

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF, JAYANKONDAM.
ARIYALUR DISTRICT**

Present: Tmt.S.Dhanalakshmi, B.A., M.L.,
Principal District Munsif,
Jayankondam.

On Monday, the 24th day of August 2026

Original Suit No.153/2022
(CNR.No.TNAL05-000176-2022)

1. Uthradam @ Anjalai
2. Chinnapillai
3. Maruthayi

...Plaintiffs

-Vs-

1. Ramalingam
2. Palaniammal
3. Maruthamuthu

...Defendants

This suit came upon for final hearing before me on 12.08.2026 in the presence of Thiru.K.Thirumavalavan, Advocate for Plaintiff and Thiru.G.Chandrabose, Advocate for 1st Defendant and Thiru.T.Jothimani, Advocate for 2nd defendant and 3rd defendant called absent set exparte and after verifying the witnesses and documents and upon hearing both side arguments and perusing the Complaint and written statement and having stood over the consideration of this court till this date and this court this day delivered the following:-

JUDGMENT

1. The suit is filed for the Partition and declaration of sale deed dated 18.08.2009 document as Null and void.

2. The brief averment of the complaint is as follows:-

The Plaintiffs and defendants 1 and 3 are the legal heirs of Rathinam son of Raman. One Kaliyaperumal was also a legal heir. Kaliyaperumal died unmarried at the age of 28.

The suit properties are the ancestral properties of Rathinam. During his lifetime, Rathinam continued to possess and enjoy the suit properties as Hindu joint family properties, without effecting any partition among himself and his legal heirs. During his lifetime, he performed the marriage of his daughter. At the time of the marriage, he did not provide any seer or customary marriage articles to his daughters.

However, after the marriage, with a view to securing the future welfare of his daughter, he assured her that she would be allotted a share in the suit properties and, in the presence of the village elders, settled the matter and performed her marriage. Consequently, throughout his lifetime, Rathinam used to give his daughter her due share in the produce derived from his properties. While so, Rathinam died intestate on 21.05.1989, without making any prior arrangement in respect of his properties.

The suit properties are undivided Hindu joint family properties. After the death of their father Rathinam, the plaintiffs and defendants 1st and 3rd succeeded to the suit properties as his legal heirs and have been jointly possessing and enjoying the same. On the basis of their title, possession and enjoyment, a joint patta in respect of the Item No.1 property was issued in the names of the plaintiffs and defendants 1 and 3. The said patta bears patta No.1891. The plaintiffs have also been jointly possessing and enjoying the Item No.2 suit property till date, under the bona fide belief that patta in respect thereof also stands jointly in the names of the plaintiffs and defendants 1,3. The item No.1 suit property is in the exclusive possession and enjoyment of the plaintiffs.

While so, the 1st defendant, by influencing the revenue officials, clandestinely caused the patta relating to the item No.2 suit property to be transferred exclusively in his name. The 3rd defendant, being the elder member of the family, used to frequently go to other places in connection with his livelihood. Taking advantage of the fact that the 1st defendant was the male heir of the family and was residing locally, he had been maintaining and administering the item No.2 suit

property. The plaintiffs also used to visit the item No.2 suit property from time to time and assist the 1st defendant in its maintenance.

While matters stood thus, during the previous year, the 1st defendant demanded that the plaintiffs vacate the item No.2 suit property. Shocked by the said demand, the plaintiffs asserted that they also had a share in the suit property and demanded that their lawful share be allotted to them. At that time they came to know, to their shock, that the 1st defendant had already sold the item No.2 suit property to the 2nd defendant. Thereupon, on 23.05.2022, the plaintiffs obtained an encumbrance certificate from the Udayarpalayam Sub-Registrar's Office and, upon verification, came to know that the 1st defendant had executed a sale deed infavour of the 2nd defendant in respect of the item No.2 suit property on 18.08.2009 and that the same had been registered as Document No.1383/2009 in the office of the Sub-Registrar, Udayarpalayam.

At the time of the aforesaid sale, the plaintiffs and the 1st defendant had undivided rights, possession and enjoyment in the suit properties by virtue of their status as members of the Hindu joint family and by succession. Therefore, the 1st defendant had no legal right or authority to unilaterally encumber or alienate the suit properties. Since the alleged sale was effected without the consent of the plaintiffs and without obtaining their signatures, the said sale is null and void, invalid and not binding upon the plaintiffs.

