

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

Present: Tmt.G.Subathira Devi, M.L.,
Principal District Judge, Cuddalore.

Wednesday, the 10th day of June, 2026

ORIGINAL SUIT No.272/2023

(TNCD 01-005361-2023)

Durairangam

... Plaintiff

/Vs./

1. Kuppusami
2. Sivagnanam
3. Chakrapani
4. Sangeetha
5. Minor Brindadevi, age 12
6. Minor Praveen, age 12
7. Sakthi Murugan
8. Malarkodi

(Minor defendants 5 and 6 represented by
guardian mother 4th defendant Sangeetha)

... Defendants

This suit came on 15.04.2026 for final hearing before me in the presence of Thiru.R.Gururaj, Advocate for the plaintiff and of Thiru.R.Rajavelavan, Advocate for the defendants and upon hearing both side arguments and upon perusing the case records and having stood over for consideration till this day, this Court delivered the following:

JUDGMENT

This suit is filed by the plaintiff to pass a preliminary decree for partition and separate possession of plaintiff's 1/4 share and additional 1 acre purchased by the plaintiff in the suit B schedule properties and in final decree proceedings, an Advocate/Commissioner may be appointed to divide the suit B Schedule properties

into 4 equal shares by metes and bounds and to allot one such share and an additional one acre i.e. H schedule property to the plaintiff and the plaintiff may be put in such possession of the properties allotted to him, as is necessary and enquiry into future accounting may be ordered by separate proceedings under Order 20 Rule 18 of CPC and for costs.

2. The plaint averments are as follows:

(1) The plaintiff is giving a genealogy in A schedule. Natesa Padayachi and Rukmani were a married couple. The couple have 4 sons, namely, plaintiff and defendants 1 to 3. Defendants 1 to 3 were born in that order. The plaintiff is the last son. 2nd defendant had son by name Sakthivel. He is no more. Defendants 4, 5 and 6 are the legal heirs of deceased Sakthivel. They are impleaded as legal heirs of Sakthivel. Natesa Padayachi and Rukmani died in 1989 and 1998 respectively.

(2) Natesa Padayachi was in enjoyment of about 106 acres of land as lessee. Plaintiff and defendants 1 to 3 also joined the father in doing agricultural operations in the aforesaid about 106 acres. The father and 4 sons jointly cultivated the lands. The owners of the properties wanted Natesa Padayachi to surrender possession. They offered to give 20 acres to Natesa Padayachi and his sons in lieu of the services rendered by the family and in appreciation of the services rendered by them. On 16.12.1976, plaintiff, defendants 1 to 3 and the father executed a surrender deed styled as a release deed in favour of the owners of the properties. The release deed was duly registered. The release deed recites clearly about 86 acres having been released in favour of the owners and the retention of 20 acres by Natesa Padayachi and his sons. That is, 20 acres were given absolutely to Natesa Padayachi for the services rendered by him. The entire extent of properties are given in B schedule.

(3) Apart from these 20 acres, Natesa Padayachi owned about another 10 acres. The family was in possession and enjoyment of Hec.11.09.00 in Silambinathanpettai village and Hec. 0.70.0 in Naduveerapattu village. Apart from

that, the family owned 605 sq.metres of site in Naduveerapattu village. The father was against effecting a division of the properties. He felt that a partition will disturb unity in the family. That was why he did not effect a partition during his lifetime. After the father's death in or about 1989, the mother lived till about 1998. The mother also was against effecting a partition. She also wanted to honour the husband's wish.

(4) At the same time, plaintiff and defendants 1 to 3 had all been married even before 1975. Plaintiff's marriage was in 1975. The sons had to take care of their respective families. Therefore, the mother suggested that a tentative arrangement should be arrived at regarding enjoyment of properties. The sons consented. Accordingly, the mother effected a tentative arrangement. The understanding was that the respective sharers should raise crops of their choice in the properties handed over to them and maintain their family from out of the income. The sons all agreed and that is how plaintiff and defendants 1 to 3 came into possession of separate extents. The properties so put in the possession of defendants 1 to 3 and the plaintiff in that order are described as C, D, E and F schedules hereunder. This tentative arrangement was effected after the father's death but before the mother's death, i.e. about 40 years back. Plaintiff reiterates that there was no partition by metes and bounds and there was no final partition.

(5) The oral arrangement was tentative as stated above, only for the sake of convenience. That was why the division was not equal as will be seen from an arithmetical calculation. Even the locations were tentative. The plaintiff and defendants have continued in such possession even after the death of the mother, till date. Though the tentative division was effected, the brothers were not legally divided. There was no division by metes and bounds. Patta has not been transferred to the names of the respective sharers only because there was no final partition. Patta for some properties stand in the names of defendants 1 and 2 for some items only. Patta still stands in the name of the father for most of the properties.

(6) The 3rd defendant retired as a Superintendent in TWAD Board. Therefore, he was and is affluent. The 1st defendant and 3rd defendant have married first cousins. Therefore, defendants 1 and 3 are closely knit to each other. The 2nd defendant has also married a relation. The 2nd defendant had to get his 3 daughters married. Instead of borrowing loan, 2nd defendant decided to sell part of properties in his possession. Though there was no final partition by metes and bounds, there was no other option but to sell. He was not in a position to borrow on security and repay it. Therefore, 2nd defendant sold 1 acre of property in his possession to the 7th defendant under a registered sale deed dated 07.12.2009. In turn, Sakthimurugan has sold that property to the 8th defendant herein under a registered sale deed dated 01.02.2018. The sale was of Ac. 1.00 out of the larger extent in item 11 of B schedule. It is separately shown as G schedule.

(7) For the second daughter's marriage also the 2nd defendant sold an acre of property. In order to avoid sale to a third party, plaintiff purchased it under a registered sale deed dated 07.07.2010. The sale relates to a part of S.No.190/- before sub-division. The plaintiff purchased 0.86-1/2 cents or 0.35.10 ares which is now sub-divided as S.No.190/1A. Plaintiff also purchased 0.05.50 ares in S.No.190/2. Thus, he has purchased 1 acre corresponding to items 8 and 10 in B schedule. It is also separately described in H schedule.

