

**IN THE COURT OF THE SUBORDINATE JUDGE,
MADURANTAKAM.**

**Present: Mr. T.Ganesh, B.A., B.L.,
Subordinate Judge,
Maduranthakam.**

Friday, this 03rd day of July, 2026

O.S.No. 137/2017

(CNR.No. TNCG13-000529-2017)

1. S. Mala

2. Nandhini

3. Prasanth

...Plaintiffs

..Vs..

1. Sundaramoorthy

2. Athikesavan @ Babu

...Defendants

This suit coming before this court for final hearing on 19.06.2026 in the presence of Mr.V.Agoram, counsel for plaintiffs and Mr.M.Tamilmaran, counsel for defendants and after hearing the arguments submitted on behalf of both sides, having perusing the records, having stood over for the consideration of this court till date, this court delivered the following;

JUDGMENT

Plaintiffs file the suit for permanent injunction by restraining the 1st defendant, their men, Agents, servants, legal representatives and heirs from in any way interfering with their peaceful possession and enjoyment of the suit properties alternatively suit for partition and separate possession of their 1/2 shares in the suit

property by metes and bounds, for permanent injunction restraining the 2nd defendant from interfering with their possession and enjoyment of the suit properties and for costs.

2. *Plaint in brief:*

Suit properties belongs to Sridhar, having got the same in an oral arrangement that took place before 20 years ago. Sridhar died on 27.10.2008 leaving behind the Plaintiffs, the wife and children, as his legal heirs to succeed his estate. Suit properties were orally mortgaged by the family of Sridhar and it was redeemed by the 1st Plaintiff by utilizing the sale of her jewels. 1st defendant is also fully aware of the same. Plaintiffs alone are enjoying the suit properties, by paying kist.

1st defendant has no right over the suit properties. The names of the 1st Defendant, Murugadoss and Kanniammal wrongly mentioned in the computer patta and they are no way connected with the suit properties. They have no right over the suit properties. Murugadoss and Kanniammal did not disturb the possession and enjoyment of the Plaintiffs over the suit properties. Hence, they are not impleaded as parties to the suit. Defendant alone is attempted to interfere with the peaceful possession and enjoyment of the Plaintiffs over the suit properties.

Without any right over the suit properties, the 1st defendant had created document in favour of the 2nd defendant. If at all any document created is also void and not binding upon the plaintiffs. The 2nd defendant is attempting to interfere with the peaceful possession and enjoyment of the suit properties. He is no way connected with the suit properties. Without any right the defendants have attempted to interfere with the peaceful possession and enjoyment of the plaintiffs over the suit properties on 01.11.2017. The same was successfully prevented by the plaintiff. Again the defendants have attempted to interfere with the peaceful possession and enjoyment of the plaintiff possession over the suit properties on 11.11.2017. The same was also successfully prevented by the plaintiffs. Defendants are powerful with men and

money. At any time they may renew their attempt. Hence, the suit is filed for Permanent injunctions.

If this court come to conclusion that the 1st defendant is also entitled to share in the suit properties by way of incorrect patta, so for abandon caution, the Plaintiffs seek the alternative relief of partition of their half share in the suit properties.

Hence, plaintiffs file the suit for permanent injunction restraining the 1st defendant from interfering with their possession and enjoyment of the suit properties, alternatively for partition and separate possession of their 1/2 share in the suit properties, for permanent injunction restraining the 2nd defendant from interfering with their possession and enjoyment of the suit properties and for costs.

3. Written Statement filed by the Defendants 1 and 2 in brief:

The defendants denies the allegations set out in the plaint. Suit properties were originally belongs to Sundaram. He in a sound state of mind bequeathed the same and other properties to his legal heirs by way of registered will dated 17.06.1954. Sundaram died on 10.12.1984. As per will the suit properties and other properties were given to Kandasamy and Krishnaveni ammal, the parents of the 1st defendant under Schedule 'A' by giving life interest to them and vested interest to their legal heirs. As per will both enjoyed the properties. Kandasamy died on 10.12.1984 and Krishnaveni Ammal died on 09.04.1982 leaving behind their legal heirs Sridhar, 1st defendant, Vasanthi, Kalavathy, Gnanambigai and Sudha. After the death Kandasamy and Krishnaveni Ammal their legal heirs are in joint possession and enjoyment of the suit properties. Sridhar alone cannot be a sole legal heirs as per the said will.

