 23.04.1981, Vadivel purchased $50 \frac{1}{2}$ cents of land in S.No.183 from his brothers, namely Nainamalai Gounder, Ardhanari Gounder, Kandasamy Gounder, Ananda Gounder. On 18.02.1985, Vadivel Gounder also purchased 25 cents of land in S.No.183 from his brother Nainamalai. Thus, Vadivel Gounder is entitled to 1.78 acres of land. Then, Vadivel Gounder jointly sold along with his brothers 22 cents. The remaining land is measuring 1 acre 58 cents. The property purchased by Vadivel Gounder is 1 acre 53 cents. Therefore, the said Vadivel Gounder is entitled to 3 acres and 9 cents of land. The defendants 14 to 18 are the legal heirs of the Vadivel Gounder, and they are entitled to 3 acres 9 cents in the suit property. The Ardhanari Gounder's another brother, Ananda Gounder had purchased $\frac{1}{3}$ share out of 1 acre, measuring 33.33 cents of land in the suit property by means of registered sale deed dated 12.11.1973 from Kandasamy and his family. Again on 09.07.1986, Ananda Gounder purchased 20 cents of land in S.No.183 from Kandasamy by means of registered sale deed. On 23.04.1981, Ananda Gounder purchased $48 \frac{1}{2}$ cents in survey number 183 from his brothers, namely Nainamalai Gounder, Ardhanari Gounder, Kandasamy Gounder and Vadivel Gounder. On 18.02.1985, Ananda Gounder purchased another 61 cents in S.No.183 from his brother Nainamalai Gounder. Thus, he is entitled to 1.78 acres of land in the suit property. Then, Ananda Gounder jointly sold along with his brother $22 \frac{3}{4}$ cents of land. The remaining land is measured is 1 acre $55 \frac{1}{4}$ cents. The total land purchased by Ananda Gounder is 1 acre 63 cents. Thus, the Ananda Gounder is entitled through 3 acres and $18 \frac{1}{4}$ cents of land. Thus, the legal heirs of Vadivel Gounder is entitled to $\frac{1}{5}$ th share alone in the suit property is false and they are entitled to 3 acres and 9 cents. Similarly, legal heirs of Ananda Gounder are entitled to 3 acres $18 \frac{1}{4}$ cents in the land.

Since Ardhanari Gounder sold some properties, the plaintiffs, being the legal heirs, are entitled to an extent only 1 acre 43 $\frac{1}{4}$ cents of land. But claiming 1/5th share in the suit property were false. It is also pleaded by the defendants that defendants 10 to 13 have no 1/5th share in the suit property and they are entitled to only the remaining lands in the suit property. Thus, the plaintiffs are not entitled to the relief of partition as prayed for by their by them.

7) ISSUES No. 1 to 3:-

1.	<i>Whether the plaintiffs and defendants are in joint possession of suit properties?</i>
2.	<i>Whether the suit is bad for non joinder of parties?</i>
3.	<i>Whether the plaintiffs are entitled to preliminary decree for partition as prayed?</i>

7.1. On the side of the plaintiff, PW1 the 4th fourth plaintiff have been examined as PW1. On the side of the defendant, the 24th defendant had been examined as DW1. On the side of the plaintiff, Ex.A1 to Ex.A2 marked, and the defendant had marked Ex.B1 to Ex.B10.

7.2. On perusing the records, it is found that the relationship between the plaintiff and the defendants are all admitted and it is also admitted that the plaintiff's father, Arthanari Gounder, along with his four brothers namely Nainamalai Gounder, Kandasamy Gounder, Anandha Gounder, Vadivel Gounder have jointly purchased a total extent of 8 acre 90 cents in various survey numbers in the year of 1972 by way of the parent deed dated 20.03.1972. And each brothers were entitled to 1 acre 78 cents and they were enjoying it without any division by metes and bounds. It is also admitted that several transaction took place between their family and to 3rd parties i.e., to D20, D21. It is also

admitted by the plaintiffs and the defendants that they are enjoying the remaining portion of the suit property without partition as per their share.