(8) 2nd defendant sold another acre for the last daughter's marriage. This time, the 3rd defendant purchased it, under a registered sale deed dated 29.05.2019. This 1 acre also corresponds to item 11 of B schedule. It is separately described as 'I' schedule. Thus, 2nd defendant alone has sold 3 acres, one acre each to the plaintiff, 3rd defendant and 7th defendant which is now with the 8th defendant. All the sales were for legal necessity. Plaintiff, 3rd defendant and defendants 7 and 8 as transferees, are entitled to be allotted the properties purchased by them, in equity.

(9) It will also be seen that in the sale deed in favour of plaintiff, there is no recital of any partition but in the sale deed in favour of 7th defendant and 3rd

defendant the recitals are suggestive of partition. The reference in the boundaries of names of sharers refers to the tentative partition and not a final partition by metes and bounds. There is no specific recital in any sale deed about any partition having been effected at any time. There is no document in proof of a final partition. That is why there is no such specific recital. That is why patta also was not transferred to the names of the respective sharers.

(10) A partition not effected by metes and bounds is no partition. It will also be seen that the properties in the possession of plaintiff are far less in extent. Moreover, defendants 1 to 3 are in possession of large extents on the road-side the value of which is 10 times more than the other properties. Plaintiff did not agree for such a partition as being final. At the time of division, there was talk only about income. The value of the properties were not taken into consideration. It was not necessary as there was no final division. If really the division was final, there would have been a registered partition or atleast an unregistered partition list. Patta would have been transferred.

(11) The plaintiff is the youngest of the brothers. He is himself 67 years old. Therefore, the plaintiff has been urging defendants 1 to 3 to effect a partition by metes and bounds and have it registered. Defendants 1 to 3 are reluctant. They are all in possession of vast extent of land on the road-side. Therefore, they want to retain those properties on the roadside, especially the 1st defendant. As already stated, defendants 1 to 3 have married relations and are in possession of properties on the road side. Therefore, defendants are unwilling for a fair and just division. Defendants 1 to 6 are not prepared for an equitable division. Plaintiff has already been in possession of a lesser extent and consequently had realized lesser income. He has suffered loss.

(12) The following properties are on the road-side.

<u>To whom allotted</u>	<u>Item</u>	<u>Extent</u>
		Hec. Ares
		Ac. Cents
3rd defendant	2	Ac.1.05 or Hec. 0.42.50
1st defendant	5	Ac. 0.96
2nd defendant	15	Ac.1.08 or Hec. 0.43.50
3rd defendant	16	Ac.0.15
1st defendant	17	Ac.0.14.

(13) It will be seen that no property in the possession of plaintiff is on the road-side. At the time of tentative allotment this was not in contention since cultivation was the criterion. With value of items on the road-side being atleast 10 times more, defendants 1 and 3 are not willing to effect a partition by metes and bounds. Plaintiff is no longer prepared to suffer further loss and remain joint. Demands for partition since the last week of May 2023, have fallen on deaf ears. Plaintiff wants to settle things during his lifetime. He does not want his children to litigate. They may not know the history. Therefore, plaintiff is filing this suit for partition and separate possession.

(14) Plaintiff and defendants 1 and 3 have 1/4 share each. Defendants 2 and 4 to 6 together have a 1/4 share. The 'B' schedule properties are divisible by metes and bounds. C D E and F schedules are given only to show the respective items in physical possession of the sharers. C D E and F schedules form part of the 'B' schedule. Defendants 2 and 4 to 6 may be allotted 1/4 share. The items sold by him may be allotted to them in equity and in turn, additionally allotted to plaintiff and 3rd defendant as purchasers. Plaintiff and defendants 3 and 8 are in possession of the properties respectively purchased by them.

(15) The plaintiff is deemed to be in joint possession. In law, possession of one co-owner is possession of all. Hence, valuation is adopted under Section 37(2) of the Court Fees Act. There are no maintenance holders. There are no charities to be performed. There are no outstandings due by the family and due to the family. In view of the unfair and unjust nature of the tentative arrangement also, it has to go. Plaintiff has included all the items belonging to the family to the best of his knowledge. If any item is left out, he reserves his right to include it later. The 'B' schedule properties are the entire properties to be divided. Hence, they are valued for purposes of court fees and jurisdiction. **C D E & F** schedules are part of 'B' schedule. **C D E & F** schedules show the properties put in the possession of defendants 1 to 3 and plaintiff respectively. **G H & I** schedule items are also part of 'B' schedule. They are separately given as found in the sale deeds. Since 'C' to 'I' schedule properties are part of 'B' schedule and are given only for better understanding, they are not valued. As stated already plaintiff is entitled to be allotted one acre more in view of his purchase. Items 2, 5, 15, 16 and 17 of 'A' schedule are on the road side. They are very valuable items. Not a cent of the landed properties put in plaintiff's possession is on the road-side. While effecting division, items on the road-side may be divided equally, in equity and as a measure of just and fair division. Regarding other properties, equity may be worked out by allotting properties in possession of the respective sharers. Hence, the plaintiff seeks to decree the suit as prayed for.

3. The written statement averments of the defendants 1 to 3 and adopted by the defendants 4 to 6 are as follows:

(1) The plaint claim by the plaintiff is a sheer abuse of process of Court and the law. The partition by metes and bounds between the sharers had already taken place even during the life time of father Natesan Padayachi and as such there cannot be second partition. The suit is barred by the principles outlined and embodied in Section 11 of the Code of Civil Procedure. The instant suit is an irresponsible and

vexatious law suit which needs to be rejected at the threshold. There is no cause of action for the suit. An illusory and flimsy cause of action has been created by the plaintiff deliberately by suppression of material facts. The suit is liable to be dismissed with compensatory cost.

(2) The genealogy given in Schedule 'A' of the plaint and the death of the father Natesan Padayachi in 1989 and the mother Rukumani in 1998 are admitted as correct. The averments mentioned in Paragraphs III (2) to (4) are admitted as correct. But the allegations mentioned in Paragraph III (5) are stoutly denied as false. Even during the lifetime of father Natesan Padayachi, the partition and separate possession by metes and bounds had taken place orally between Natesan Padayachi and his four sons namely plaintiff and defendants 1 to 3 in the year 1977, after the marriage of the plaintiff in 1975.