The defendants have no right, either in law or in equity, to deny the plaintiffs' share in the suit properties on the strength of the said sale deed. Hence, on 25.05.2022, the plaintiffs, through the respectable persons of the village, demanded that the 1st defendant allot and deliver to them their 3/5 share in the suit properties. However, the 1st defendant refused to effect partition and instead, has been openly stating in the village that he would further alienate the suit properties by way of encumbrances and sale transactions.

The 1st defendant has no independent or exclusive right whatsoever in the suit properties. The aforesaid sale deed is invalid and unenforceable and is not binding

upon the plaintiffs in any manner. The defendants have no right whatsoever to create any encumbrance or effect any further alienation in respect of the suit properties. The suit properties continue to remain in the possession, enjoyment, management and ownership of the plaintiffs as on date. Since the 3rd defendant did not come forward to join with the plaintiffs in instituting the suit and, as he had settled at Tittakudi for the purpose of his livelihood, the present suit has been instituted by impleading the said Maruthamuthu as the 3rd defendant, so as to bind him by the decree and to avoid any future legal complications.

The plaintiffs are unable to prevent the illegal acts of the defendants by their own means and such acts can be effectively restrained only by an order of this Hon'ble Court. Hence, the plaintiffs have instituted the present suit seeking a declaration that the plaintiffs are entitled to their share in the suit properties and also seeking a declaration that the sale deed fraudulently executed by the 1st defendant in favour of the 2nd defendant on 18.08.2009 and registered as document No.1383/2009 in the Sub-Registrar's office, Udayarpalayam is null and void, invalid and not binding upon the plaintiffs, and for consequential reliefs.

3. The brief averment of the written statement filed by the 1st Defendant is as follows:-

The suit is false, frivolous, vexatious and unsustainable either in law or on facts. The suit properties are not the ancestral properties of the deceased Rathinam. During the lifetime of Rathinam about 40 years ago, he had already performed the marriages of the plaintiffs. At the time of their marriages, he had provided all the customary seer and marriage articles due to them and performed their marriages.

The item No.1 suit property is a property purchased by the plaintiffs father, Rathinam. The plaintiffs father purchased the said property from one Veeramuthu and was in possession and enjoyment thereof. Subsequently, he orally sold the said property to one Muthusamy, son of Velayutham, of Venmankondan Village. Pursuant to the said oral sale, Muthusamy transferred the relevant revenue records into his name. At the time when the plaintiffs father purchased the item No.1 suit

property, the 1st defendant was a minor. After the death of his father, the 1st defendant, out of the money earned through his own hard work, purchased the item No.1 suit property from the said Muthusamy by way of an oral sale. On the basis of the said transaction, he also transferred the patta relating to the suit property into his own name and has been openly, continuously and knowingly possessing and enjoying the same for the past 13 years, without any interference from any person.

Therefore, the item No.1 suit property is not an ancestral property, but the absolute and self acquired property of the 1st defendant. The 1st defendant has planted various trees in the suit property and has been in continuous possession and enjoyment thereof. The item No.1 suit property is not agricultural land. After coming to know that patta had been issued in the name of the 1st defendant, the plaintiffs, with the assistance of the revenue authorities and without issuing any notice to the 1st defendant, caused the revenue records to be altered and obtained a joint patta. The said alteration and joint patta are illegal and invalid and can never confer any right upon the plaintiffs.

Contrary to the averments made in the plaint, the plaintiffs have never cultivated any agricultural crop in the item No.1 suit property till date, nor have they derived any income therefrom. The Item NO.2 suit property is classified as Natham property. In respect of the said property, a joint patta stood in the names of the plaintiffs father Rathinam and his brother Dharman, each having an extent of two cents. During the lifetime of Rathinam, all the plaintiffs abandoned and left him without extending any care or support. The 1st defendant alone remained unmarried and took care of his father.

Considering the care and attention rendered by the 1st defendant, his father Rathinam orally handed over the Item No.2 suit property, which had been allotted to him by the Government, to the 1st defendant for his possession and enjoyment. Accordingly, the 1st defendant has been openly, continuously and knowingly possessing and enjoying the item No.2 suit property for the past 45 years without

any interference from anybody. Subsequently, due to his ill health, the 1st defendant sold the item No.2 suit property absolutely to the 2nd defendant in the year 2009. Pursuant to the said sale, the 2nd defendant constructed a house in the item No.2 suit property and has been paying the house tax and water charges. Thus, the 2nd defendant has been openly, continuously and knowingly possessing and enjoying the item No.2 suit property for the past 14 years without any interference from anybody. Therefore, contrary to the allegations made by the plaintiffs, the item No.2 suit property is neither an ancestral property nor a joint family property. It is the separate and absolute property of the 1st defendant. The plaintiffs are fully aware of the fact that the 2nd defendant has been in possession and enjoyment of the suit property.

