



IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DINDIGUL.

**PRESENT : THIRU. SWARNAM J RAJAGOPALAN, B.A.B.L., (Hons.)
ADDITIONAL DISTRICT JUDGE, DINDIGUL.**

Friday, this the 31st day of July, 2026

Appeal Suit No.74/2023

and

**I.A.No.4/2025 in A.S.No.74/2023
(C.N.R.No.TNDG01-006267-2022)**

Sakthivel

... Appellant/ Plaintiff

/VS/

1. Vellathurai (Died)

(*Amended as per order in I.A.No.2/2024 dated 15.03.2024)

2. Murugan

3. Sivalingam

4. N.Murugan

5. R.Selvaraj

6. V.Selvam

7. Vellaithai

8. Chinnammal

9. Karuppusamy

10. Nagajothi

11. Nagakani

12. Lakshmi

... Respondents / Defendants

(*7 to 12 Respondents were impleaded as per order in I.A.No.1/2023 dated
21.02.2024 and amended as per order in I.A.No.2/2024 dated 15.03.2024)

On appeal from the Decree and Judgment passed in O.S.No.347/2013 on the file of the Learned Principal Subordinate Judge, Dindigul dated 11.08.2022.

BETWEEN

Sakthivel

... Plaintiff

/VS/

1. Vellathurai

2. Murugan

3. Sivalingam

4. N.Murugan

5. R.Selvaraj

6. V.Selvam

...Defendants

This appeal came up before this Court for final hearing on 04.07.2026 in the presence of Thiru.C.V.K.R.Sivakumar, Advocate for the appellant/plaintiff. The 1st respondent was died. The 2nd to 12th respondents were called absent and set exparte and upon heard the arguments of the appellant/plaintiff's side and upon perusing the material records and the judgment of the trial court, and having stood over for consideration till date, this Court delivers the following ...

JUDGMENT

Appeal Suit No.74/2023

1. On appeal from the judgment and decree passed in O.S.No.347/2013 dated 11.08.2022 by the learned Principal Subordinate Judge, Dindigul.

a) To pass a Preliminary Decree for partition, declaring and allotting the plaintiff's 1/3rd share in the suit properties by metes and bounds and to put the plaintiff in separate possession of the same.

b) In the alternative, to appoint an Advocate Commissioner to divide the suit properties by metes and bounds, measure the same, file a plan and report, and thereafter pass a Final Decree for Partition placing the plaintiff in separate possession of his 1/3rd share.

c) To declare as null and void the Sale Deed executed by the 2nd defendant in favour of the 3rd defendant and registered as Document No.235/2013 dated 01.04.2013 on the file of the Sub-Registrar Office, Sendurai.

d) To declare as null and void the Sale Deed executed by the 2nd defendant in favour of the 4th defendant and registered as Document No.331/2012 dated 12.11.2012 on the file of the Sub-Registrar Office concerned.

e) To declare as null and void the Sale Deed executed by the 4th defendant in favour of defendants 5 and 6 and registered as Document No.95/2015 dated 09.02.2015 on the file of the Sub-Registrar Office, Sendurai.

f) To direct the defendants to pay the costs of the suit to the plaintiff.

I.A.No.4/2025 in A.S.No.74/2023

This petition has been filed by the petitioner/appellant under Order 41 Rule 27 and Section 151 of the Civil Procedure Code, prays to receive the documents

mentioned in this petition as additional documents, take them on file, and permit their production in this appeal.

The parties are referred to by their rank in trial court for the sake of convenience.