(3) The said partition was in relation to the properties covered by the release deed dated 16.12.1976 and the separate properties of Natesan Padayachi around 10 Acres in Selambinathanpettai, Naduveerapattu and Vellakarai Villages and also house sites of an extent of 0.16 cents in Naduveerapattu Village. The averments mentioned in Paragraph III (6) of the plaint that the mother suggested for the tentative arrangements regarding the enjoyments and that on that basis the properties are handed over are denied as false. There is no question of any tentative arrangements. In fact, there was only partition by metes and bounds as already stated. Even the allegations mentioned in Paragraph 6 of the plaint are taken as they stand, it only confirms existence of oral partition whether the year 1977 or in between 1989 and 1998.

(4) The defendants deny the averments mentioned in the paragraph 8 of the plaint. It is absolutely wrong to state that the oral arrangement was tentative only for the sake of convenience and that the division was not equal as will be seen from arithmetical calculation. It is again wrong to state that the locations were tentative and that the brothers were not legally divided and that there was no division by metes

and bounds. It is absolutely false to state that the Patta was not transferred only because there was no final partition. Admittedly the transfer of Patta for some items would only suggest and confirm that there has been partition metes and bounds among the plaintiff and defendants 1 to 3. The factum of Joint Patta in respect of remaining properties cannot be concluded that there was no final partition, whenever the plaintiff himself had sold the property in favour of 3rd party and purchase the property from the other sharer namely 2nd defendant.

(5) The averments mentioned in Paragraph 9 are purposely twisted and made with bad motive to claim partition for the second time. The oral partition by metes and bounds was effected in the year 1977 in relation to the properties comprised under Release deed dated 16.12.1976 and also 12 Acres owned by Natesa Padayachi in Puliur East, Silambinathanpettai, Vellakarai and Naduveerapattu villages. The father Natesan was allotted 4 Acres of land out of 20 Acres obtained under the said Release deed and his four sons allotted properties as mentioned in Schedule C to F in the plaint.

(6) It is correct and admitted that the defendants 1 to 3 and the plaintiff was allotted properties described in schedules C to F respectively, but not as tentative arrangement as wrongly alleged. The following are the details of Partition. As regards the survey No. 184/1 indicated in Schedules C to F, its total extent is 75 cents, the plaintiffs and defendants 1 to 3 have taken 0.18-3/4 cents each and not 0.18 cents as indicated in the said Schedules. Similarly, as regards item 4 in Schedule F the plaintiff was allotted 0.64 cents in Survey No.190/1 and not 0.56 cents as claimed and indicated in F Schedule. The Patta for the said property of an extent of 64 cents equivalent to Hec 0-26.00 Ares was granted in favour of the plaintiff independently under Patta No.3052 along with Hec 0-5.50 Ares in Survey No. 190/2. This land in Survey No.190/2 was allotted to the share of 2nd defendant Sivagnanam which is omitted to be described in Schedule 'D' of the plaint which was later admittedly purchased by the plaintiff from Sivagnanam by registered sale deed dated 07.07.2010.

Similarly, in Survey No. 190, an extent of 1 Acre out of Acre 5.14 ½ was allotted to the share of 2nd defendant Sivagnanam. Likewise, the 1st defendant was allotted Acre 1.92 cents and 3rd defendant was allotted 1 Acre in that survey number. The balance extent of Acre 1.22 ½ cents was allotted to the plaintiff. But the plaintiff has erroneously indicated in Schedule 'F' in item No.5 as Acre 1.14, instead of Acre 1.22-1/2 cents. The entire extent of Acre 5.14-½ cents in survey No.190 was subdivided into 190/1A, 190/1B and 190/2. The property of Acre 1 purchased by the plaintiff from 2nd defendant under the sale deed dated 07.07.2010 is coming under subdivision 190/1A - 0.86½ cents (as per Patta No.2894 0.92 cents), 190/2 -0.13-1/2 cents. Taking advantage of obtaining Patta for more extent in that survey number, the plaintiff is giving trouble to the defendants 1 and 3. Similarly, the plaintiff was allotted Acre 3.23-1/2 cents in Survey No.206/7A1 and not Acre 3.32 cents as indicated in item No.7 of Schedule F. But, the Patta for the Survey No.206/7A1 was granted in favour of plaintiffs and defendants 1 to 3 jointly under the Patta No.2573.

(7) The sharers have acted upon the oral partition as will be evident from the following sale transactions.

a. 14-09-1994 - Registered sale deed executed by plaintiff and 3rd defendant in favour of Tamilselvi, W/o. Nagaraja Padayachi in respect of Acre 2.00 of land at Puliyur Village in Survey No. 1245/1A.

b. 29-11-2001 - Registered sale deed executed by plaintiff in favour of Rajakumaran and Rajendran S/o.Rasu Padayachi in respect of Acre 1.20 cents at Vellakarai Village in Survey No.90/2.

c. 07-07-2010 - Registered sale deed executed by 2nd defendant in favour of plaintiff in Acre 86 ½ cents in survey No.190 and 0.05.50 Ares in Survey No.190/2 at Silambinathan Pettai.

d. 07-12-2009 - Registered sale deed executed by 2nd defendant in favour of 7th defendant in Acre 1 in Survey No.206/4A1 at Silambinathan Pettai.

e. 01-02-2018 - Registered sale deed executed by 7th defendant in favour of 8th defendant of an extent of Acre 1 in Survey No.206/4A1 at Silambinathan Pettai.

f. 29-05-2019 - Registered sale deed executed by 2nd defendant in favour of 3rd defendant of extent Acre 1 in Survey No.206/4A1 at Silambinathan Pettai.

Out of the aforesaid sale transactions the plaintiff has deliberately suppressed the sale transaction referred above in a and b, in order to claim a fresh partition. It is self-serving to state that the transferees are to be allotted the properties so purchased by them in equity. The aforesaid sale transactions clearly reveal that the sharers have taken possession of properties so allotted to them and enjoyed independently.

(8) The averments mentioned in paragraph III (14) of the plaint cannot appeal to reason and the analogy given by the plaintiff lacks sound and logic. The reference in the boundaries of names of sharers refer in the documents of sale are the indicative and affirmative of partition by metes and bounds. There need not be any document in proof of a final partition as per law. The partition can be effected by act of parties or by intervention of Court. Since Patta is not a document of title its standing in the names of all sharers cannot be presumed that there was no final partition.

