

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
COIMBATORE**

Present: Tmt. G. VIJAYA, B.A., M.L., PGDCFS
Principal District Judge, Coimbatore.

Tuesday, this the 21st day of April, 2026

(திருவள்ளூர்வராண்டு, 2057, பராபவ ஆண்டு சித்திரை திங்கள் 8-ஆம் நாள் செவ்வாய்கிழமை)

TRANSFER ORIGINAL PETITION No.225/2025
(CNR No.TNCB010054442025)

Myil Kanna

... Petitioner

/vs/

1. Thangadurai
2. Rukmani
3. M. Suresh Kumar
4. M. Sathish Kumar
5. The Village Administrative Officer
6. The Thasildar, Annur

... Respondents

This petition came before me for final hearing on 10-04-2026 in the presence of **Tvl.T.Chandra Mohan and Venkitalakshmi**, Advocates for the petitioner and the 1st respondent having been called absent and set exparte, and of **Thiru.P.Devi Saravanan**, Advocate for the respondents No.2 to 4 and of **Thiru.Arul Kumar, Government Pleader**, represents the respondents No.5 and 6, and perusing the petition, counter and other relevant records and hearing the arguments and having stood over for consideration till this day, this Court passes the following:

ORDER

This petition has been filed by the petitioner, **through e-Filing**, u/s.24 Civil Procedure Code, praying to transfer the suit in O.S.No.353/2023 which is

pending on the file of the District Munsif-cum-Judicial Magistrate, Annur to the file of V Additional District Judge, Coimbatore, to try along with the suit in O.S.No.979/2021 pending therein.

2. Averments contained in the petition :

(i) The petitioner filed the suit in O.S.No.353/2023 against the respondents on the file of District Munsif, Annur for declaration and for permanent injunction. The 1st respondent filed the suit in O.S.No.979/2021 against the petitioner and other respondents for declaration and for permanent injunction.

(ii) Both the suits are for the same property. The suits are between same parties. The issues involved in both the suits are one and the same. Both the suits are to be tried by the same Court. The documents in both the suits are also one and the same. If both the suits are allowed be tried separately by separate Court, there is every chance of multiplicity of proceedings and leads to miscarriage of justice. The suit in O.S.No.353/2023 pending on the file of District Munsif, Annur is to be transferred to the file of Vth Additional District and Session Judge, Coimbatore to try simultaneously with O.S.No.979/2021. No prejudice will be caused to the respondent. Much of the oral evidence will be minimized and hence, the petitioner prays to allow the petition.

3. The 4th respondent filed counter and the same has been adopted by the respondents No.2 and 3. The averments contained in the counter are as follows:-

(a) The petition is false frivolous, vexatious and unsustainable in law and upon the facts of the case. The respondents deny the entire allegations made in the affidavit except those that are specifically admitted herein and put the plaintiff to strict proof of each and every one of the same.

(b) The respondents deny the entire allegations made in para no III and IV of the petition. The allegations that the both the suits are for the same property and the issued involved in both the suits are one and the same, the documents in both the suit are also one and same are all false and incorrect one. The subject matter of both the suits are not same and cannot be tried together since the suit in O.S.No.353 of 2023, the suit is riped for trial and suit in O.S.No.979 of 2021 the issues are yet to be framed. The issues in both the suits are different and the nature of the suits are different and the evidence has been let in. There is no merit in this petition and the same deserves dismissal.

4. On 09-10-2025, the learned Government Pleader who represents the respondents No.5 and 6 filed a memo stating that this petition may be allowed without prejudice to the respondents No.5 and 6.

5. **The point for consideration :**

“Whether the suit in O.S.No.353/2023 which is pending on the file of the District Munsif-cum-Judicial Magistrate, Annur, is to be transferred to the file of the V Additional District Judge, Coimbatore to try along with the suit in 979/2021, or not?”

POINT:-

6. Heard and perused the relevant records. This petition has been filed by the petitioner, praying to transfer the suit in O.S.No.353/2023 which is pending on the file of the District Munsif-cum-Judicial Magistrate, Annur, to the file of the V Additional District Judge, Coimbatore, to try along with the suit in O.S.No.979/2021.

7. The learned counsel for the petitioner would argue that, in both suits, property in dispute, parties to the proceedings, issues that have to be decided, oral and documentary evidence that has to be adduced, are one and the same and if Both the suits are allowed be tried separately by separate Court, there is every chance of multiplicity of proceedings and leads to miscarriage of justice. and prays to allow the petition.

8. Though the learned counsel for the respondents No.2 to 4 have filed counter, during the course of arguments, the learned counsel for the respondents No.2 to 4 has not raised any serious objection to the present petition.

9. The learned Government Pleader who represents the respondents No.5 and 6 filed a memo stating this petition may be allowed without prejudice to the respondents No.5 and 6.

10. This Court has considered the submissions and perused the copy of plaints in O.S.No.353/2023 and O.S.No.979/2021. On perusal of the same, it appears that, the petitioner herein filed the suit in O.S.No.353/2023, against the respondents, seeking the relief of declaration and permanent injunction.

