

IN THE COURT OF THE SUBORDINATE JUDGE, AT MADURANTHAKAM

PRESENT: THIRU.N.S.SRIVATHSAN.,M.L.,  
SUBORDINATE JUDGE,  
MADURANTHAKAM.

Tuesday, the 9<sup>th</sup> day of October 2018

OS 166/2014

Smt. Pounammal

...Plaintiff...

/Vs/

1.Chinnakuzhandhai

2.Siva @ Anitha

3.Govindammal

4.Anjalakshi

5.Srinivasan

6.Minor.Selvi minor represented by father and guardian Srinivasan

7.Arunachalam

8.Sivagami

9.Kumar

...Defendants

This suit coming before this court for final hearing on 28.09.2018 in the presence of Thiru.R.Arumugam, Counsel for Plaintiff, Thiru.D.G.Manikandan, Counsel for 6<sup>th</sup> Defendant, other Defendants being set exparte, having heard the arguments submitted on behalf of the both sides, having perused the case records and having stood over the same till date, this court delivers the following

**Judgment**

This suit is filed by the plaintiff to pass a preliminary decree for partition infavour of the plaintiffs as against the defendants to divide the suit properties into five equal shares and to allot one such to the plaintiff by metes and bounds and to direct the defendants to pay the cost of the suit.

**The brief facts of the plaint are as follows:**

The properties detailed in the schedule hereunder are the absolute and self acquired properties deceased Ragava Pillai, which he had purchased under the various sale deeds document Nos. 2033/1950, 740/1954, 2828/1959, 2138/1961, 2145/1962, 1608/1963, 2497/1965 and 2938/1968 for valid consideration. Those original sale deeds were with deceased Irusapillai, now they are in the hands of the legal heirs of deceased Irusapillai. Hence, certified copies of the said sale deeds are filed. Since the date of respective purchase the said Irusapillai was in possession and enjoyment till his death. The said Ragavapillai died during the year 1980. Ragavapillai had two wives, Viz., 1. Sivakami and 2. Loganayagi. After the death of 1<sup>st</sup> wife Sivakami, the said Ragavapillai had married Loganayagi as his 2<sup>nd</sup> wife. Irusapillai was born through 1<sup>st</sup> wife of Ragava pillai, The said Irusapillai died about the year 2011. The 1<sup>st</sup> defendant is wife, the defendants 2 to 4 and deceased Annapoorani are daughters of deceased Irusapillai. Annapooranai died leaving behind her husband (5<sup>th</sup> defendant) and her daughter Smt.Selvi (6<sup>th</sup> defendant) are the legal heirs of deceased Irusapillai. The defendants 7 and 8 and one deceased Smt.Chinnaponnu were born through 2<sup>nd</sup> wife of deceased Ragavapillai. Chinnaponnu died leaving behind her only son Viz., Kumar (9<sup>th</sup> defendant) is legal heir of deceased Smt.Chinnaponnu. The genealogy table is filed herewith to be read as part and parcel hereof. The defendants 7 and 8 and also deceased Irusapillai and Chinnaponnu are the legal heirs of deceased Ragavapillai and as per law each entitled to 1/5<sup>th</sup> share over the suit properties as they are sons and daughters of the deceased Ragavapillai. The plaintiff and the defendants 8 and 9 have jointly issued a legal notice dated 12.09.2014 to the defendants 1 to 7 and the said notice was served to the defendants 1 to 7, the available acknowledge cards are filed along with legal notice. The defendants 1 to 7 have neither taken any steps to divide the suit properties into 5 equal shares and

allot one such share to the plaintiff by metes and bounds.

**The gist of the Written Statement filed by the 6<sup>th</sup> defendant through his court guardian is as follows:**

All facts been stated in the above suit have been accepted and admitted by the 6<sup>th</sup> defendant herein. The suit schedule property originally belonged to Ragava Pillai (Son through 1<sup>st</sup> wife Sivagami) and Povunammal daughter through 2<sup>nd</sup> wife Loganayagi. Povunammal is the plaintiff herein, the defendants 1 to 6 are legal heirs of Irusapillia and defendants 7 to 9 are legal heirs of Loganayagi (2<sup>nd</sup> Wife of Ragava pillai) The suit has been filed by the plaintiff for partition of the schedule mentioned property which was in the name of deceased Raghava pillai. All the plaintiff and the defendants herein have equal share in the schedule mentioned property. All the other defendants have been set exparte this court was pleased to appoint a Court Guardian to the 6<sup>th</sup> defendant Selvi who is a minor, Hence the Court Guardian has to file written statement on behalf of the above said minor and so the same is filed by him, representing the minor Selvi ( 6<sup>th</sup> defendant herein). As mentioned above, she is also entitled to 1/5<sup>th</sup> share which falls to the share of her deceased mother and the same shall be divided as ½ by her father Srinivasan (5<sup>th</sup> defendant herein) and by this defendant (6<sup>th</sup> defendant). This court may be pleased to decree the suit as prayed for by the plaintiff.