In the suit 'A' Schedule of the will, there are larger extent of the property, which was given to the legal heirs of S.Kandasamy and Krishnaveni Ammal. After their death the above said legal heirs namely K.Sridhar, 1st defendant K.Sundaramoorthy, Vasanthi, Kalavathy, Gnanambigai and Sudha have jointly sold so many properties to the third parties by mentioning the above will. The 1st plaintiff's husband and father of plaintiffs 2 and 3 namely Sridhar and other legal

heirs of S.Kandasamy and Krishnaveni had already sold so many properties by mentioning the will dated 17.06.1954. The plaintiffs are very well known about the will. The plaintiffs unnecessarily drag the proceedings by suppressing the above admitted will dated 17.06.1954. The plaintiff has suppressed the real material facts. The nature of acquisition pleaded by the plaintiff is highly suppression one. Therefore, the plaintiffs are not entitled to get any discretion relief from this Court.

The framing of the suit is not correct, without declaration the suit for permanent injunction is not maintainable. Suit properties and other properties were jointly stands in the name of deceased K.Sridhar and the 1st defendant as they are the male member of the family. Without documents and without giving notice to this defendants the plaintiffs have played fraud by giving so many brief to the revenue officials and transfer the Patta in their name. The Patta is not valid and it is being an abivinto, since no notice issued to this defendant and other legal heirs of S.Kandasamy and Smt. Krishnaveni Ammal. Mere grant of Patta will not grant any title.

The suit is bad for non-joinder of necessary parties Viz., Vasanthi, Kalavathy, Gnanambigai and Sudha who are daughters of S.Kandasamy and Krishnaveni. They are also entitling to share over the suit property and other properties covered under the 'A' Schedule of the will. The 2nd defendant is the servant of the 1st defendant. The injunction petition as against him is not maintainable. The 2nd defendant is only care taker of the suit properties and other properties on behalf of this defendant and his sisters. The 2nd defendant is unnecessary party in the suit. If an injunction is granted as against the 2nd defendant, this defendant and his sisters will be affected to enjoy the properties. The suit is bad for mis-joinder of 2nd defendant.

Hence, this suit is liable to be dismissed with exemplary cost under Sec.35(a) of C.P.C.

4. On the basis of the pleadings both in the Complaint and written statement of defendant this court has framed the following issues on 05.06.2023:

1. Whether the Plaintiff is in exclusive possession of the suit property as stated in the plaint?
2. Whether the plaintiff and legal heir of the Kandaswamy and Krishnaveni ammal are in joint possession and enjoyment over the suit property as contended in the written statement?
3. Whether the plaintiff is entitled the relief of permanent injunction as claimed in the plaint?
4. To what other relief the plaintiff is entitled?

5. Evidence and Exhibits:

The plaintiffs examined 1st plaintiff S.Mala as Pw1, and through her Exhibits A1 to A6 marked, they also examined one Elumalai as Pw2 and no documentary evidence marked through him. On the other hand the 1st defendant examined as Dw1 and Exhibits B1 to B8 were marked through him.

6. Heard both sides, perused the documents and evidences placed before this court.
7. On perusal of records the issues already framed were not in consonance with the pleadings and facts of the case. Hence this court invoking power under Order XIV Rule 5 hereby strike out the issues already framed and recast the same.

8. Recast issues:

1. Is it true that the suit properties belonged to Sridhar, having got the same in a family arrangement that took place about 20 years ago?
2. Whether the plaintiffs are in exclusive possession and enjoyment of the suit properties?