7.3. Now, it is for the court to decide whether the plaintiff is entitled to the relief as claimed for i.e., 1/5th share in the total suit property. On perusing the Ex.A1, Ex.A2, it is proved that the plaintiffs' father, Arthanari Gounder, along with his brother, four brothers, had purchased jointly suit property in the year of 20.03.1972, which is to the total extent of 8 acre 90 cents, and it is being admitted by both the plaintiffs and the defendants. As per Exhibit A2, it is proved that with regard to the survey numbers in Ex.A1 all the 1 to 5 brothers, including the plaintiffs' father and the defendants' father and their brothers are all entitled to each 1/5th share. On perusing the exhibits of the defendant side, Ex.B1 is the sale deed dated 12.11.1973 executed by Kandasamy Gounder, his wife Muniyammal, and his minor son Shanmugam in favor of Vadivel Gounder. Ex.B2, is the sale deed dated 23.04.1981, it is proved that Nainamalai Gounder, Arthanari Gounder, Kandasamy Gounder, and Aanandhan Gounder had sold some properties to Vadivel Gounder. Ex.B3 proves that sale deed dated 16/9/1984, that the Kandasamy Gounder had sold some of his property to Vadivel Gounder. As per Ex.B4, sale deed dated 18/2/1985, the Vadivel Gounder has sold certain properties to Nainamalai Gounder. As per Ex.B5, the sale deed dated 12/11/73, Kandasamy Gounder and his wife Muniyammal and minor son Shanmugam had sold some of his some of their properties to Aanandhan Gounder. As per Exhibit B6, sale deed dated 23/4/1981, Nainamalai Gounder, Arthanari Gounder, Kandasamy Gounder, Vadivel Gounder had sold some of their properties to jointly to Aanandhan Gounder. Ex.B7 shows that a sale deed dated 18/2/85, Nainamalai Gounder had sold certain properties to Aanandha Gounder. As per Ex.B8, the sale deed dated 9/7/86, the Kandasamy Gounder had sold certain properties to the Aanandhan. As per Ex.B9, sale deed dated 18/9/89,

the Nainamalai Gounder, Kandasamy Gounder, Vadivel Gounder and Aanandhan Gounder, as Arthanari Gounder is no more, his son Madhaiyan had sold some of their properties jointly to one Arumugam, son of Palani. On the same date, as per Exhibit B10, all the brothers, Nainamalai Gounder, Kandasamy Gounder, Vadivel Gounder, Aanandhan Gounder, and the fourth plaintiff, the son of Arthanari Gounder, Madhaiyan, had sold jointly sold some of the properties to Elumalai. Thus, it is proved that the total extent is 8 acre 90 cents, and out of 8 acre 90 cents, several sale deed have been created and during the filing of the suit, the subsequent purchaser have not been impleaded and after the amendment both the subsequent purchasers Arumugam and Elumalai, have been impleaded as the suit property, i.e., defendants 20 and 21.

7.2. Now, the court is to decide whether the sale is true and valid, and the sale is binding on the plaintiffs and defendants, and how the property is to be divided between the parties. On perusing the evidence of the PW1, he categorically deposed that “தங்களுடைய அப்பாவுடன் பிறந்தவர்கள் எத்தனை பேர் என்றால் அப்பாவுடன் சேர்த்து 5 பேர். தங்களுடைய அப்பாவுடன் பிறந்தவர்கள் நைனாமலை கவுண்டர், கந்தசாமி கவுண்டர், வடிவேல் கவுண்டர், ஆனந்த கவுண்டர் என்றால் சரிதான். 18.09.1989 ல் தாங்களும் மேற்படி 4 பேரும் சேர்ந்து 20 ம் பிரதிவாதி ஆறுமுகத்திற்கு 33 செண்ட் விற்றீர்கள் என்றால் ஆமாம். தாங்களும் அதில் கையொப்பம் செய்துள்ளீர்கள் என்றால் சரிதான். தற்போது வரை அவர் தான் அந்த இடத்தை அனுபவித்து வருகிறார் என்றால் சரிதான். தற்போது வரை அவர் தான் அந்த இடத்தை அனுபவித்து வருகிறார் என்றால் சரிதான். 23.04.1981 ல் தங்களுடைய அப்பா மற்றும் மற்ற 3 சகோதரர்கள் சேர்ந்து 19ம் பிரதிவாதி ஆனந்த கவுண்டருக்கு 55.50 செண்ட் விற்பனை செய்தார்களா என்றால் விற்பனை செய்துள்ளார்கள். ஆனந்த கவுண்டர் விலைக்கு வாங்கிய சொத்தை அவருக்கு பிரிக்கப்பட்ட மற்ற சொத்துக்களுடன் சேர்ந்து அனுபவித்து வருகிறார் என்றால் சரிதான். 12.11.1973 ல் வடிவேல் கவுண்டர் என்பவர் கந்தசாமி கவுண்டரிடம் ஒரு சொத்தை விலைக்கு வாங்கியுள்ளார் என்றால் சரிதான். வடிவேல் கவுண்டர்