**4.On the basis of the pleadings in the Plaint and Written Statement, the following issues have been framed for determination of the dispute involved in the above suit.**

1. Whether the plaintiff is entitled to preliminary decree as prayed for with cost?
2. To what relief the plaintiff is entitled?

**On All issues**

The plaintiff was examined as PW1. Ex.A1 to A14 were marked on the

side of the plaintiff. No witness was examined and no exhibits was marked on the side of the Defendants.

### **ISSUE No.1**

The claim of the plaintiff is that the suit mentioned properties were originally belonging to Ragava pillai, he had two wives namely Sivakami and Loganayaki. Only after death of 1<sup>st</sup> wife Sivagami, the said Ragava pillai had married Loganayagi as his second wife. Therefore, according to the plaintiff the said Loganayagi is lawfully wedded wife of the deceased Ragavapillai. As mentioned above, the plaintiff has filed exhibits.A1 to A14 to prove her claim for partition of the suit mentioned properties. The plaintiff has also given oral evidence with regard to the title of the suit mentioned properties. She has stated in her evidence that the suit mentioned property was originally belonging to his father namely Ragava pillai. She has stated the original documents of title were in the custody of Irusapillai who was born to the 1<sup>st</sup> wife of Ragavapillai. This is the reason by the plaintiff for non production of original documents. Under the circumstances stated above, the certified copies the sale deeds have been marked as Ex.A1 to Ex.A8. Ex.A9 is the computer patta. Computer patta is in the name of Irusappiliai son of Ragavapillai. Irruspillai is no more. The defendants D2 to D4 are the legal heirs of the deceased Irrusapillai. They were set exparte. Ex.A1 to Ex.A8 clearly reveal that the Ragava pillai had purchased the suit mentioned properties. Ex.A14 patta is not a document of title. Further the legal heirs of Irussapillai who are the defendants 1 to 6 did not come forward to contest the suit and they were also set exparte. Further, the plaintiff has also issued legal notice to the defendants calling upon them to allot her share in the suit mentioned property. The notice was also acknowledged by the defendants namely Chinnakulanthai, Arunachalam, Selvi and Siva. They did not also appear before this court and

they were also set exparte. Only the defendant contesting the suit is the minor 6<sup>th</sup> defendant. Thiru.D.G.Manikandan Advocate was appointed as court guardian for the 6<sup>th</sup> defendant and he has filed written statement admitting that the suit mentioned properties were absolute properties belonging to Ragava pillai and the plaintiff is the daughter through the 2<sup>nd</sup> wife of the said Ragavapillai and as such the plaintiff and the defendants are having shares in the suit mentioned properties. There is no oral or documentary evidence for the 6<sup>th</sup> defendant. The claim of the plaintiff is admitted by the 6<sup>th</sup> defendant. Therefore, taking into consideration the exhibits marked on behalf of the plaintiff and the oral evidence adduced by the plaintiff this court comes to the conclusion that the plaintiff is entitled to preliminary decree for partition of the suit mentioned property into 5 equal shares and allotment of one such share to her as prayed for in the suit.

### **ISSUE No.2**

No other relief need be granted to the Plaintiff.

In the result, this suit is decreed as prayed for with cost. The preliminary decree is passed in favor of the Plaintiff for partition of the suit mentioned properties into 5 equal shares by metes and bounds and allotment of one such share to her by way of appointment of Advocate Commissioner under Order 26 Rule 13 of C.P.C.

Dictated to Steno-Typist, transcribed and typed by her and corrected and pronounced by me in open court on this, the **9<sup>th</sup> day of October 2018**

Subordinate Judge,  
Maduranthakam.

