

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

Present : **Tmt.N.Renuga.**, B.A., B.L.,

District Munsif, Sulur

Friday the 7th day of February 2025

I.A.No.23/2025

in

O.S.No.334/2017

1. Sri.Mandhiriappan, aged about 57, S/o.Kumarasamy, residing at Velankattu Thottam, Chinnaputhur, Senjeriputhur Village and Post, Sulur Taluk.
2. Sri.Nachimuthu (Died)
3. Sri.Thangavelsamy, aged about 68, S/o.Palanisamy gounder, residing at Theerthakinaru Thottam, Chinnaputhur, Senjeriputhur Village and Post, Sulur Taluk.
4. Smt.Subbulakshmi, aged about 62, W/o.Late Nachimuthu, residing at Kooduthankattu Thottam, Chinnaputhur, Senjeriputhur Village and Post, Sulur Taluk.
5. Sri.Ramesh, aged about 34, S/o. Late Nachimuthu, residing at Kooduthankattu Thottam, Chinnaputhur, Senjeriputhur Village and Post, Sulur Taluk.
6. Smt.Selvi, aged about 37, W/o Sivakumar, residing at Kooduthankattu Thottam, Chinnaputhur, Senjeriputhur Village and Post, Sulur Taluk.

... Petitioners/ Plaintiffs

/VS/

1. Sri.Subramaniam, aged about 80, S/o.Palanisamy, residing at Thannikinathu Thottam, Chinnaputhur, Senjeriputhur Village and Post, Sulur Taluk.
2. Sri.Dharmaraj, aged about 72, S/o.Palanisamy, residing at Thannikinathu Thottam, Chinnaputhur, Senjeriputhur Village and Post, Sulur Taluk.
3. Sri.Sellamuthu, aged about 67, S/o.Mandhiriappan, residing at Kooduthankattu

Thottam, Chinnaputhur, Senjeriputhur Village and Post, Sular Taluk.

4. Smt.Ranjitham, aged about 60, W/o.Rangasamy, residing at Somavarappatti village, Pethampampatti, Udumalaipet Taluk, Tiruppur District.

5. Sri.Karuppusamy, aged about 42, S/o.Sellappa gounder, residing at Chinnaputhur, Jallipatti Post, Sular Taluk.

...Respondents/ Defendants

This petition filed Under Order 6 Rule 16 and 17 and section 151 of CPC to amend the plaint.

Date of the petition : 20.01.2025

This petition is coming on 27.01.2025 for final hearing before me in the presence of Ms.R.Krishnaveni, Advocate for the Petitioners and Mr.K.Gopalakrishnan, Advocate for the 1st and 2nd Respondents and Mr.R.Maheshan, Advocate for the 3rd to 5th Respondents and upon perusing the records, and this court Final order and direct as follows:

- 1. that the petition be and the same is hereby partly allowed ; and*
- 2. that the petition allowed in respect of details of amendment in para 1, 2, 3 and 4. iv – K ; and*
- 3. that the petition dismissed in respect of remaining portion ; and*
- 4. that there be no cost.*

MEMO OF COSTS

FOR PETITIONERS SIDE

FOR RESPONDENTS SIDE

NIL

DETAILS OF AMENDMENT

1. In docket and short cause title of the plaint, after the name of the existing defendants, add as, “3. Sri.Sellamuthu

4. Smt.Ranjitham

5.Sri.Karuppusamy”

2. In long cause title of the plaint, after the name and description of the existing defendants, add as 3. Sri,Sellamuthu, aged about 67, son of Mandhiriappan, residing at Kooduthankattu Thottam, Chinnaputhur, Senjeriputhur Village and Post, Sulur Taluk. 4. Smt.Ranjitham, aged about 60, wife of Rangasamy, residing at Somavarapatti Village, Pethampampatti, Udumalaipet taluk, Tiruppur District. 5. Sri. Karuppusamy, aged about 42, son of Sellappa Gounder, all residing at Chinnaputhur, Jallipatti Post, Sulur Taluk.

3. In docket, short cause title of the plaint and long cause title of the plaint after the name and description of the existing defendants, add as “(The defendants 3 to 5 have been impleaded as parties to the suit as per the orders dated 10.01.2025 passed by this Hon’ble Court in I.A.No.22/2024.)”