என்பவர் 23.04.1981 ல் என் தகப்பனார் அர்த்தனாரி கவுண்டர், அவரது சகோதரர்கள் நைனாமலை கவுண்டர், கந்தசாமி கவுண்டர், ஆனந்த கவுண்டர் ஆகியோரிடம் 55.50 சென்ட் நிலத்தை விலைக்கு வாங்கியுள்ளார் என்றால் சரிதான். 18.02.1985 ல் வடிவேல் கவுண்டர், நைனாமலை கவுண்டரிடமிருந்து 25 சென்ட் நிலத்தை விலைக்கு வாங்கியுள்ளார் என்றால் சரிதான். ஆனந்த கவுண்டர் 12.11.1973 ல் கந்தசாமி கவுண்டர் மற்றும் அவரது வாரிசுகளிடமிருந்து ஆனந்த கவுண்டர் 33.33 சென்ட் நிலத்தை 20 சென்ட் நிலத்தை கந்தசாமி கவுண்டரிடமிருந்து வாங்கியுள்ளார் என்றால் சரிதான். 1973 முதல் 1989 வரை 10 கிரையம் நடந்துள்ளது என கூறியுள்ளது சம்பந்தமாக பத்திரம் வாங்கி பார்த்துள்ளீர்கள் என்றால் சரிதான். எத்தனை கிரையங்கள் நடந்துள்ளது எவ்வளவு நிலம் சம்பந்தமாக நடந்துள்ளது என்ற விபரங்களை அட்டவணையாக தங்களுடைய பிரமாண வாக்குமூலத்தில் குறிப்பிட்டுள்ளீர்கள் என்றால் சரிதான். எங்களுக்கு உரிய பாகத்தை எந்த பக்கம் கொடுத்தாலும் வாங்க தயாராக உள்ளோம், ஒரே பக்கமாக ஒதுக்கி தர கேட்கிறேன். தங்களுடைய அப்பா விற்பது போக மீதமுள்ள பாகம் தங்களுக்கு ஒதுக்கப்பட வேண்டும் என்றால் சரிதான். ”. It is revealed that the PW1 admits the relationship and the sale executed by the 4th plaintiff along with other brothers of his father to the 20th defendant Arumugam and Elumalai by way of Sale deed dated:18.09.1989 i.e., 33 cents. And that portion is in the possession of the 20th and 21st defendant till today and on 23.04.1981 plaintiff father along with three brothers had sold 55.50 cents to the 19th defendant Anandha gounder and now he is enjoying this purchased property along with his share in the property. It is also admitted by the plaintiff that on 12.11.1973 Kandasamy gounder had sold a certain portion of property to Vadivel gounder. On 18.02.1985 Vadivel gounder had purchased 25 cents from Nainamalai gounder. On 09.07.1986 Anandha gounder had purchased 20 cents of land from Kandhasamy gounder and it is admitted the sale executed from 1973 to 1989. He also deposed that he is ready to receive the share in the suit property at any direction. He also admits that they are entitled to the share in the

suit property excluding the portion sold by his father. On perusing the deposition of DW1, he categorically deposed that, “வாதி யார் யாருக்கு எவ்வளவு நிலம் வரும் என குறிப்பிடப்பட்டுள்ளது சரியா என்றால் சரிதான். 20, 21 பிரதிவாதிகள் ஆறுமுகம், ஏழுமலை ஆகிய இருவருக்கும் தாங்கள் அனைவரும் விற்ற நிலம் போக மீதி உள்ள நிலத்தை தான் பாகம் பிரித்துக்கொள்ள வேண்டும் என்றால் சரிதான். தங்கள் நிலத்திற்கு கிழக்கு பக்கம் தென்வடலாக ஒரு தார் ரோடு செல்கிறது என்றால் சரிதான். தங்கள் நிலத்திற்கு மத்தியில் மேற்படி தார் ரோட்டிலிருந்து பிரிந்து ஒரு வண்டி தடம் செல்கிறது என்றால் சரிதான். தாங்கள் அனைவரும் சரியான வழித்தடம் இல்லாமல் ஒவ்வொருவரும் அவர்கள் கிரையம் பெற்ற விதத்தில் அந்த அளவுகளில் அனுபவித்து வருகிறீர்கள் என்றால் சரிதான். மேற்படி அனைவருக்கும் வழித்தடம் மற்றும் மற்ற வசதிகளுடன் பிரித்துக்கொள்வதற்கு தங்களுக்கு ஆட்சேபனை இல்லை என்றால் சரிதான்.”.

