

IN THE COURT OF THE MUNSIFF OF CHITTUR

Present :- Smt.Shiny.M.S., Munsiff, Chittur
Tuesday the 31st day of March, 2026
10th day of Chaithra, 1948 S.E.

ORIGINAL SUIT No: 424/2014

Kalimuthu, aged 40 years, S/o.Rathinasamy, : Plaintiff
Perumbarachalla, Valiyavallampathy Village,
Chittur Taluk.

Vs.

1. Rathinaswamy, aged 67 years, : Defendants
S/o.Ramaswamy Kavunder, Perumbarachalla,
Valiyavallampathy Village, Chittur Taluk.
2. Kaliyamma, aged 70 years, W/o.Late Veluchami,
Perumbarachalla, Valiyavallampathy Village,
Chittur Taluk
3. Rugmani, aged 55 years, D/o.Late Veluchami,
Perumbarachalla, Valiyavallampathy Village,
Chittur Taluk.
4. Santhi, aged 45 years, D/o.Late Veluchami,
Perumbarachalla, Valiyavallampathy Village,
Chittur Taluk.
5. Vallinayakam, aged 40 years, W/o.Late
Radhakrishnan, Perumbarachalla,
Valiyavallampathy Village,
Chittur Taluk.
6. Sivadharani, aged 20 years,
D/o.Late Radhakrishnan, Perumbarachalla,
Valiyavallampathy Village,
Chittur Taluk.

7. Vishnu, aged 18 years, S/o.Late Radhakrishnan, : Defendants
Perumbarachalla, Valiyavallampathy Village,
Chittur Taluk.
8. Periyamayakam, aged 65 years, W/o.Late Kalimuthu,
Perumbarachalla, Valiyavallampathy Village,
Chittur Taluk.
9. Kala, aged 50 years, D/o.Late Kalimuthu,
Perumbarachalla, Valiyavallampathy Village,
Chittur Taluk.
10. Jagadheesh, aged 45 years, S/o.Late Kalimuthu,
Perumbarachalla, Valiyavallampathy Village,
Chittur Taluk.
11. Annalakshmi, aged 40 years, D/o.Late Kalimuthu,
Perumbarachalla, Valiyavallampathy Village,
Chittur Taluk.
12. Dharmmalingam, aged 70 years,
S/o.Ramaswamy Kovunder, Perumbarachalla,
Valiyavallampathy Village, Chittur Taluk.
13. Ramesh, aged 38 years, S/o.Dharmmalingam,
Perumbarachalla, Valiyavallampathy Village,
Chittur Taluk.
14. Geetha, aged 33 years, D/o.Dharmmalingam,
Perumbarachalla, Valiyavallampathy Village,
Chittur Taluk.
- Suppl.P15
15. Rajamani, aged about 60 years, W/o.Rathinaswamy,
Perumbarachalla, Valiyavallampathy Village,
Chittur Taluk.
- Suppl.p15 impleaded as per order in IA5/2016 dated
24.02.2016.

This suit is coming on this day for hearing before me in the presence of Sri.John John, Advocate for the plaintiff and Defendant called absent and set exparte and the court delivered the following:-

J U D G M E N T

Suit is one for partition.

2. Plaintiff averments in brief are as follows :- The plaintiff schedule properties belonged to the plaintiff's grandfather and grandmother Ramaswamy Kounder and Ramathal Koundachi @ Ramakkal Koundachi. They obtained verumbattam right over the property for the family and later obtained purchase certificate in their favour as Document No. 22/1972 from Chittur Block Development Office cum Land Tribunal for the family. This Ramathal Koundachi @ Ramakkal Koundachi died 15 years ago and Ramaswamy Kounder about 7 years ago. Both of them were holding the property for the family and paying tax and cultivating the lands for themselves and for behalf of the family. Veluchami, Kalimuthu, Dharmalingam, Rathanaswamy were their male children and Veluchami and Kalimuthu died. Veluchami's wife Kaliamma, children Rugmani, Shanti, Radhakrishnan and Gopalakrishnan were their children. Among them Radhakrishnan and Gopalakrishnan died and Radhakrishnan is having his wife Valli Nayakam, children Sivadharini and Vishnu and Gopalakrishnan died unmarried. The first defendant is the father of the plaintiff. Second defendant is the second defendant's wife Thangam died and legal heirs are defendant Nos.13 and 14. The plaintiff is having 1/8 share over the property. Defendant No.1 is having 1/8 share, 2 to 4 defendants are having 1/16 share, 5 to 7 defendants are having 1/32 share, 8 to 11 defendants are having 1/16 share and 12 to 14 defendants are having 1/12 share over the property. The profits were divided among the plaintiff's and defendants till the filing of the suit. The defendant demanded the partition of his 1/8 share over the property. He did not want to continue the joint possession. But the defendant somehow evaded and his share is not allotted. The plaintiff was later amended as the first defendant claims that a surrender deed was executed in favour of his wife Rajamani as 3114/2011. So she is impleaded as a party. So this suit is filed for partition.