2) The brief averments of the plaintiff in O.S.No.347 of 2013 are as follows:

- I. According to the plaintiff, one Vellaiyachami and his wife Valliammal had six sons, namely Vellaithurai, Palanivel, Thangavel, Ganesan, Chinnandi and Vadivel. The first defendant Vellaithurai is one among the said six sons. The plaintiff would contend that the suit schedule properties originally belonged to the family of Vellaiyachami and that the properties were orally partitioned among his six sons, in which one-sixth share was allotted to the first defendant Vellaithurai.
- II. It is the further case of the plaintiff that Vellaithurai had two wives, namely Chinnamani and Vellaithayi. According to the plaintiff, he was born to Vellaithurai through his first wife Chinnamani, whereas the second defendant Murugan was born through the second wife Vellaithayi. After the oral partition among the brothers, the share allotted to Vellaithurai was allegedly enjoyed jointly by the plaintiff and defendants 1 and 2.
- III. The plaintiff would further state that on 14.05.2012, a Muchalika was entered into between himself and defendants 1 and 2. Under the terms of the said

Muchalika, defendants 1 and 2 allegedly agreed to pay a sum of Rs.62,000/- to the plaintiff within three months and obtain a release deed from him relinquishing his rights over the suit properties. According to the plaintiff, despite the said undertaking, defendants 1 and 2 failed to pay the agreed amount and did not obtain any release deed from him.

IV. It is the further case of the plaintiff that defendants 1 and 2 attempted to alienate the suit properties in favour of third parties. Therefore, the plaintiff caused a legal notice dated 18.02.2013 to be issued to the defendants asserting his rights in the suit properties. According to him, though the notice was served, no reply was received from the defendants.

V. The plaintiff would further contend that an extent of 58 cents in Survey No.33/1 had already been alienated in favour of the fourth defendant under a sale deed dated 11.04.2012 and that the said transaction is not binding on his share and is liable to be declared null and void. Subsequently, the fourth defendant was impleaded as a party to the suit. The plaintiff would further state that the fourth defendant, in turn, conveyed the said property in favour of defendants 5 and 6 under a sale deed dated 09.02.2015 and that the said transaction is also not binding upon his share. Consequently, defendants 5 and 6 were also impleaded as parties to the suit.

VI. The plaintiff would further allege that with regard to the B-schedule property, defendants 2 and 3 had created a document dated 01.04.2013 in favour of the third defendant and that the said document is sham, nominal and not binding upon his share. According to him, all the above transactions were brought about with a view to defeat his lawful rights in the suit properties.

VII. On the above pleadings, the plaintiff filed the suit seeking a preliminary decree for partition and separate possession of his alleged 1/3 share in the suit properties, declaration that the impugned sale deeds and settlement deeds are null and void and not binding on his share, consequential reliefs, and costs.

3) The brief averments contained in the written statement filed by defendants 1 and 2 are as follows:

- I. The defendants 1 and 2 denied the plaint averments in toto. According to them, the plaintiff is not the son of the first defendant Vellaithurai. It is their specific contention that Chinnamani was not the wife of the first defendant and that she was the wife of one Mookan. According to the defendants, the plaintiff was born to Chinnamani through Mookan and therefore he has no relationship whatsoever with the first defendant.
- II. The defendants further contended that the plaintiff has other siblings, namely Vellaithayi, Pandi, Nagammal and Papathi, who have not been impleaded as parties to the suit. Therefore, according to them, the suit is bad for non-joinder

of necessary parties. It is also contended that the plaintiff has not included all the family properties and has not furnished complete particulars of the properties alleged to be available for partition. Hence, according to the defendants, the suit is also bad for partial partition.

III. The defendants denied the plaintiff's allegation that the suit properties belonged to Valliammal or that the plaintiff has any right therein. According to them, the plaintiff has not produced any document to establish that the suit properties originally belonged to Valliammal or that he has derived any right through her.

IV. The defendants further contended that the first defendant was married only to one Chinnammal and never married Chinnamani as alleged by the plaintiff. According to them, there is absolutely no documentary evidence to show any marriage between the first defendant and Chinnamani. The plaintiff has neither pleaded nor produced any marriage certificate, marriage invitation, marriage records or any other acceptable evidence to establish such relationship.

V. The defendants specifically denied the alleged Muchalika dated 14.05.2012 said to have been entered into between the plaintiff and defendants 1 and 2. According to them, no such Muchalika was executed and the story projected by the plaintiff is false and invented for the purpose of the suit.