7.4. It is observed that the certain portion of the suit property were sold to the 3rd party ie., 20th and 21st defendant and now the rest of the portion alone is for partition and he also admits that with regard to the portions enjoyed by the defendants and plaintiffs, they do not have a proper pathway and hence to partition the property by providing pathway and other facilities is admitted by the defendants. Thus on perusing the Ex.A1 it is proved that the plaintiff's father and his 4 other brothers have jointly purchased the suit properties in the year of 20.03.1973 to the extent of 8 acres 90 cents out of which several transactions had been already done and it is admitted by both the plaintiffs and defendants. As per Ex.B9 and Ex.B10 certain portion of the suit property had been sold to the 20th and 21st defendant and all other transactions are within their family. So the suit property excluding the portion sold to the D20 and D21 is entitled for the partition as per the evidence and the documents with regard to the remaining property several sale transactions had been done within their family and almost Vadivel gounder and Anandha gounder had purchased the major portion of the suit property. The PW1 in his deposition had mentioned a tabular coloumn with

regard to the suit property the Defendants counsel had also admitted that the plaintiff and defendants are entitled to the portion of the suit property excluding the transactions done in the suit property. Thus the plaintiff is entitled to the relief of partition but the share with regard to the partition would be done only based on the availability of the extent the sold portion of the suit property to each and every one excluding and including the purchased portion. Thus the plaintiffs are entitled to the partition of the share excluding a portion sold by their father with regard to their share in 1.78 acres in the suit property and thus with regard to the Defendants No.10 to 13 they have paid their court fee with respect to their share thus they are entitled to the share in the suit property excluding the portion of the property sold by their father Kandasamy gounder ie., from their share of 1.78 acres in the suit property and with regard to the defendants 14 to 19 and 22 to 25 they have admitted for the share in the suit property including the property purchased by their father Vadivel gounder and Anandha gounder in addition to their share of 1.78 acres in the suit property. Thus these issues are answered accordingly.

8) ISSUE No.4:-

4.	<i>To what other relives the parties are entitled to?</i>
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8.1. Since already it is decided that the plaintiff is entitled to main relief of partition and this court is inclined to hold that the plaintiff is not entitled to any other relief and accordingly issue no.4 is decided against the plaintiff.

9) In the result, the suit is decreed without costs.

1) Preliminary decree of partition is passed that the plaintiffs are entitled to the portion of the share excluding the portion sold by their father Arthanari gounder from their share of 1.78 acres in the suit property.

2) Further that the defendants 10 to 13 entitled to get the share in the suit property excluding the portion of the suit property sold by their father Kandasamy gounder from their share of 1.78 acres in the suit property, as the defendants 10 to 13 paid Court fee for their shares.

Judgment is dictated to the Steno-Typist and transcribed and typed by her in computer and taken print out and after rectification of mistake, Pronounced by me in open court, this the 24th day of July 2026.

**II Additional Subordinate Judge,
Salem.**

Plaintiff side witness:-

PW1 - Tr. Madhaiyan, S/o.Kannan – 4th plaintiff

Plaintiff side Exhibits:-

(Ex.A1 and Ex.A2 were marked)

Ex.No.	Date	Particulars	Remarks
Ex.A1	20.03.1972	Sale Deed in the name of Nainanmalai and 4 others	Certified copy
Ex. A2	12.05.2017	Certificate issued by the Village Administrative Office, Inam Poolaveri Agraharam	Original

Defendants side witness :-

DW1 - Tr. Saminathan, S/o.Anandha gounder – 24th defendant

Defendants side and documents:-

Ex.No.	Date	Particulars	Remarks
Ex.B1	12.11.1973	Sale Deed in the name of Vadivel Gounder (D.No.3433/1973)	Certified copy
Ex.B2	22.04.1981	Sale Deed in the name of Vadivel gounder (D.No.1787/1981)	Certified copy

Ex.B3	16.09.1984	Sale Deed in the name of Vadivel Gounder (D.No.983/1984)	Certified copy
Ex.B4	18.02.1985	Sale Deed in the name of Vadivel gounder (D.No.167/1985)	Certified copy
Ex.B5	12.11.1973	Sale Deed in the name of Anandha gounder (D.No.3434/1973)	Certified copy
Ex.B6	23.04.1981	Sale Deed in the name of Anandha Gounder (D.No.1788/1981)	Certified copy
Ex.B7	18.02.1985	Sale Deed in the name of Anandha Gounder (D.No.169/1985)	Certified copy
Ex.B8	09.07.1986	Sale Deed in the name of Anandha Gounder (D.No.860/1986)	Certified copy
Ex.B9	18.09.1989	Sale Deed in the name of 20 th Defendant Arumugam (D.No.966/1989)	Certified copy
Ex.B10	18.09.1989	Sale Deed in the name of 21 st Defendant Elumalai (D.No.967/1989)	Certified copy

**II Additional Subordinate Judge,
Salem.**

(AFT) DRAFT/FAIR JUDGMENT

O.S.No.147/2018

DT.:24.07.2026

II ASJ, SALEM