4. After Para IV-C of the plaint, add as “IV-D. The ancestors of the defendants 3 to 5, viz. Great Grandfather Marappa Gounder possessed a total extent of Ac.2.35 in S.F.No.59/1 of Senjeriputhur Village by virtue of the release deed dated 21.07.1903. Marappa Gounder died as intestate leaving behind his legal heirs, viz. Sellappa Gounder, Muthu Gounder and Arunachala Gounder. Among the three sons, Sellappa Gounder had sold his common 1/ 3rd consisting of Ac.0.78 ½ to Kandasamy,

i.e. Grandfather of the defendants 1 & 2. The remaining 2/ 3rd shares belonging to Muthu Gounder and Arunachala Gounder was jointly enjoyed the defendants 3 to 5 and their ancestors. The defendants 3 to 5 are the legal heirs of Muthu Gounder and Arunachala Gounder. As Muthu Gounder and Arunachala Gounder have no direct legal heirs, Mandhiriappa Gounder and Karuppusamy being the legal heirs became entitled to the 2/ 3rd shares in S.F.No.59/1 of Senjeriputhur Village.

IV-E. Muthu Gounder and Arunachala Gounder both sons of Marappa Gounder died without marriage. The defendants 3 to 5 are Class II legal heirs of the deceased Muthu Gounder and Arunachala Gounder. Except the respondents 3 to 5, i.e. heirs of Sellappa Gounder, nobody can claim title to the property of Muthu Gounder and Arunachala Gounder.

IV-F. The father's name of the vendors was wrongly given in the sale deed in favour of the plaintiffs 1 to 3, and the same does not mean that they have no right to execute the sale deed and they have created the sale deed by impersonation is totally false. The sale deed dated 08.10.2001 was executed by the legal heirs of Muthu Gounder and Arunachala Gounder by receiving proper sale consideration and the clear title has been transferred to the plaintiffs. Hence the defendants 1 & 2 have no locus standi to challenge the sale deed on the ground of impersonation and forgery.

IV-G. None of the family members including the defendants 1 & 2 had never enjoyed the entire suit properties. The 2/ 3rd shares belong to the family of the defendants 3 to 5 and as long as there is no registered instrument of transfer of title, the defendants 1 & 2 cannot claim any right, title or possession over the same.

IV-H. The allegations putforth by the defendants 1 & 2 that the defendants 3 to 5 are not the legal heirs of Muthu Gounder and Arunachala Gounder is totally false. Since Muthu Gounder and Arunachala Gounder have no sons and daughters to succeed them, then in such circumstances the defendants 3 to 5 who is the legal heirs of Sellappa Gounder who is the brother of Muthu Gounder and Arunachala Gounder would naturally become the Class II legal heirs and they are the correct persons to deal with the estate of Muthu Gounder and Arunachala Gounder.

IV-I. It is totally absurd and idiotic for the defendants 1 & 2 to claim right and title to the properties of Muthu Gounder and Arunachala Gounder who is in no way connected with the family at all. Actually, by partition deed dated 22.10.1979, a house property in Natham belonging to the family of Marappa Gounder and one Nachimuthu Gounder was alone partitioned and the same was allotted to Palanisamy Gounder son of Nachimuthu Gounder and the said Palanisamy and others had sold the house property.

IV-J. The defendants 3 to 5 as the legal heirs had executed the sale deed for 2/3 3rd share in S.F.No.59/1 and the plaintiffs are entitled to it. Since the plaintiffs by oversight mentioned the father's name as Muthu Gounder and Arunachala Gounder, it does not mean that they executed the sale deed by impersonation. Since the defendants 3 to 5 are legal heirs of Muthu Gounder and Arunachala Gounder, it is recited in the sale deed as if Muthu Gounder and Arunachala Gounder are their fathers. After their death, the defendants 3 to 5 became entitled to the properties and there is no conspiracy in it as alleged.

IV-K. As the sale deed was executed by the correct legal heirs and the plaintiffs are entitled to the same and hence this suit is for partition against the common share belonging to the defendants 1 & 2. Therefore, the defendants 3 to 5 are unnecessary parties to the above suit. The defendants 3 to 5 have been impleaded as parties to the suit as per the orders dated 10.01.2025 passed by this Hon'ble Court in I.A.No.22/2024.

Given under my hand and seal of this court, this the 7th day of February 2025.

Sd/N.Renuga
District Munsif,
Sulur.

Final Order
I.A.No.23/2025 in
O.S.No.334/2017
Dated : 07.02.2025
DMC, Sulur