(9) The defendants deny the averments mentioned in paragraphs III (15) and (16) of the plaint. It is wrong to state that the defendants 1 to 3 are in possession large extent of property on the road side the value of which is ten times more than the other properties. It is further false to state that at the time of division the value of properties was not taken into consideration. It is again self-serving to allege that if division was final, there would have been a registered partition or an unregistered partition list and that Patta would have been transferred. Such reasoning is not acceptable and cannot be placed by the plaintiff who has entered into sale transactions. The plaintiff is estopped from claiming any share over the suit 'B' Schedule property since already partition having been over.

(10) The avements mentioned in paragraphs III (17) to (19) of the plaint are denied as false and self-serving. As a matter of fact, the plaintiff was allotted an extent of Acre 1.20 cents at Vellakarai Village in survey No.90/2 which was sold by him on 29.11.2001 by way of registered sale deed in favour of Rajakumaran and Rajendran S/o. Rasu Padayachi. The boundaries in the description of property to the said sale deed will disclose as "ரோடுக்கு கிழக்கு". That road refers to Kumalamkulam to Puliur Village. Therefore, it is not correct to state that the plaintiff was not allotted the property on road side. The averments mentioned in Paragraphs III (20) to (28) are specifically denied as false. All the allegations put forward therein are legally and factually not sustainable. In any event the plaintiff's claim is barred by the law of limitation and by the principles of estoppel and resjudicata.

(11) The items 19 to 22 mentioned in 'B' schedule property are sites with house built thereon. In item No.19 the 1st defendant is residing with members of his family. In Item No.20, the 2nd defendant is residing with members of his family. In Item No.21 the plaintiff is residing with members of his family, though the Patta for the property stands the name of 3rd defendant. In Item No.22, the 3rd defendant is residing with members of his family. All the sharers have independently put-up house building in their respective shares at their cost. The houses are assessed to property tax and electrified in the names of plaintiff and defendants 1 to 3 respectively for their houses. The defendants are filing the house tax receipt and the electricity consumption receipts.

(12) The 3rd defendant and the plaintiff have jointly purchased an extent of 6 cents out of 18 cents in Survey No.294/24 at Kumalamkulam Village from Ramar Padayachi and his sons by way of Registered sale deed dated 11.12.1985. However, this entire cent was allotted in favour of 3rd defendant which is described item No.22 in schedule 'B' of the plaint. In turn 3rd defendant was given 3 cents to the plaintiff in the adjacent property on the east in the partition by way of adjustment and

understanding. Thus, the plaintiff is in possession of Item No.21 of the schedule 'B'. In Item No.5 of 'B' Schedule Property after its allotment to the 1st defendant, he has installed 20HP Motor Shed with Service Connection No.244 and incurred expenses to the tune of Rs.10,00,000/-. It was effected in the year 2010. The plaintiff has suppressed all these material facts.

(13) If the partition was only tentative arrangement as claimed by him immediately the plaintiff could have rebuked and raised objections at the time of sale transactions and he would not have entered into any transactions. There is no cause of action for the suit and the suit as framed is not maintainable. The lengthy plaint in a partition suit itself is a standing testimony of false claim of the plaintiff. The averments in the plaint only confirms final partition already taken place in the family in the year 1977. Hence, the suit is to be dismissed with compensatory costs.

4. The written statement averments of the defendants 7 and 8 are as follows:

(1) The plaint claim by the plaintiff is a sheer abuse of process of Court and the law. The partition by metes and bounds between the sharers had already taken place even during the life time of father Natesan Padayachi and as such there cannot be second partition. The suit is barred by the principles outlined and embodied in Section 11 of the Code of Civil Procedure. The instant suit is an irresponsible and vexatious law suit which needs to be rejected at the threshold. There is no cause of action for the suit. An illusory and flimsy cause of action has been created by the plaintiff deliberately by suppression of material facts. The suit is liable to be dismissed with compensatory cost.

(2) These defendants are concerned with Schedule 'G' of the Plaint. The entire property belonging to Natesan Padayachi and his four sons namely plaintiff and defendants 1 to 3 were already divided by metes and bounds in the year 1977 and the

sharers have acted upon the said partition by separately dealing with their share either among themselves or in favor of 3rd parties.

(3) The 2nd defendant along with his son Sakthivel had sold an extent of 1 Acre in Survey No.206/4 at Silambinathanpettai Village in favour of 7th defendant for Rs.89,000/- namely Schedule 'G' property through a sale deed registered under Document No.2371 of 2009. The purchaser - 7th defendant was put in possession of the said property on the date of sale and he was enjoying the property as an absolute owner till he sold the same in favour of 8th defendant on 01.02.2018. The 8th defendant has purchased the property from the 7th defendant through registered sale deed under Document No.178/2018 for Rs.2,22,000/- and since date of purchase she has been in possession and enjoyment of the property by harvesting Cashew kernels. The Patta for the property stood transferred in the name of 8th defendant under Patta No.3751. As on date 8th defendant is in possession and enjoyment of the property as an absolute owner. The plaintiff himself had purchased other properties from the vendors of 7th defendant namely the 2nd defendant and his son Sakthivel through a registered sale deed dated 07.07.2010. Therefore, the plaintiff is estopped from claiming any right, title and interest over the properties by seeking for alleged partition through metes and bounds. The suit is highly vexatious and is an abuse of process of Court. These defendants have been unnecessarily dragged to the litigation and the plaintiff is liable to pay compensation to these defendants. The plaintiff has no cause of action for the suit and the suit is also barred by limitation. The suit is to be dismissed with compensatory costs.

5. On the above said pleadings, the following issues were framed:

- (1) Whether the plaintiff is entitled to get 1/4th share in the suit property as prayed for?
- (2) Whether the suit is barred by to file the cause of action?

(3) Whether the suit filed by the plaintiff is not maintainable as alleged by the defendants is true?

(4) To what other relief?

Additional Issues:

Whether the suit is barred by limitation as alleged by the defendants 7 and 8?

6. Issues recasted as follows today i.e. 10.06.2026:

(1) Whether the plaintiff is entitled to get 1/4 share and additional 1 acre purchased by the plaintiff in the suit B schedule properties as prayed for?

(2) Whether the plaintiff is entitled for mesne profits as prayed for?

(3) Whether the cause of action pleaded is correct?

(4) Whether the suit is barred by limitation as alleged by the defendants 7 and 8?