3. Whether the plaintiffs are entitled to the relief of permanent injunction restraining the defendants from interfering with their possession and enjoyment of the suit properties?
4. Whether the suit is bad for non-joinder of sisters of 1st defendant as party to the suit?
5. Whether the plaintiffs are entitled to the relief of partition and separate possession and enjoyment of their half share in the suit properties?
6. Whether the plaintiffs are entitled to the relief of permanent injunction restraining the 2nd defendant from interfering with their possession and enjoyment of the suit properties?
7. Whether the suit is bad for non seeking the relief of declaration?
8. To what other relief the plaintiffs are entitled for?
9. No doubt that both parties already adduced sufficient evidences based upon the pleadings and issues recasted now. There is no need or necessity arise to lead evidence in respect of recast issues. Hence, this court considering the case pending for more than **nine** years and giving opportunity to parties to lead evidence in respect of recast issues is only a futile, proceeded to deliver judgment on the recast issues.

10. Recast Issue wise findings:

11. Recast Issue No.1 :

“Is it true that the suit properties belonged to Sridhar, having got the same in a family arrangement that took place about 20 years ago?”

It is the case of plaintiffs that the suit properties owned by Sridhar, the husband of 1st plaintiff and father of other plaintiffs, having got the same under a family arrangement that took place before 20 years from the date of filing suit. Per contra the defendants defend that the suit properties originally belonged to Sundaram, the grand father of the 1st defendant and Sridhar, that the said Sundaram bequeath the same to the parents of the Sridhar and 1st defendant namely Kandasamy and Krishnaveni by giving life interest and vested interest with the sons and daughters of

them namely the above said Sridhar, the 1st defendant, Vasanthi, Kalavathy, Gnanambigai and Sudha. Hence the defendants defend that the Sridhar had no exclusive right over the suit properties.

Now it has to be seen whether the plaintiffs proved the title of Sridhar. In support of their contentions, the plaintiffs have filed Exs A1 to A6. Ex A1, the patta for item nos 1, 3, 7 and 8. It jointly stands in the name of plaintiffs and the 1st defendant. It will not show that the Sridhar had exclusive title over the suit properties. Ex A2 the patta for item nos 2,4 to 6, 9 to 13 jointly stands in the name of Sridhar and 1st defendant. It also will not show that Sridhar had exclusive title to the suit properties. Ex A3 and A4 are the death certificate and legal heir certificate of Sridhar, where it does not show that Sridhar had title to the suit properties. Ex A5 the patta for the suit properties which jointly stands in the name of Sridhar and the 1st defendant, which also would not show that the Sridhar had exclusive title to the suit properties. Ex A6 the kist receipt dated 06.10.2023 in the name of Sridhar was after suit and it also would not show that the Sridhar had title to the suit properties. It is pertinent to note that even at the time of filing this suit in 2017, the said Sridhar was dead. If it so, how the kist receipt dated 06.10.2023 in the name of Sridhar was issued under suspicious. So, the exhibits marked by the plaintiffs would not prove that Sridhar had exclusive title to the suit properties.

Next keen perusal of plaint, nothing was whispered about the family of Sridhar, where the plaintiffs claim that the said Sridhar got the properties under a family arrangement. Even the plaintiffs suppressed the fact that the 1st defendant is the brother of Sridhar. Apart from that the 1st plaintiff who was examined as PW1 admits that that the suit properties are the ancestral properties of her husband and 1st defendant. In Pw1 cross,

" 1ம் பிரதிவாதி என் கணவரின் சகோதரர் என்றால் சரிதான். என் கணவருடன் உடன் பிறந்த சகோதரிகள் வசந்தி, கலாவதி, ஞானாம்பினை மற்றும் சுதா என்றால் சரிதான். அவர்கள் இவ்வழக்கின் தரப்பினர் இல்லை