VI. The defendants admitted receipt of the legal notice dated 18.02.2013 issued by the plaintiff. However, they contended that they did not choose to send any reply since the allegations contained therein were wholly false and baseless.

VII. It is their further case that the suit properties were in the exclusive possession and enjoyment of the first defendant and that he alone was paying kist and other revenue charges in respect of the properties. According to them, neither the plaintiff nor Chinnamani nor Valliammal had any right, title or interest over the suit properties.

VIII. On the above pleadings, defendants 1 and 2 prayed for dismissal of the suit with costs.

4) The brief averments contained in the written statement filed by defendants

5 and 6 are as follows:

- I. Defendants 5 and 6 denied the material averments contained in the plaint and contended that the suit has not been properly valued and that the court fee paid by the plaintiff is insufficient.
- II. According to defendants 5 and 6, the property comprised in Survey No.33/1 measuring 0.22.50 hectares never belonged to the plaintiff or his alleged ancestors. It is their specific case that the said property originally belonged to one Punniyavel, who sold the same under a registered sale deed dated

02.09.2005 in favour of one Ponnammal, wife of V. Murugesan. Thereafter, the said Ponnammal sold the property under a registered sale deed dated 05.07.2011 in favour of one Murugan, son of Arumugam. Subsequently, the said Murugan conveyed the property under a registered sale deed dated 11.04.2012 in favour of N. Murugan, son of Nagulan. Thereafter, N. Murugan sold the said property under a registered sale deed dated 09.02.2015 in favour of defendants 5 and 6.

III. According to these defendants, they purchased the property for valuable consideration under a registered sale deed after verifying the title of their vendor and have been in lawful possession and enjoyment of the property ever since the date of purchase. It is their further contention that Patta No.3216 has also been transferred and stands in their names.

IV. Defendants 5 and 6 further contended that the B-schedule property never belonged to the plaintiff's grandfather as alleged in the plaint and that there was no partition or family arrangement between the plaintiff and defendants 1 and 2 as projected by the plaintiff. They denied the plaintiff's alleged right, title or interest over the suit properties.

V. It is their further case that they are bona fide purchasers for valuable consideration without notice of any alleged claim of the plaintiff and that they derived valid title through a chain of registered conveyances. According to

them, the plaintiff has no cause of action whatsoever against them and therefore the relief of partition and the consequential declarations sought in the suit are not maintainable as against them.

VI. On the above pleadings, defendants 5 and 6 prayed for dismissal of the suit with costs.

5) The brief averments contained in the reply statement filed by the plaintiff are as follows:

- I. The plaintiff denied the allegations contained in the written statements filed by the defendants. According to the plaintiff, Chinnamani was the first wife of the first defendant Vellaithurai and due to matrimonial discord she subsequently separated from him. The plaintiff would contend that he and one Vellaiyathai were born to Chinnamani through the first defendant Vellaithurai.
- II. It is the further case of the plaintiff that the said Vellaiyathai, after her marriage, orally relinquished her rights in the family properties and never claimed any share therein. Therefore, according to the plaintiff, she was not a necessary party to the suit and was not impleaded as a defendant.
- III. The plaintiff further stated that after her separation from the first defendant, Chinnamani started living with one Mookan and through the said relationship, children namely Pandi, Nagammal and Pappathi were born. According to the plaintiff, the said persons are not the legal heirs of the first defendant

Vellaithurai and are not entitled to any share in the suit properties. Therefore, they were not impleaded as parties to the suit and were shown only in the genealogy for the sake of clarity.

IV. The plaintiff denied the contention that Chinnamani was the wife of Mookan alone and reiterated that he was born to the first defendant through Chinnamani. The plaintiff further contended that the Chinnammal referred to by the defendants as the wife of the first defendant was in fact the elder sister of Chinnamani and had died long ago.