(5) Whether the suit is maintainable?

(6) To what other relief?

7. On the side of the plaintiff, the plaintiff examined himself as PW1 and one Krishnamoorthi was examined as PW2 and Ex.A1 to Ex.A6 were marked and on the side of the defendants, the 1st defendant examined himself as DW1 and the 3rd defendant examined himself as DW2 and Ex.B1 to Ex.B17 were marked.

8. Issue Nos. 1 to 6:

The case of the plaintiff is that the plaintiff and the defendants 1 to 3 are brothers and one Natesa Padayachi is a father and Rukmani Ammal is a mother. Natesa Padayachi was a lessee of 106 acres of land of Ramachandra Chettiar. The defendants 1 to 3 and the plaintiff have put their hard work in the agricultural land leased by their father Natesa Padayachi in developing it. So cherished by the act of Natesa Padayachi, the owner of 106 acres land to honour Natesa Padayachi's service. Hence, Natesa Padayachi and four sons namely the defendants 1 to 3 and the plaintiff

had executed a release deed in favour of Ramachandra Chettiar thereby retention 20 acres which Ramachandra Padayachi giving honour of their agricultural service of Natesa Padayachi. Ex.A1 is the release deed dated 16.12.1976. Ex.A1 is stated to be surrender deed styled as release deed in favour of Ramachandra Chettiar. It is a registered document. The defendants 1 to 3, plaintiff and their father released 86 acres in favour of the owner Ramachandra Chettiar retaining 20 acres for the service of Natesa Padayachi and his family. Apart from these 20 acres, Natesa Padayachi owned about another 10 acres. The family of Natesa Padayachi was in possession and enjoyment of Hec.11.09.00 of land in Silambinathanpettai village and Hec. 0.70.0 in Naduveerapattu village and 605 sq.metres of site in Naduveerapattu village. Both Natesa Padayachi and his wife Rukmani Ammal did not effect a partition during his lifetime. Natesa Padayachi died in the year 1989 intestate. Their mother Rukmani Ammal died in the year 1998. The defendants 1 to 3 and the next brother namely the plaintiff all were married even before 1975, even before the death of their father in the year 1989. The plaintiff's marriage was performed in the year 1975. The defendants 1 to 3 and the plaintiff had to take care of their respective families. Their mother Rukmani Ammal suggested a tentative arrangement for their family needs. For which the defendants 1 to 3 and the plaintiff consented. The understanding was that the respective sharers should raise crops of their choice in the properties handed over to them and maintain their family from out of the income. The sons all agreed and that is how plaintiff and defendants 1 to 3 came into possession of separate extents. The properties so put in the possession of defendants 1 to 3 and the plaintiff in that order are described as C, D, E and F schedules. This tentative arrangement was effected after the father's death but before the mother's death, i.e. about 40 years back. Plaintiff reiterates that there was no partition by metes and bounds and there was no **final partition**. The oral arrangement was tentative as stated above, only for the sake of convenience. That was why the division was not equal as will be seen from an arithmetical calculation. Even the locations were tentative. The plaintiff and

defendants have continued in such possession even after the death of the mother, till date. Though the tentative division was effected, the brothers were not legally divided. There was no division by metes and bounds. Patta has not been transferred to the names of the respective sharers only because there was no final partition. Patta for some properties stand in the names of defendants 1 and 2 for some items only. Patta still stands in the name of the father for most of the properties. The 3rd defendant retired as a Superintendent in TWAD Board. Therefore, he was and is affluent. The 1st defendant and 3rd defendant have married first cousins. Therefore, defendants 1 and 3 are closely knit to each other. The 2nd defendant has also married a relation. The 2nd defendant had to get his 3 daughters married. Instead of borrowing loan, 2nd defendant decided to sell part of properties in his possession. Though there was no final partition by metes and bounds, there was no other option but to sell. He was not in a position to borrow on security and repay it. Therefore, 2nd defendant sold 1 acre of property in his possession to the 7th defendant under a registered sale deed dated 07.12.2009. In turn, Sakthimurugan has sold that property to the 8th defendant herein under a registered sale deed dated 01.02.2018. The sale was of Ac. 1.00 out of the larger extent in item 11 of B schedule. It is separately shown as G schedule. For the second daughter's marriage also the 2nd defendant sold an acre of property. In order to avoid sale to a third party, plaintiff purchased it under a registered sale deed dated 07.07.2010. The sale relates to a part of S.No.190/- before sub-division. The plaintiff purchased 0.86-1/2 cents or 0.35.10 ares which is now sub-divided as S.No.190/1A. Plaintiff also purchased 0.05.50 ares in S.No.190/2. Thus, he has purchased 1 acre corresponding to items 8 and 10 in B schedule. It is also separately described in H schedule. 2nd defendant sold another acre for the last daughter's marriage. This time, the 3rd defendant purchased it, under a registered sale deed dated 29.05.2019. This 1 acre also corresponds to item 11 of B schedule. It is separately described as 'I' schedule. Thus, 2nd defendant alone has sold 3 acres, one acre each to the plaintiff, 3rd defendant and 7th defendant which is

now with the 8th defendant. All the sales were for legal necessity. Plaintiff, 3rd defendant and defendants 7 and 8 as transferees, are entitled to be allotted the properties purchased by them, in equity. It will also be seen that in the sale deed in favour of plaintiff, there is no recital of any partition but in the sale deed in favour of 7th defendant and 3rd defendant the recitals are suggestive of partition. The reference in the boundaries of names of sharers refers to the tentative partition and not a final partition by metes and bounds. There is no specific recital in any sale deed about any partition having been effected at any time. There is no document in proof of a final partition. That is why there is no such specific recital. That is why patta also was not transferred to the names of the respective sharers. A partition not effected by metes and bounds is no partition. It will also be seen that the properties in the possession of plaintiff are far less in extent. Moreover, defendants 1 to 3 are in possession of large extents on the road-side the value of which is 10 times more than the other properties. Plaintiff did not agree for such a partition as being final. At the time of division, there was talk only about income. The value of the properties were not taken into consideration. It was not necessary as there was no final division. If really the division was final, there would have been a registered partition or atleast an unregistered partition list. Patta would have been transferred. The plaintiff is the youngest of the brothers. He is himself 67 years old. Therefore, the plaintiff has been urging defendants 1 to 3 to effect a partition by metes and bounds and have it registered. Defendants 1 to 3 are reluctant. They are all in possession of vast extent of land on the road-side. Therefore, they want to retain those properties on the roadside, especially the 1st defendant. As already stated, defendants 1 to 3 have married relations and are in possession of properties on the road side. Therefore, defendants are unwilling for a fair and just division. Defendants 1 to 6 are not prepared for an equitable division. Plaintiff has already been in possession of a lesser extent and consequently had realized lesser income. It will be seen that no property in the possession of plaintiff is on the road-side. At the time of tentative allotment this was

not in contention since cultivation was the criterion. With value of items on the road-side being atleast 10 times more, defendants 1 and 3 are not willing to effect a partition by metes and bounds. Plaintiff wants to settle things during his lifetime. Therefore, plaintiff is filing this suit for partition and separate possession.