All the plaintiffs had got married about 50 years ago and have been residing outside the locality ever since. Hence, they are ousted from possession and have no subsisting right or possession over the suit properties. The plaintiffs have never, at any point of time, been in possession and enjoyment of the suit properties. At the time of the plaintiffs marriages, the 1st defendant was a minor. No income whatsoever has been derived from the suit properties. The value of the suit properties has been undervalued and insufficient court fee has been paid. The description of the four boundaries is incorrect. There is no cause of action for the suit. The description of the properties is also incorrect. Hence the 1st defendant has filed the present written statement praying that the suit filed by the plaintiffs be dismissed with costs payable by the plaintiffs to the 1st defendant.

4. The brief averment of the written statement filed by the 2nd Defendant is as follows:-

The suit is false, frivolous, vexatious and unsustainable either in law or on facts. The 2nd defendant purchased the item No.2 suit property from the 1st defendant on 18.08.2009 for valid and valuable consideration. From the date of purchase, the 2nd defendant has been openly, continuously and peacefully possessing and enjoying the item No.2 suit property for the past 14 years without

any interference from any person. He has also transferred the patta in respect of the purchased property into his name, constructed a house thereon and has been paying house tax, water charges and electricity charges and enjoying the property in his own right.

The plaintiffs are well aware of the fact that the 2nd defendant purchased the item No.2 suit property in the year 2009. At the time of the said purchase by the 2nd defendant, the revenue records relating to the item No.2 suit property stood in the name of the 1st defendant. Hence, the 2nd defendant purchased the item No.2 suit property from the 1st defendant. The item No.2 suit property is classified as natham property and is not an ancestral property.

The plaintiffs and the 3rd defendant are close relatives of the 2nd defendant, being her sister in law and brother in law, respectively. The plaintiffs have never visited the item No.2 suit property till date, nor have they ever enquired about or questioned the possession and enjoyment of the said property by the 2nd defendant. Therefore, the relief of declaration sought by the plaintiffs that the sale deed executed by the 1st defendant in favour of the 2nd defendant on 18.08.2009 in respect of the item No.2 suit property is null and void and invalid, is not legally sustainable. The said relief is also barred by limitation.

The 1st defendant owns other properties apart from the item No.2 suit property. In the event this Hon'ble court comes to the conclusion that the plaintiffs are entitled to a share in the suit properties, it is necessary that the item No.2 suit property purchased by the 2nd defendant be allotted to the share of the 1st defendant and consequently retained by allotted to the 2nd defendant, so as to protect her rights under the sale deed.

Hence, the present written statement has been filed by the 2nd defendant praying that the suit filed by the plaintiffs be dismissed with costs payable by the plaintiffs to the 2nd defendant.

5. Considering the averments in the plaint and in the written statement in the following issues are framed:-

1. Whether the Plaintiffs are entitled to get preliminary decree for 1/5 shares in the suit properties as prayed for?
2. Whether the Plaintiffs are entitled to get relief of declaration that sale deed dated 18.08.2009 is null and void?
3. To what other relief?

6. Plaintiff examined himself as Pw1. Ex.A1 to Ex.A4 were marked on the side of the Plaintiff, one Kaliyaperumal examined as PW2 and no documents marked through him. And 1st defendant examined himself as Dw1. Ex.B1 to Ex.B4 were marked on the side of the 1st defendant. And 2nd defendant Palaniyammal examined himself as DW2. Ex.B5 to Ex.B8 were marked through the 2nd defendant.

7. On perusal of records the Certified copy of the Legal heir certificate of the plaintiffs father Rathinam dated 04.09.2019 marked as Ex.A1. The computer copy of the Joint patta No.1891 dated 24.05.2022 in relating to the 1st item of suit property marked as Ex.A2. The certified copy of the sale deed dated 18.08.2009 executed by the 1st defendant in favour of the 2nd defendant in respect of the 2nd item of suit property marked as Ex.A3. The Genealogical list of Rathinam marked as Ex.A4.