### **List of Witnesses examined on the side of the Plaintiff**

PW1 Tmt.Paunammal (30.08.2018)

**List of Exhibits marked on the side of the Plaintiff**

Ex.A1	17.7.1950	Certified copy of Registered mortgage deed executed by Ragava gounder infavour Ragava Pillai Doc.No. 2033/1950
Ex.A2	12.5.1954	Certified copy of Registered sale deed executed by Munusamy infavour of Ragava pillai Doc.No. 740/1954
Ex.A3	16.10.1959	Certified copy of registered sale deed executed by Karuppa gounder and others infavour of Ragava pillai bearing Doc.No.2828/1959
Ex.A4	14.08.1961	Certified copy of registered sale deed executed by Ezhumalai and another infavour of Ragava pillai bearing Document No.2138/1961
Ex.A5	12.08.1962	Certified copy of registered sale deed executed by Thulasi Pillai and others infavour of Ragavapillai bearing Document. No. 2145/1962
Ex.A6	22.07.1963	Certified copy of registered sale deed executed by Rangasamy and others infavour of Ragavapillai bearing Document. No. 1608/1963
Ex.A7	5.11.1963	Certified copy of registered sale deed executed by Ellappa gounder and others infavour of Ragavapillai bearing Document. No.2497/1965
Ex.A8	20.12.1962	Certified copy of registered sale deed executed by Balakrishna gounder and another infavour of Ragavapillai bearing Document. No. 2938/1968
Ex.A9		Xerox copy of Computer patta
Ex.A10	12.09.2014	Advocate notice issued by the plaintiff
Ex.A11		Acknowledgement card
Ex.A12		Acknowledgement Card
Ex.A13		Acknowledgement Card
Ex.A14		Patta

**List of Witnesses & Exhibits on the side of the Defendants:NIL**

Subordinate Judge,  
Maduranthakam.



09.10.2018

**Judgment Pronounced**

In the result, this suit is decreed as prayed for with cost. The preliminary decree is passed in favor of the Plaintiff for partition of the suit mentioned properties into 5 equal shares by metes and bounds and allotment of one such share to her by way of appointment of Advocate Commissioner under Order 26 Rule 13 of C.P.C.

Subordinate Judge,  
Madurantakam.

**IN THE COURT OF THE SUBORDINATE JUDGE, AT**

**MADURANTHAKAM**

**PRESENT: THIRU.N.S.SRIVATHSAN.,M.L.,**

**SUBORDINATE JUDGE,**

**MADURANTHAKAM.**

**Tuesday, the 9<sup>th</sup> day of October 2018**

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Smt. Pounammal

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Schedule of property

SI. No	Nature of property	Extent/Acres	Properties situated
1.	Dry.S.No.122/2A	0.06 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
2.	Dry.S.No.122/2E	0.05 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
3.	Dry.S.No.122/3C	0.06 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
4.	Dry.S.No.122/3F	0.01 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
5.	Dry.S.No.123/10 2	0.06 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
6	Dry.S.No.123/10 8A	0.04 acre (169 Sq.mts)	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
7	Dry.S.No.124/24	0.12 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
8	Dry.S.No.126/1F	0.09 acres	Properties situated at Gendracherry village, Maduranthakam Taluk,

			Kancheepuram District.
9	Dry.S.No.126/2B	0.12 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
10	Dry.S.No.126/2D	0.15 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
11	Dry.S.No.127/2	0.12 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
12	Dry.S.No.127/4	0.21 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
13	Dry.S.No.130/1G	1.28 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
14	Dry.S.No.130/2H	0.20 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
15	Dry.S.No.130/21	0.16 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
16	Dry.S.No.141/2A	0.85 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
17	Dry.S.No.122/2A	0.06 acres	Properties situated at Gendracherry village, Maduranthakam Taluk, Kancheepuram District.
18	Dry.S.No.122/2A	0.06 acres	Properties situated at Gendracherry

			village, Maduranthakam Taluk, Kancheepuram District.
	<b>TOTAL</b>	3.58 acres	

Cause of action for the suit arose on during the year 1980, 12.09.2014 at kendracherry Village, Maduranthakam Firka, and Taluk.

The suit value of Rs.7,11,600/- and a court fee of Rs.750- under Sec.37(2) of TNCF Act.

In the Court of the Subordinate Judge, Maduranthakam.

O.S.No.166/2014

Smt.punammal

. . . Plaintiff.

/Vs/

Chinnakuzhandhai and others

. . .

Defendants.

Valuation Slip

1. Section and Sub Section of the Act : Sec 37(2) of TNCF Act

2. Nature of suit : Suit for partition

3. Kist payable : ----

Suit for partition and to allotment of 1/2 share

One Hecter in dry category value of Rs.10,000/-

Total 0.69.5 Hec Rs.35,58,000/-

Plaintiff's 15<sup>th</sup> share Rs.7,11,600-

Fixed court fee paid thereon under Sec.37(2) TNCF. Act. Rs.750/-

4. Jurisdiction : Court fee paid 750/- under sec 37(2)

TNCF Act.

(Sd/-) R.Arumugham

gt[D

Counsel for plaintiff

(Sd/-)

Plaintiff.

/By Order/True Copy/

Sheristadar,

Sub Court, Maduranthakam