9. Per contra, the case of the defendants is that there was oral partition in the family of defendants 1 to 3 and the plaintiff even during the lifetime of their father Natesa Padayachi in the year 1977, in respect of the properties in the release deed dated 16.12.1976 and the separate properties of Natesa Padayachi around 10 acres in Silambinathanpettai, Naduveerapattu and Vellakarai Villages and also house sites of an extent of 0.16 cents in Naduveerapatty Village. Hence, the alleged tentative partition on the words of their mother is wrong. The partition was only metes and bounds. The change of name in the patta for some properties and sale in favour of third parties and in the name of plaintiff would establish the partition by metes and bounds. In the said partition in the year 1977 in the family, the father Natesa Padayachi was allotted 4 acres of land out of 20 acres obtained under the said release deed and his four sons were allotted properties as mentioned in the schedule C to F in the plaint. The shares thus have acted upon the oral partition as evidenced by following sale transactions: (1) The registered sale deed dated 14.09.1994 executed by the plaintiff and 3rd defendant in favour of Tamizhselvi. (2) The registered sale deed dated 29.11.2001 executed by the plaintiff in favour of Rajakumaran and Rajendran. (3) The registered sale deed dated 07.07.2010 executed by the 2nd defendant in favour of plaintiff. (4) The registered sale deed dated 07.12.2009 executed by the 2nd defendant in favour of plaintiff. (5) The registered sale deed dated 01.02.2018 executed by the 7th defendant in favour of 8th defendant. (6) The registered sale deed dated 29.05.2019 executed by the 2nd defendant in favour of 3rd defendant. Further item Nos.19 to 22 in B schedule properties are sites with house built thereon. In item No.19, the 1st defendant is residing with members of his family.

In Item No.20, the 2nd defendant is residing with members of his family. In item No.21, the plaintiff is residing with members of his family, though the Patta for the property stands the name of 3rd defendant. In Item No.22, the 3rd defendant is residing with members of his family. The houses in it put by respective shares at their cost. The property taxes are assessed in the name of plaintiff and the defendants for their respective houses. The 3rd defendant and the plaintiff have jointly purchased an extent of 6 cents out of 18 cents in Survey No.294/24 at Kumalamkulam Village from Ramar Padayachi and his sons by way of Registered sale deed dated 11.12.1985. However, this entire cent was allotted in favour of 3rd defendant which is described item No.22 in schedule 'B' of the plaint. In turn 3rd defendant was given 3 cents to the plaintiff in the adjacent property on the east in the partition by way of adjustment and understanding. Thus, the plaintiff is in possession of Item No.21 of the schedule 'B'. In Item No.5 of 'B' Schedule Property after its allotment to the 1st defendant, he has installed 20HP Motor Shed with Service Connection No.244 and incurred expenses to the tune of Rs.10,00,000/-. It was effected in the year 2010. The plaintiff has suppressed all these material facts. If the partition was only tentative arrangement as claimed by him immediately the plaintiff could have rebuked and raised objections at the time of sale transactions and he would not have entered into any transactions. As the plaintiff himself had purchased the properties from the vendors of 7th defendant namely the 2nd defendant and his son through a registered sale deed dated 07.07.2010, the plaintiff is estopped from claiming any right, title and interest over the properties by seeking partition through metes and bounds. The suit is highly vexatious and is an abuse of process of law. These defendants have been unnecessarily dragged to the court. The plaintiff is liable to pay the compensation to these defendants. There is no cause of action for the suit and the suit is not maintainable. The suit is barred by limitation. Hence, the suit is to be dismissed with costs.

10. The plaintiff to prove that the suit properties are only orally partitioned and not partitioned by metes and bounds examined himself as PW1 and deposed plaintiff allegations. In his cross examination, he deposed that,

"வெள்ளைங்கரை கிராமத்தில் 1 ஏக்கர் 20 செண்ட் நிலத்தை ராசு படையாட்சி மகன் ராஜேந்திரனுக்கு கிரையம் கொடுத்தேன் என்றால் ஆமாம். அந்த 1 ஏக்கர் 20 செண்ட் வீட்டிலிருந்து 4 கி.மீ. தொலைவில் முந்திரிகாடு சுழற்ச்சி முறையில் ஆளுக்கு ஒருவருடம் பார்த்துக்கொண்டு வந்தோம். அந்த முந்திரிக்காட்டில் பக்கத்து ஊரை சேர்ந்தவர் கொலை நடந்துவிட்டது. அதனால் என் அண்ணன்கள் அங்கு செல்வதற்கு அவர்களுக்கு பயமாக இருக்கிறது என்றும், என்னை அவர்களுக்கு பணம் கொடுத்துவிட்டு நானே அந்த முந்திரிக்காட்டை வைத்துக்கொள்ள சொல்லிவிட்டார்கள். நான் பெரிய அண்ணனுக்கும், இரண்டாவது அண்ணனுக்கும் பணமாக கொடுத்துவிட்டேன். மூன்றாவது அண்ணனுக்கு பக்கத்தில் இருந்த 2 செண்ட் நிலத்தை போதும் எனக்கு பணம் வேண்டாம் என்று சொன்னதால் அவருக்கு அந்த 2 செண்டை கொடுத்துவிட்டேன். என் வீட்டு பெண்கள் கொலை நடந்ததால் முந்திரிக்காட்டிற்கு போய் வேலை செய்ய பயந்ததால், என் பிள்ளைகளின் படிப்பு செலவிற்காக 2001ல் விற்றுவிட்டேன். அது பாகத்தில் வராது. ஏனென்றால் மூன்று அண்ணனுக்கு அதற்கு ஈடாக பணம் கொடுத்துவிட்டேன். என்னிடம் காட்டப்படுவது நான் ராஜேந்திரனுக்கு கிரையம் கொடுத்த பத்திரம் தான் அது பி.சா.ஆ.1. அதில் என் பூர்வீக பாத்தியமாகியும் எங்கள் குடும்பத்தில் செய்துகொண்ட வாய்மொழி பாக பாத்தியமாயும் என் பாகத்திற்கு கிடைத்து இதனால் வரையில் நான் தனிமையில் ஆண்டு அனுபவித்து வருவதும் எனக்கு சொந்தமானதுமான இந்த சொத்தை ரூ.48000-க்கு கிரையம் கொடுக்கிறேன் என்று வாசம் கொடுத்துள்ளேன் என்றால் சரிதான். நான் சொல்லக்கூடிய என் சகோதரர்களுக்கு பணம் கொடுத்ததற்கான எந்த ஆதாரமும் இல்லை என்றால் ஆமாம். என்னுடைய பிராதிடம் மேற்கண்ட எனது சொத்து இருந்ததை அது விற்பனை செய்யப்பட்டதையோ நான் சொல்லிய மேற்கண்ட காரணங்களை கூறவில்லை என்று சொன்னால் சரிதான்."