என்றால் சரிதான். என் கணவரின் பெற்றோர்கள் கந்தசாமி மற்றும் கிருஷ்ணவேணி. கந்தசாமியின் தகப்பனார் பெயர் சுந்தர கிராமணி என்றால் சரிதான். வழக்குச் சொத்துக்கள் மற்றும் இதர சொத்துக்கள் அனைத்தும் சுந்தர கிராமணியின் சொத்துக்கள் என்றால் சரிதான். அது அவரின் பூர்வீக சொத்துக்கள் என்றால் சரிதான். கந்தசாமியின் வாரிசுகளுக்கிடையே பாகம் பிரிக்கப்பட்டதா என்றால் செட்டில்மென்ட் மூலம் பாகம் பிரிக்கப்பட்டது. சுந்தர கிராமணி உயில் எழுதினார். ஆனால் உயில் எங்களிடம் இல்லை. சுந்தர கிராமணி 17.06.1954 தேதியல் உயில் எழுதினார் என்றாலும். அதன்படி அவருடைய சொத்துக்களை கந்தசாமி மற்றும் கிருஷ்ணவேணி ஆகியோர் தங்கள் ஆயுள் வரை அனுபவம் செய்து அதன் பின்னர் வாரிசுகள் அடையவேண்டும் என்று எழுதினார் என்றால் சரிதான். கந்தசாமி 10.12.1984 ல் இறந்துவிட்டார் என்றால் சரிதான். கிருஷ்ணவேணியம்மாள் 2001ம் ஆண்டு இறந்துபோனார்."

This would show that the plaintiffs suppressed the material facts and filed this suit. This evidence would torpedo the entire case of the plaintiffs. Here the 1st plaintiff clearly admits the case of defendants. On this short ground itself it can be safely conclude that the Sridhar had no exclusive right over the suit properties under a family arrangement.

Even Pw1 went further and deposed that her husband got the suit properties under a settlement deed executed by Kandasamy, the father of the said Sridhar and 1st defendant. In Pw1 cross,

"நான், 1ம் பிரதிவாதி மற்றும் கந்தசாமியின் மகள்கள் அனைவரும் ஒன்றாக வழக்குச் சொததக்களை அனுபவம் செய்து வருகிறோம் என்றால் நாங்கள் மட்டும் தான் அனுபவம் செய்து வருகிறோம். அதற்கு ஆவணம் உண்டா என்றால் என் கணவருக்கு செட்டில்மென்ட் எழுதி கொடுக்கப்பட்டது. அந்த செட்டில்மென்ட் கந்தசாமியால் எழுதி பதிவு செய்யப்பட்டது. கந்தசாமி எழுதிக்

கொடுத்த செட்டில்மென்ட் மூலமாகத்தான் வழக்குச் சொத்தில் நாங்கள் உரிமை கோருகிறோம். மேற்கண்ட செட்டில்மென்ட் குறித்து வழக்குரையில் குறிப்பிடப்படவில்லை என்றாலும், வழக்குச் சொத்து எங்களுக்கு உரிமையானது என்று அதிகாரம் கேட்கவில்லை என்றாலும் சரியல்ல."

Here the plaintiffs came up with a new case that they claim title of Sridhar under a settlement deed which was alleged to be executed by father of Sridhar namely Kandasamy. This was neither pleaded in the plaint nor in the chief evidence of Pw1. Even the said settlement deed was also not produced into court by the plaintiffs. Further when the plaintiffs themselves admitted the will executed Sundaram in favour of Kandasamy and his wife, they cannot claim that Kandasamy had execute settlement deed in favour of Sridhar. Even the alleged settlement deed was also not produced. So, on this context also it is unbelievable that the suit properties were allotted to Sridhar under family arrangement.

In summation the plaintiffs miserably failed to prove that the suit properties owned by Sridhar having obtained in a family arrangement by adducing cogent and acceptable evidence. Even the evidence of Pw1 is total contra to the said claim of title of Sridhar. At this juncture it is unsafe to conclude that the suit properties belonged to Sridhar, having got the same in a family arrangement that took place about 20 years ago.

12. Recast Issue No.2:

“Whether the plaintiffs are in exclusive possession and enjoyment of the suit properties?”