V. In order to substantiate his claim regarding the origin and ownership of the suit properties, the plaintiff relied upon a computer-generated patta dated 21.12.2012 standing in the name of Valliammal and contended that the said document would establish that the suit properties originally belonged to the family.

VI. The plaintiff further denied the claim of defendants 5 and 6 that patta had been validly transferred in their favour and contended that the revenue records continued to stand in the name of his grandmother Valliammal. According to him, the alleged transfers and mutations relied upon by the defendants would not affect his lawful share in the suit properties.

VII. On the above pleadings, the plaintiff reiterated that he is entitled to a share in the suit properties and prayed that the suit be decreed as prayed for.

6) Based on the above rival pleadings, the learned Principal Subordinate Judge, Dindigul, framed the following issues for trial:

1. Whether the plaintiff is the son of the first defendant Vellaithurai born through Chinnamani?
2. Whether there was a Muchalika dated 14.05.2012 as alleged by the plaintiff?
3. Whether the plaintiff is entitled to a share in the suit properties?
4. Whether all necessary parties have been impleaded in the suit?
5. Whether the sale deed dated 11.04.2012 executed in favour of the fourth defendant and the sale deed dated 09.02.2015 executed in favour of defendants 5 and 6 are liable to be declared null and void?
6. Whether the plaintiff is entitled to partition and separate possession of his share in the suit properties as prayed for?
7. To what other reliefs are the parties entitled?

7) In order to substantiate his case, the plaintiff examined himself as P.W.1 and examined P.Ws.2 and 3 and marked Exs.A1 to A14. On the side of the defendants, D.Ws.1 to 6 were examined and Exs.B1 to B14 were marked.

8) Upon consideration of the oral and documentary evidence, the learned trial Judge, by judgment and decree dated 11.08.2022, dismissed the suit. Aggrieved by the same, the plaintiff has preferred the present appeal.

9) Aggrieved by the judgment and decree passed by the learned Principal Subordinate Judge, Dindigul, the plaintiff has preferred the present appeal.

10) The gist of the grounds raised in the memorandum of appeal :-

The learned trial Judge failed to properly appreciate the oral and documentary evidence available on record and arrived at an erroneous conclusion while dismissing the suit. According to the appellant, the trial Court, having accepted the plaintiff's case that he is the son of the first defendant through Chinnamani on the strength of Ex.A14 Birth Certificate, ought to have proceeded to grant the consequential relief of partition.

11) It is further contended that the learned trial Judge failed to properly consider Ex.A10 and Ex.A11 revenue records. According to the appellant, Ex.A11 Patta specifically stands in the name of Valliammal, who is the grandmother of the plaintiff and the mother of the first defendant, and the said document clearly establishes that the suit properties belonged to the family. It is therefore contended that the finding of the trial Court that the plaintiff failed to establish that the suit properties belonged to his ancestors is contrary to the documentary evidence available on record.

12) The appellant would further contend that the trial Court failed to appreciate the nature and evidentiary value of Ex.A2 Muchalika. According to him, the Muchalika was not registered only because defendants 1 and 2 had agreed to pay a sum of Rs.62,000/- to the plaintiff within a period of three months and obtain a release deed

thereafter. The explanation offered by the plaintiff in respect of Ex.A2 was not properly considered by the trial Court.

13) It is the further contention of the appellant that once the trial Court accepted his status as the son of the first defendant, it ought to have granted a decree for partition in respect of the properties standing in the name of Valliammal, from whom the parties trace their rights. According to the appellant, the trial Court erred in rejecting the claim for partition despite accepting the relationship between the plaintiff and the first defendant.

14) The appellant would also contend that defendants 5 and 6 failed to establish any independent title adverse to the rights of the plaintiff and that they merely claim under transactions executed by defendants 1 and 2. Therefore, according to the appellant, the alienations relied upon by defendants 5 and 6 cannot defeat the plaintiff's lawful share.