Admittedly, Ex.B1 property is the ancestral property of defendants 1 to 3 and plaintiff and their father. It is not whispered about in the plaint. The plaintiff had pleaded that there was oral partition and it was not metes and bounds and hence, has come forward for fresh partition be effected by metes and bounds. The plaintiff is expected to have mentioned about Ex.B1 property also and the manner of disposal of it in the plaint. But he concealed to reveal it.

11. The plaintiff had further deposed in his cross examination that,

"14.09.1994 ல் நானும், 3 ம் பிரதிவாதி சக்கரபாணி என்பவரும் சேர்ந்து புலியூர் கிராமத்தில் 2 ஏக்கர் நிலத்தை தமிழ்ச்செல்வி என்பவருக்கு கிரையம் கொடுத்தேனா என்றால் ஆமாம். என்னிடம் காட்டப்படும் அந்த பத்திரம் என்றால் ஆமாம். அது பி.சா.ஆ.2. அதில் விற்ற பணத்தை கொண்டு எங்கள் நிலத்திற்கு அருகிலே நிலம் வாங்கியிருக்கிறோம். இதற்கு முன்பு சிவஞானம் விற்றுள்ளார். புலியூரில் உள்ள 2 ஏக்கர் எனக்கும், 3 ம் பிரதிவாதிக்கும் **வாய்மொழியாக ஒதுக்கப்பட்டது என்பதால் விற்றோம்.** 07.07.2010 நான் 2 ம் பிரதிவாதி சிவஞானமிடமிருந்து சர்வே எண்.190 ல் 86 செண்ட் கிரையம் வாங்கியுள்ளேன் என்றால் ஆமாம். சர்வே 190/2 ல் 5 ஏக்கர் கிரையம் வாங்கியுள்ளேன் என்றால் ஆமாம். 07.12.2009 சிவஞானம் சர்வே எண்.206/4 ஏ 1 ஏக்கர் நிலத்தை சக்திமுருகனுக்கு கிரையம் கொடுத்தார் என்றால் ஆமாம். இந்த சொத்தை பின்னிட்டு 01.02.2018 7-ம் பிரதிவாதி 8-ம் பிரதிவாதி மலர்கொடிக்கு கிரையம் கொடுத்தார் என்றால் ஆமாம். 29.05.2019 சிவஞானம் 3 ம் பிரதிவாதி சக்கரபாணிக்கு சர்வே எண்.206/4A1-1 ஏக்கர் நிலத்தை கிரையம் கொடுத்துள்ளார் என்றால் சரிதான்..."

In Ex.B2, the plaintiff and the 3rd defendant Chakrapani had sold 2 acres at Puliyur Village to Tamizhselvi. It is mentioned in Ex.B2 sale deed that “எனக்கு சொந்தமான”. In Ex.B2, it is mentioned that the property sold in it to Tamizhselvi belonging to the plaintiff and the 3rd defendant. The manner of acquisition of it is not

described in the Ex.B2 sale deed. But in his cross examination, PW1 had deposed that the said 2 acres at Puliur Village was allotted to the share of plaintiff and the 3rd defendant in the oral partition at their family and hence they had sold it on 14.09.1994. The plaintiff did not mention the Ex.B2 property in the plaint. Further PW1 deposed that on 07.07.2010, he purchased 0.86 cents from the 2nd defendant. It is Ex.A4. In it, the 2nd defendant had stated that it is the ancestral property he possessed and paying tax. Hence, it reveals that oral partition admitted by the plaintiff even on 07.07.2010. He further deposed that on 07.12.2009, the 2nd defendant sold 1 Acre to the 7th defendant. It is Ex.A2 dated 07.12.2009. It is stated in it that the property sold in it belongs to the 2nd defendant and is in his possession and selling it to the 7th defendant.

12. PW1 also deposed that the said 7th defendant sold the property to the 8th defendant on 01.02.2018 in Ex.A3. It is mentioned in it that the property therein is purchased by the 7th defendant from the 2nd defendant and his son Sakthivel and selling it to the 8th defendant. PW1 also deposed that on 29.05.2019 through Ex.A5, the 2nd defendant sold 1 acre to the 3rd defendant. Ex.A5 reveals that the property it in was allotted as B schedule in which the 2nd defendant was allotted with the property in it. Thus the B schedule mentioned property allotted to the family of Natesa Padayachi in Ex.A1 is established. It is sold by the 2nd defendant in favour of the 3rd defendant in Ex.A5.

13. The plaintiff had admitted that the defendants 1 to 3 and the plaintiff are residing in the houses built in house sites in the suit B schedule mentioned property in item Nos.19 to 22. The house the plaintiff residing is built by his father. The house the 3rd defendant residing is also built by his father. While the sons of defendants 1 and 2 put up the houses wherein they live, the plaintiff did not object while built them.