And defendants side documentary the Certified copy of the 'A' Register in relating to survey No.306/10A marked as Ex.B1. The certified copy of the FMP in relating to survey No.306/10A marked as Ex.B2. The certified copy of the FMP in relating to survey No.287/10 marked as Ex.B3. The certified copy of the Patta No.218 in relating to survey No.287/10 marked as Ex.B4. The computer copy of the Patta No.427 standing in the name of the 2nd defendant marked as Ex.B5. The Computer copy of water tax receipt (Nos.2) standing in the name of the 2nd defendant marked as Ex.B6. The computer copy of Electricity bill receipt standing

in the name of the 2nd defendant marked as Ex.B7. The computer copy of the property tax receipt standing in the name of the 2nd defendant marked as Ex.B8.

8. Both side rival arguments heard. Both side counsels argued replica of plaint and written statement. 1st defendant counsel in support of his argument quoted one citation.

1. Kathiravan Vs. Velusamy 2026 (3) CTC 67

9. Points for determination:-

Issues No.1&2:-

1. The plaintiff claims that the suit properties are ancestral properties and also and divided Hidu Joint family properties. The 1st defendant without having any legal right alienate the 1st item of suit property to the 2nd defendant without the consent of plaintiff and without obtaining the signature of the plaintiff. 1st defendant refused to effect partition. Hence, they file the suit. The 1st defendant claims that 1st item the suit property are not ancestral property. But it is the self acquired property of 1st defendant. During the life time of the his father Rathinam the plaintiff all the plaintiffs abandoned and left him without extending any care or support. The 1st defendant alone remained unmarried and took care of his father. Hence, he has absolute right to sell the suit property.

2. The plaintiff side not produced any document to show that the suit properties is ancestral property. From Ex.A3 it is observed that the 1st defendant with regard to the 2nd item property given sale to 2nd defendant. Though no document produced to show the suit property a ancestral property. The recitals in Ex.A3 sale deed dated 18.08.2009 Shows that it is the ancestral property given by 1st defendant to 2nd defendant. And also he admitted in his cross examination that the property mentioned Ex.A3 is that ancestral property. From Ex.A3 it is noted that the sale was given for consideration of Rs.51,000/- by 1st defendant to the 2nd defendant.

3. But DW.1 in his cross examination deposed that he received the consideration of Rs.1000/-. "வா.சா.ஆ.3 ல் எழுதிக்கொடுக்கும் பொழுது அந்த கிரயத்திற்கு மறுபயணாக பணம் எதுவும் வாங்கவில்லை என்றால் சரியல்ல. நான் அதற்கு ரூ.1000/- பணம் வாங்கினேன்."

4. DW.2 in her deposition stated that she purchased property for Rs.1,500/- "மொத்த சொத்திற்கும் ரூ.1000/- அல்லது ரூ.500/- தான் கொடுத்தேனா என்றால் ரூ.1,500/- கொடுக்கப்பட்டது." Here arise doubt that in Ex.A3 it was mentioned sale was given for 51,000/- but she deposed that she purchased the property for Rs.1,500/-. There arise contradiction statement between DW.1 and DW.2.

5. DW.1 deposed that he purchased the 2nd item property from one Muthusamy orally but has not produced a single document to prove the sale. The 1st defendant has no right to sale the 2nd item of suit property to the 2nd defendant without getting the signatures of other legal heirs. The plaintiff 1 to 3 the 1st defendant and 3rd defendant legal heirs of one Rathinam.

6. DW.1 the admitted that no partition was made between the plaintiff and 3rd defendants. "வழக்கு சொத்துக்களை குறித்து வாதிகள் மட்டும் 3 ம் பிரதிவாதிகளுக்கும் இடையே பாகம் பிரியவில்லை என்றால் சரிதான்."

7. It was noted from Ex.A2 that the patta for 1st item property which is in survey No.306/10A 0.05.50 Ares stands in the name of Maruthmuthu, Anjalai, Chinnapillai and Maruthay.

8. But DW.1 deposed against Ex.A2 that the 1st item property in Survey No.306/10A was not stands as joint patta. "சர்வே எண்.306/10A -ல் 5.5 ஏர்ஸ் ஆதாவது தாவா 1வது அயிட்ட சொத்து எனது பெயரிலும், வாதிகளின் பெயரிலும் கூட்டுப்பட்டாவாக உள்ளது என்றால் சரியல்ல." The oral evidence of DW1 is contra to Ex.A2. Therefore documentary evidence prevails oral evidence.