As held in above issue, the plaintiffs miserably failed to prove title of Sridhar, the husband of 1st plaintiff and father of other plaintiffs. If it so, it cannot be concluded that the plaintiffs are in possession and enjoyment of the suit properties. Apart from that the patta extracts namely Ex A1, A2 and A5 would not show that the plaintiffs are in exclusive possession over the suit properties as it was issued jointly in the name of 1st defendant. Ex A3 and A4 the death certificate and legal heir

certificate also would not prove that the plaintiffs are in possession and enjoyment of the suit properties. Ex A6 the kist receipt would show that it was paid on 06.10.2023, which is after suit, that too in the name of Sridhar, who was not alive on that day. The best piece of evidence to prove possession was adangal extracts as the suit properties are wet agricultural lands. But the plaintiffs for the reasons best known to them failed to produce the same into the court. Hence it is unsafe to conclude that the plaintiffs are in possession and enjoyment of the suit properties and this issue is decided accordingly.

13. Recast Issue No.3 and 6:

“Whether the plaintiffs are entitled to the relief of permanent injunction restraining the defendants from interfering with their possession and enjoyment of the suit properties?”

“Whether the plaintiffs are entitled to the relief of permanent injunction restraining the 2nd defendant from interfering with their possession and enjoyment of the suit properties?”

As per above issue, the plaintiffs failed to prove their exclusive possession and enjoyment of the suit properties. Apart from that the plaintiffs also seeks alternative relief of partition as if the name of 1st defendant find place in the patta extracts. This shows that the plaintiffs themselves are not sure about the possession of the suit properties. At this juncture injunction relief, which is discretionary one, cannot be granted in favour of the plaintiffs. Hence these issues are decided accordingly.

14. Recast Issue No.4:

“Whether the suit is bad for non-joinder of sisters of 1st defendant as party to the suit?”

It is the specific case of the defendants that the suit properties originally belonged to Sundaram, the grand father of the 1st defendant and Sridhar, that the said Sundaram bequeath the same to the parents of the Sridhar and 1st defendant namely Kandasamy and Krishnaveni by giving life interest and vested interest with the sons

and daughters of them namely the above said Sridhar, the 1st defendant, Vasanthi, Kalavathy, Gnanambigai and Sudha. It was admitted by the Pw1 in her evidence as stated supra in issue no.1. Now it is the further case of defendants that when the plaintiffs claim alternative relief of partition, then the sisters mentioned above are necessary parties to the suit.

As held in issue No.1, there is no doubt that the plaintiffs failed to prove that the suit properties are the separate properties of Sridhar. So, there is no doubt that as admitted by Pw1 about the will executed by Sundaram, the suit properties and other properties shall devolve upon the legal heirs of Kandasamy namely the said Sridhar, 1st defendant, Vasanthi, Kalavathy, Gnanambigai and Sudha. Even Pw1 impliedly admitted the same in her evidence. In Pw1 cross,

" நான் என்ன பரிகாரம் கோருகிறேன் என்றால் பாகம் கோருகிறேன். அவ்வாறு பாகம் கோரினால் என் கணவரின் சகோதரிகளை இவ்வழக்கில் தரப்பினர்களாக சேர்த்திருக்க வேண்டும் என்றால் அவர்களால் எங்களுக்கு பிரச்சனை ஏதும் இல்லை. என் கணவர். 1 ம் பிரதிவாதி மற்றும் என் கணவரின் சகோதரிகள் அனைவரும் சேர்ந்து வழக்கில் அல்லாத வேறு சொத்துக்களை விற்றுள்ளார்கள் என்றால் சரியல்ல. என் கணவர் இறந்தபிறகு 1ம் பிரதிவாதி மற்றும் என் கணவரின் சகோதரிகள் என்னை கட்டாயப்படுத்தி கிரய ஆவணத்தில் கையெழுத்து பெற்றுக் கொண்டார்கள். அவ்வாறு மூன்று கிரய ஆவணங்களில் நான் கையொப்பம் போட்டுக் கொடுத்துள்ளேன்."