15) The appellant would further submit that the trial Court failed to appreciate that the transactions entered into by defendants 1 and 2 in favour of the other defendants were brought about without recognising the plaintiff's rights and therefore such transactions cannot bind his share. According to the appellant, the evidence adduced on his side clearly established the family origin of the properties and his entitlement to a share therein. The trial Court, without properly considering the cumulative effect of the oral and documentary evidence, erroneously dismissed the suit.

16) On the above grounds and other grounds raised in the memorandum of appeal, the appellant seeks setting aside of the judgment and decree of the trial Court and allowing the suit as prayed for.

17. Points for Determination:

Having regard to the pleadings, the evidence on record, the findings of the trial Court, the grounds of appeal and the application filed under Order XLI Rule 27 CPC, the following points arise for determination:

1. Whether the finding of the trial Court that the plaintiff is the son of the first defendant through Chinnamani calls for interference?
2. Whether the plaintiff has established that the suit schedule properties are ancestral or joint family properties belonging to the branch of the first defendant so as to entitle him to seek partition?
3. Whether the plaintiff has established the alleged oral partition among the descendants of Vellaiyachami and consequent allotment of one-sixth share to the first defendant?
4. Whether the plaintiff has proved the Muchalika dated 14.05.2012 (Ex.A2) and, if so, whether the said document creates or recognises any enforceable proprietary right?
5. Whether defendants 5 and 6 have established their independent title and lawful possession over Survey No.33/1?

6. Whether the additional documents sought to be produced in I.A.No.4 of 2025 satisfy the requirements of Order XLI Rule 27 CPC and whether reception of those documents would have any bearing on the ultimate decision in the appeal?

7. Whether the judgment and decree of the trial Court warrant interference?

18. Point Nos.1 to 5:

Since these points arise out of the same set of pleadings and evidence and are interconnected, they are taken up together for consideration.

19. The appeal is directed against the judgment and decree dated 11.08.2022 passed by the learned Principal Subordinate Judge, Dindigul, dismissing the suit for partition and consequential declaration. Though notice has been served on the respondents and they have remained ex parte before this Court, the mere absence of the respondents does not automatically entitle the appellant to a decree. It is well settled that an appeal under Section 96 of the Code of Civil Procedure is a continuation of the original proceedings and the first appellate Court is under a statutory obligation to independently re-appreciate the entire oral and documentary evidence and arrive at its own conclusions on facts as well as law. Equally well settled is the principle that the burden of establishing the plaintiff's entitlement to the relief claimed continues to rest upon the plaintiff throughout the proceedings and does not stand diluted merely because the respondents have chosen not to contest the appeal.

20. The principal grievance of the appellant is that the learned trial Judge, having accepted Ex.A14 and held that the plaintiff is the son of the first defendant, ought to have decreed the suit for partition. According to the appellant, once his status stood recognised, the learned trial Judge committed an error in refusing the consequential relief of partition and in upholding the alienations made by the defendants. The appellant would further contend that the trial Court failed to properly appreciate Ex.A2 Muchalika and the revenue records relied upon by him.

21. This Court has anxiously considered the submissions made on behalf of the appellant and has carefully gone through the entire evidence available on record. On such independent re-appreciation, this Court is unable to find any infirmity in the ultimate conclusion reached by the learned trial Judge for the reasons contained as under.

22. At the outset, it must be noticed that the defendants had specifically disputed the very relationship pleaded by the plaintiff. According to them, Chinnamani was never the wife of the first defendant and the plaintiff was born to Chinnamani through one Mookan. To establish his status, the plaintiff relied principally upon Ex.A14 Birth Certificate.

23. The learned trial Judge accepted Ex.A14 and recorded a finding that the plaintiff had established that he was born to the first defendant through Chinnamani. Though such finding has not been challenged by the respondents by filing any appeal

or cross-objection, this Court, being the first appellate Court, is nevertheless required to examine the evidentiary value of Ex.A14 while appreciating the overall case of the plaintiff.