11. The case of the petitioner is that, the suit property more fully described here under in the schedule is self acquired property of one Peria Gounder. After the death of Peria Gounder all the legal heirs of Peria Gounder jointly succeeded the property and are in Joint and constructive possession of the same. The petitioner is the daughter of Peria Gounder. Apart from plaintiff there are two sons to Peria Gounder, namely Marakutty and Devaraj. The respondents No.2 is the wife of Marakutty and the respondents No.3 and 4 are the sons of Marakutty. The said Marakutty left the family and where about is not known for the past more than 7 years. Under law, he is to be considered as dead person. Another son Deveraj died 7 years back. After the death of Peria Gounder, some of the properties were sold and the suit property is the only-available for partition. In the year 2008, due to non-cooperative attitude of the respondents No.2 to 4 for effecting partition of the properties left by Peria Gounder, the

petitioner has no other option filed the suit for partition in O.S.No.1537/2008 on the file of Principal District Munsif, Coimbatore against the respondents No.2 to 4 and the learned District Munsif, Coimbatore decreed the suit and allowed for partition. As per the preliminary decree, the petitioner and his sister Janaki was allotted 2 shares out of 5 shares.

12. The further case of the petitioner is that, as per preliminary decree dated 03-03-2009, the petitioner is entitled to share in the property. The petitioner after waiting for several years to effect partition of the suit property, due to evasive attitude of respondents No.2 to 4, she had taken steps to effect partition through Court by passing final decree. The further case of the petitioner is that she recently comes to know that the respondents No.2 to 4 fraudulently suppressed the factum of passing of the preliminary decree for partition over the suit property was passed on 003-03-2009 executed sale document which is registered as No.4584/2018 and the said document is a fraudulent document brought out to defeat the legitimate right of the plaintiff.

13. The further case of the petitioner is that, the 1st respondent who is the purchaser of the land in dispute purchased the property vide sale deed dated 02-07-2018 and as such the 1st respondent is the subsequent purchaser of the land and on the strength of the said sale deed, the 1st respondent attempted to change name in patta in respect of the suit property. Thereafter, the petitioner

sent a notice. Under the above said circumstance, the petitioner filed the suit in O.S.No.353/2023, against the respondents, seeking the relief of declaration and permanent injunction. As of now, the said suit is now pending before the District Munsif Court, Annur.

14. The 1st respondent filed the suit in O.S.No.979/2021, against the petitioner and the respondents No.2 to 4, seeking the relief of declaration and permanent injunction. The case of the 1st respondent is that, respondents No.3 and 4 are the two sons of the 2nd respondent. The petitioner is the elder sister of 2nd respondent's husband Marakutty. Deceased Devaraj, deceased Janaki are the brother and sister of the petitioner. Deceased Devaraj, deceased Marakutty and the petitioner are the children of Periya Gounder and Ramathal.

15. The case of the 1st respondent is that, Periya Goudner was in possession of the joint families property, along with his two sons Marakutty and Devaraj. The sons of Periya Gounder were entitled each 1/3 share in the property. On 05-11-2018, Periya Gounder died. In the year 1973, petitioner got married. Thereafter, the petitioner, along with Janaki, Marakutty and Devaraj, executed release deed relinquishing their share in Items 1 and 2 of schedule A in favour of Ramathal who is the wife of Periya Gounder and on 28-12-2016, the said Ramathal executed settlement deed in favour of the respondents No.3 and 4 settling the said Items and thereafter, the respondents No.3 and 4 sold portion of

the property to the petitioner, without disclosing the proceedings in O.S.No.1537/2008. Under the above said circumstance, the 1st respondent filed the suit in O.S.No.979/2021, against the petitioner, respondents No.2 to 4, seeking the relief of permanent injunction and permanent. As of now, the said suit is now pending before the V Additional District Judge, Coimbatore.

16. On conjoint reading the averments stated in the plaints, it reveals that both the petitioner and the 1st respondent claimed right or title over the property. According to the petitioners, in both the suits, parties to the proceedings, property in dispute, oral and documentary evidence that has to be adduced, the issue that has to be decided are all one and the same. The decision in all the suit depends upon the right or title of the parties in the suit property and hence, it is just and necessary that the above said two suits shall be tried together to avoid multiplicity of litigation and contrary decisions and no harm, prejudice will be caused to the respondents, if the suits mentioned above are tried together. There is no serious objection on the part of the respondents No.1 to 4. Taking into consideration of all the above, as in both the suits, parties to the proceedings, the issues to be decided, oral and documentary evidence that has to be adduced are all one and the same and with a view to avoid conflicting of judgment that may be passed, with a view avoid multiplicity of proceedings, and with a view to save precious time of the Courts as well as the parties, this Court does incline to allow this petition.

In the result, this petition is allowed. The suit in O.S.No.353/2023 which is pending on the file of the District Munsif-cum-Judicial Magistrate, Annur is ordered to be withdrawn and transferred to the file of the V Additional District Judge, Coimbatore. The transferee Court shall decide whether the suits [O.S.No.353/2023 and O.S.No.979/2021] are to be tried jointly or simultaneously. No costs.

This order is dictated to steno-typist directly, typed by her in computer, corrected and pronounced by me in open Court, on this the 21st day of April, 2026.

PRINCIPAL DISTRICT JUDGE,
COIMBATORE.

Copy to:-

1. The District Munsif-cum-Judicial Magistrate, Annur.
2. The V Additional District Judge, Coimbatore.

//True copy//

Draft Order in
Tr.O.P.No.225/2025
Dated:21-04-2026.