3. The first defendant appeared and filed written statement. His contentions in brief are as follows:- The averment of the plaintiff that he is the son of the first defendant is incorrect. Actually his wife is Rajamani and they have a son named Nanda Gopal, aged 17 years. The second defendant is the wife of the first defendant's brother Veluchami and the third and fourth defendants are their children. Five to seven defendants are the wife and children of deceased son of Veluchami, Radakrishnan. 8th defendant is another brother's wife and another brother Kalimuthu's wife and 9 to 11 defendants are their children. 12th defendant is the defendant's brother and 13 and 14 are their children. He admitted that the plaint schedule properties belonged to his father and mother and they obtained purchase certificate over the property as per 22/1972. Both of them died. Veluchami's son died 15 years ago and Veluchami and Kalimuthu died about 25 years ago. The averment that the plaintiff is having 1/8 share allotment claimed by the plaintiff is without any basis. The plaint schedule properties has been settled in favour of the defendant No. 1 and his wife as per Document No. 712/1992 by Ramathal Koundachi @ Ramakkal Koundachi and Ramasamy counter. And this defendant had surrendered his share over the property in favour of his wife as per Document No. 3114/2011. So thus the property is in the absolute ownership of his wife Rajamani and in his possession. The remaining properties of the plaint schedule properties are assigned to the second defendant and second, eighth and tenth and twelfth defendant and the twelfth defendant's wife by various documents. Thus the properties are in their absolute possession and it has been assigned to strangers. At the time of the death of Ramaswami counter and Ramathal Koundachi @ Ramakkal Koundachi, no property were in the joint ownership or possession of them. So there is no joint property in joint possession. The defendant is not having any right over the property. Defendant is residing in the house constructed in the property of his wife. The plaintiff's mother and the defendant worked for some time while they were doing contract work. This plaintiff's mother had married one person at Tirupur. She falsely claims him as his wife and has filed M.C.76/2012 before

Judicial First Class Magistrate Court in order to grab the properties of this defendant. The suit is bad for non-joinder of necessary parties.

4. Based on the above averments, the following issues arose for consideration:-

(1) Whether the suit is bad for non-joinder of necessary parties?

(2) Whether the plaint schedule property is partible? If so, what are the quantum of shares to which the parties are entitled to ?

(3) Relief and costs?

5. Plaintiff was examined as PW1 and the Exhibits A1 to A5 were marked from his side.

Plaintiff's evidence closed.

6. Heard both sides.

7. Issue No. 1 and 2:- The case was listed for trial. Though the 1st defendant filed written statement, he was absent at the time when the case was listed and so they were called absent and set exparte. Defendant No. 2 to 7 and defendant No. 12 to defendant No. 14 appeared. But they failed to file any written statement. So only defendant No. 1 is the contesting defendant. He is exparte. Plaintiff gave evidence in tune with his averments in the plaint. According to him, as per the chief examination affidavit, the property was obtained as per verumbattam right to his grandfather and grandmother and later they obtained purchase certificate over the property and the property was in their joint possession for the family. And the legal heirs are made parties and he claims equal right along with his father over the property. There is no pleadings in the plaint as to how he claims right over the property along with his father. In his proof affidavit, he stated that the property is possessed by the family. But no document is produced to prove that aspect. The documents produced from the side of the plaintiff is Exhibit A1 is the certified copy of order in O.A.944/1970 of palakkad land tribunal, Exhibit A2 is the marriage certificate, Between Rathna Swamy and Eeshwari on 04.06.1973. Ext.A3 is the admission register Exhibit A4 is the birth certificate, which shows his date of birth as 17.08.1974. The Exhibit A5 is the order in MC No. 76/12 granting maintenance to

mother of plaintiff by the defendant No. 1. So all these documents would go to show that this Eeshwari was married to Rathnaswami and that negative defence taken by the first defendant that plaintiff's mother is not his legally wedded wife. However, his other contentions that he had obtained a settlement deed in his favour and that he had allotted his share in favour of his wife Rajamani are all stands disproved as he is set exparte and does not prove his defence. But however, for the plaintiff in order to claim right in the property, it should be clearly shown that the grandparents are having that the property is their ancestral property. The additional written statement filed by the defendant would go to show that it is the self-acquired property of the grandparents and that the same has been allotted to the first defendant. No documents is produced to prove that it is the ancestral property of the defendant. The only document produced along with the suit is a purchase certificate. That purchase certificate would only go to show that they have obtained per verumbattam right over the property and now they have obtained purchase certificate. So in order to claim right over the property, though the case is exparte, it is upon the plaintiff to show that the property is ancestral property and that he is entitled to a share over the property. It is also not stated whether any other grandchildren were born before 1976. So plaintiff failed to establish the case. Issues are found against the plaintiff. Suit ought to be dismissed.

8. **Issue No. 3** :- In answer to the above issues, the plaintiff is not entitled for the reliefs claimed in the suit. The defendant is also entitled to realize the costs of the suit from the plaintiff.

In the result, suit is dismissed with costs.

Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court on this the 31th day of March, 2026.

Munsiff

Plaintiff's Witness :

PW1 : Kalimuthu

Plaintiff's Exhibits :

A1 15.01.1972 : Copy of Order in O.A.944/1970 of Land tribunal, Chittur.
A2 22.08.2011 : Marriage Certificate

A3 -- : Extract of Admission Register.
A4 -- : Birth Certificate of Kalimuthu.
A5 28.10.2019 : Copy of Order in M.C 76/2012 of Judicial First Class
 Magistrate, Chittur.

Defendant's Witness & Exhibits : Nil

Munsiff

Typed by : Dhanya.P.V
Compared by : Dhanalakshmi

Fair / Copy of Judgment in
O.S.No.424/2014
Dated : 31.03.2026

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