14. The plaintiff categorically admitted that he was not allotted with any property abutting the road side. He deposed that he sold acre 1.20 cents to Rajakumaran and Rajendiran at Vellakarai Village on 29.11.2001 in Ex.B1. Ex.B1 reads that it is the ancestral property, fell to his share in the oral partition in his family. **The eastern boundary of the property sold in it is road.** Hence, the contention of the plaintiff that he was not allotted with any property abutting road side cannot be believed. Though PW1 had deposed that it is Ex.B1 property is the property purchased by him from his elder brother, he had admitted that he do not possess any document in mark of the said purchase. The defendants' own document Ex.B1 reveals that as early as on 29.11.2001, there was oral partition in the family in which he was allotted with the land abutting road. But the suit is filed on 01.06.2023 after 22 years of Ex.B1 sale deed claiming that though there was oral partition in the family during the lifetime of their mother, it was not by metes and bounds and it was only for convenient enjoyment to meet their family expenses and hence as no final partition was entered, the suit property is to be divided by metes and bounds. The sale deed in Ex.B1 speaks by itself *res ipsa loquitur* that there was oral partition in the family admittedly atleast during the lifetime of their mother and it is by metes and bounds and the plaintiff was also allotted the property abutting road. The plaintiff after selling his property so allotted in Ex.B1 as early as on 29.11.2001, the 2nd defendant and his son selling his property in favour of 7th defendant in Ex.A2 dated 07.12.2009 and the 7th defendant selling the said property to the 8th defendant in Ex.A3 dated 01.02.2018, the 2nd defendant selling a property in favour of the plaintiff in Ex.A4 dated 07.07.2010, the 2nd defendant selling a property in favour of the 3rd defendant in Ex.A5 dated 29.05.2019 and the 3rd defendant and plaintiff selling a property in favour of one Tamizhselvi in Ex.B2 dated 14.09.1994, all will go to show the family oral partition during the lifetime of plaintiff's mother. Particularly Ex.B1 will reveal the said oral partition is by metes and bounds. The learned Counsel for the plaintiff cited the following decision cases:

- (1) AIR 1982 SC 20 para 11, Gangabai Vs. Chhabubai, wherein it is held that the bar under sec.92 applies only to a person who relies upon it and not to a person who does not rely upon it. Parol evidence to show that the document was a totally different one can be led.
- (2) AIR 1979 SC 1436 para 7, Sukhrani (dead) by L.Rs and others Vs. Hari Shanker and others, wherein it is held that an unfair and unjust partition could be reopened at any time.
- (3) AIR 1976 SC 1 para 19, Ratnam Chettiar and others Vs. S.M.Kuppuswami Chettiar and others, wherein it is held that a partition can be reopened after any length of time. Onus is on person supporting the partition to prove it.

From the discussions made, this court is of a considered view that the suit is not maintainable and there is no cause of action for the suit and the suit is barred by limitation and the plaintiff is not found entitled for 1/4 share and additional 1 acre in the suit B schedule properties and also mesne profits as prayed for and the above decided cases are not applicable to the present facts of the case. Further, the plaintiff is not entitled to any other relief. Hence, this court decides that the suit is found to be dismissed. These issues are answered accordingly.

15. In the result, the suit is dismissed. Keeping in view the relationship between the parties to the suit, there shall be no order as to costs.

Dictated to the steno-typist, transcribed by her, corrected and pronounced by me in open court, this the 10th day of June, 2026.

Principal District Judge,
Cuddalore.

LIST OF EXHIBITS MARKED

FOR PLAINTIFF:

Ex.A1	16.12.1976	Registered Copy of Release deed executed by Natesa Padayachi and 4 others in favour of Ramachandra Chettiar and 3 others
Ex.A2	07.12.2009	Registered Copy of Sale Deed executed by 2 nd defendant and his son Sakthivel in favour of 7 th defendant
Ex.A3	01.02.2018	Registered Copy of Sale Deed executed by 7 th defendant in favour of 8 th defendant
Ex.A4	07.07.2010	Registered Copy of Sale Deed executed by 2 nd defendant in favour of plaintiff
Ex.A5	29.05.2019	Registered Copy of Sale Deed executed by the 2 nd defendant in favour of 3 rd defendant
Ex.A6	---	Computerized 'A' Register – 16 Nos

FOR DEFENDANTS:

Ex.B1	29.11.2001	Copy of Sale Deed executed by the plaintiff in favour of Rajakumaran and Rajendiran
Ex.B2	14.09.1994	Copy of Sale Deed executed by the 3 rd defendant and the plaintiff in favour of Tamizhselvi
Ex.B3	24.11.2023	Certified Copy of FMB in Survey No.90 of Vellakarai Village
Ex.B4	24.11.2023	Patta No.3052 and A registers
Ex.B5	24.11.2023	Patta No.1744 and A registers
Ex.B6	16.11.2023	Patta No.2573, 3751, 2894, 1099 and 3052 and A registers
Ex.B7	24.11.2023	Patta No.715 and A registers

Ex.B8	24.11.2023	Patta No.1611 and A register
Ex.B9	24.11.2023	Patta No.1501 and A register
Ex.B10	24.11.2023	Patta No.1614 and A register
Ex.B11	24.11.2023	Patta No.1502 and A register
Ex.B12	16.11.2023	Patta No.2894 and A register
Ex.B13	11.12.1985	Copy of Sale Deed executed by Ramar Padayachi and his sons Kaliyamoorthy and Deivasigamani in favour of 3 rd Defendant and plaintiff
Ex.B14	---	House Tax Receipt Original (3 Numbers) in the name of 2 nd defendant
Ex.B15	---	Electric Bill Receipt Original (5 Numbers)
Ex.B16	---	Kist Receipts (33 Numbers)
Ex.B17	15.02.1999	Copy of the Petition submitted by the 1 st defendant to the Tamil Nadu Electricity Board, seeking Electricity connection for a Pump Set.

LIST OF WITNESSES EXAMINED

FOR PLAINTIFF:

PW.1 Thiru.Durairangam (Plaintiff)

PW.2 Thiru.Krishnamoorthi

FOR DEFENDANTS:

DW1 Thiru.Kuppusami (1st defendant)

DW2 Thiru.Chakrapani (3rd defendant)

Principal District Judge,
Cuddalore.

Draft/Fair Judgment

O.S.No.272/2023

Dt. 10.06.2026 C1A