9. From Ex.B3 the 2nd item of suit property stands in the name of 1st defendant and 2nd defendant. Hence, here arise doubt why patta has not changed in the name of 2nd defendant. Thought the sale was given by the 1st defendant to the 2nd defendant on 13.08.2009, from the year of 2009 till date the patta stands jointly in the name of 1st and 2nd defendants.

10. DW.1 deposed that "வா.சா.ஆ.3 ஆவணத்தில் வாதிகள் மற்றும் 3 ம் பிரதிவாதியும் கையெழுத்து போடவில்லை என்றால் சரிதான். வா.சா.ஆ.3 ஏற்பட்ட விவரம் வாதிகளுக்கு தெரிந்துதான் ஏற்பட்டது." Even though 1st defendant deposed that the plaintiffs 1 to 3 were aware of the sale given by him to the 2nd defendant. But he has failed to prove the same.

11. Legally a joint family or ancestral property cannot be sold by a single co owner alone without the consent of all co-parceners unless for valid legal necessity like family debt, maintenance etc. An individual co sharer can only transfer their own undivided share.

The court relies upon judgment "*S.K.Golam Lalchand V. Nandu La Shaw*" 2024 *Supreme court* it was held that a co owner of an undivided property is not competent to transfer the entire property or a specific plot without 1st getting their specific share determined and demarcated through partition. And also this court relies upon judgment "*Dastagirsab V. Sharanappa @ Shiva Sharanappa*" 2025 *live law SC 915* it was held that the authority of a Hindu Undivided Family (HUF) Karta, holding that a Karta can sell joint family property if a genuine, justifiable legal necessity (such as family debt or marriage expenses) exists. Therefore

Therefore the plaintiffs 1 to 3 are entitled to 1/5th share of in the suit property and the plaintiffs entitled to declaration of sale deed dated 18.08.2009 executed by 1st defendant in favour of 2nd defendant as null and void. Thus preliminary decree is passed accordingly.

10. Issue No.3:- The plaintiff is not entitled to any other relief.

In the result, this suit is decreed. The plaintiffs 1 to 3 are entitled to 1/5th share of in the suit property and the plaintiffs entitled to declaration of sale deed dated 18.08.2009 executed by 1st defendant in favour of 2nd defendant as null and void. Thus preliminary decree is passed accordingly. No cost.

Directly dictated by me to the Typist and typed by her, corrected and pronounced by me in the open court, this the **24th** day of August **2026**.

Principal District Munsif,
Jayankondam.

APPENDIX

PLAINTIFF'S SIDE EVIDENCE:-

PW.1 - Chinnapillai (2nd Plaintiff)

PW.2 - Kaliyaperumal

PLAINTIFF'S SIDE EXHIBITS:-

Sl.No.	Date	Particulars	Nature	Exhibits
1.	04.09.2019	The Legal heir certificate of the plaintiffs father Rathinam.	Certified copy	Ex.A1
2.	24.05.2022	The Joint patta No.1891 in relating to the 1 st item of suit property.	computer copy	Ex.A2
3.	18.08.2009	The sale deed executed by the 1 st defendant in favour of the 2 nd defendant in respect of the 2 nd item of suit property.	Certified copy	Ex.A3
4.	-	The Genealogical list of Rathinam.	Certified copy	Ex.A4

DEFENDANT'S SIDE EVIDENCE:-

DW.1 - Ramalingam (1st defendant)

DW.2 - Palaniammal (2nd defendant)

DEFENDANT'S SIDE EXHIBITS:-

Sl.No.	Date	Particulars	Nature	Exhibits
1.	-	The 'A' Register in relating to survey No.306/10A.	Certified copy	Ex.B1

2.	-	The FMP in relating to survey No.306/10A.	Certified copy	Ex.B2
3.	-	The FMP in relating to survey No.287/10.	Certified copy	Ex.B3
4.	-	The Patta No.218 in relating to survey No.287/10.	Certified copy	Ex.B4
5.	-	The Patta No.427 standing in the name of the 2 nd defendant.	Computer copy	Ex.B5
6.	-	The water tax receipt (Nos.2) standing in the name of the 2 nd defendant .	Computer copy	Ex.B6
7.	-	The Electricity bill receipt standing in the name of the 2 nd defendant.	Computer copy	Ex.B7
8.	-	The property tax receipt standing in the name of the 2 nd defendant.	Computer copy	Ex.B8

Principal District Munsif,
Jayankondam.