Here the 1st plaintiff impliedly admits that the sisters of her husband had right of share over the suit properties and that there is no dispute with them. If really there is no dispute with the said sisters, as deposed by Pw1, then there is no bar to examine them as witness to prove the said contentions. But they failed to do so for the reasons best known to them. Further the said Pw1 also admitted that she along with the 1st defendant and sisters of her husband sold certain properties. Though she deposed that it was under coercion, there is nothing on record to show that her signature was

obtained under force and coercion. Anyhow when the plaintiffs fails to prove exclusive title of Sridhar over the suit properties, then automatically the sisters of Sridhar also entitled to share into the suit properties even if the said will was not proved, as they entitled by inheritance.

In summation the alternative relief of partition cannot be granted unless or until the sisters of 1st defendant and Sridhar were impleaded as party to the suit. Non-joinder of them is bad to the relief of partition. Hence this issue is decided accordingly.

15. Recast Issue No.5:

“Whether the plaintiffs are entitled to the relief of partition and separate possession and enjoyment of their half share in the suit properties?”

As held in above issue, the suit for partition filed by the plaintiffs is bad for non-joinder of necessary co-sharers. So, the plaintiffs are not entitled to the alternative relief of partition and separate possession of their half share in the suit properties. Hence this issue is decided accordingly.

16. Recast Issue No.7:

“Whether the suit is bad for non seeking the relief of declaration?”

Defendants took a specific plea that the suit without the relief of declaration is not maintainable. At the outset there is no doubt that the revenue records filed by plaintiffs namely Ex A1, A2 and A5 jointly stands in the name of Sridhar and the 1st defendant. There is no single document produced to show that the said Sridhar had exclusive title over the suit properties. Further the defendants also claim title to the suit properties as it was undivided one. So, the documents of plaintiffs themselves would create a cloud over the title of plaintiffs. If it so, it is just and necessary to seek the relief of declaration. Hence the suit without the relief of declaration is bad in law and this issue is decided accordingly.

17. Recast Issue No.8***“To what other relief the plaintiffs are entitled for?”***

As the plaintiffs are not entitled to the reliefs sought for, they are not entitled to the relief any other reliefs including costs. Hence this issue is decided accordingly.

18. Result:

In the result this suit is dismissed as devoid of merits. No costs.

Directly typed in my lap-top, corrected and pronounced by me in the open court, this 03rd day of July, 2026.

Subordinate Judge,
Madurantakam.

Plaintiff side Witnesses:-

PW1: S.Mala (1st plaintiff)

PW2: Elumalai

Plaintiff side Exhibits:-

Ex A1	20.10.2017	Patta Extracts.	E- Receipt.
Ex A2	20.10.2017	Patta Extracts.	E- Receipt.
Ex A3	25.11.2008	Death Certificate of Sridhar.	Original.
Ex A4	01.04.2009	Legal Heir Certificate.	Original.
Ex A5	06.10.2023	Patta Extracts.	E-Receipt.
Ex.A6	06.10.2023	Kist Receipt.	Original.

Defendant's side Witnesses:-

DW1 : Sundaramoorthy (1st Defendant)

Defendant's side Exhibits:-

Ex B1	17.06.1954	Registration copy of Will executed by Sundara Gramani in favour of 1 st	True Copy.
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		defendant and others.	
Ex B2	30.05.1976	Registration copy of Partition Deed executed by Kandhasamy Gramani in favour of K.Sridhar and others.	Computerized Certified Copy.
Ex B3	20.06.2007	Registration copy of Sale Deed executed by M.Renuka Power Agent of K.Sridhar and other in favour of B.Manoharan.	Computerized Certified Copy.
Ex.B4	13.06.2020	Patta Extracts.	E-Receipt.
Ex.B5	13.06.2020	Patta Extracts.	E-Receipt.
Ex.B6	13.06.2020	Patta Extracts.	E-Receipt.
Ex.B7	20.03.2025	Patta Extracts.	E-Receipt.
Ex.B8		Encumbrance Certificate.	E-Receipt.

Subordinate Judge,
Madurantakam.

TNCG130005292017



Fair / Draft Judgment

OS No.137/2017

D.D: 03.07.2025

**Sub Court,
Madurantakam.**