24. A careful scrutiny of the evidence discloses that the plaintiff was admittedly born on 30.01.1965. However, Ex.A14 Birth Certificate was issued only on 18.11.2015, almost fifty years after the alleged birth and significantly during the pendency of the present suit, which had been instituted in the year 2013 itself. P.W.1 has admitted during his cross-examination that the said birth certificate was obtained only pursuant to an order passed by the court. He has further admitted that the application for delayed registration was made by relying upon his Aadhaar Card and that the order passed by the court directing such delayed registration has not been produced before the trial Court. Thus, the very proceedings which culminated in the issuance of Ex.A14 have been withheld from the Court.

25. The above circumstances undoubtedly require the Court to scrutinise Ex.A14 with caution. A birth certificate issued after nearly five decades on the basis of a delayed registration cannot automatically be equated with a contemporaneous public record. The order passed by the competent authority directing such registration would have disclosed the nature of the enquiry conducted and the materials upon which satisfaction was recorded. In the absence of the said order, the Court is deprived of an opportunity to examine the basis on which the delayed registration was directed.

Nevertheless, since the learned trial Judge has accepted the plaintiff's status and the respondents have not questioned that finding, this Court does not consider it necessary to disturb the said finding in the present appeal. Even assuming that the plaintiff has established that he is the son of the first defendant, the question still remains whether he has established any legal right in the suit schedule properties.

26. This Court is of the considered opinion that the trial Court has rightly distinguished between proof of relationship and proof of title. A decree for partition cannot follow merely because the plaintiff establishes that he is the son of one of the defendants. The plaintiff must further establish that the suit schedule properties belonged to the common ancestor, that they retained the character of ancestral or joint family properties, that they devolved upon the first defendant in the manner pleaded and that the plaintiff consequently acquired an enforceable share therein. Unless these foundational facts are established, no decree for partition can be granted.

27. The entire foundation of the plaintiff's case rests upon the plea that the suit schedule properties originally belonged to Vellaichami and Valliammal and that, upon an oral partition among their six sons, one-sixth share was allotted to the first defendant. Surprisingly, except making such averments, the plaintiff has not produced any parent document, title deed, settlement deed, partition deed, settlement register extract or any other acceptable evidence establishing the acquisition of the properties by Vellaichami or Valliammal or their subsequent devolution. Even the alleged oral

partition has not been substantiated by examining any independent witness or by producing any contemporaneous revenue records reflecting separate enjoyment pursuant to such partition. Mere pleadings, however elaborate, cannot take the place of proof.

28. The plaintiff attempted to overcome this deficiency by relying upon Exs.A10 and A11 revenue records, particularly the patta standing in the name of Valliammal. The learned trial Judge rightly rejected this contention. A patta is only a revenue entry maintained for fiscal purposes. It neither creates title nor extinguishes title. Unless the plaintiff first establishes the source of title of Valliammal to the suit properties, the mere existence of a revenue entry in her name cannot establish that the properties belonged to the family or that they subsequently devolved upon the first defendant.

29. The plaintiff also relied upon Ex.A2 Muchalika dated 14.05.2012. Even assuming that the document is genuine, it cannot improve the plaintiff's case. A Muchalika does not create title. At the highest, it may amount to an admission between the parties. An admission cannot substitute proof of title where the very existence of the alleged right is in serious dispute. Unless the plaintiff independently establishes the origin and devolution of the suit properties, Ex.A2 cannot become the foundation for granting a decree for partition.

30. Another aspect which assumes significance is that the plaintiff has not satisfactorily established the identity of the various persons who are alleged to have

dealt with the suit properties or the manner in which they derived title. Though the plaintiff sought declarations against the alienations effected in favour of defendants 3 to 6, he has not established that the vendors under those transactions derived title from the alleged common ancestor or that the alienated properties formed part of the one-sixth share allegedly allotted to the first defendant. In the absence of such foundational evidence, the challenge to the subsequent alienations cannot succeed.

31. On the contrary, defendants 5 and 6 have produced documentary evidence tracing their title to Survey No.33/1 through successive registered conveyances. They have further produced Patta, Kist receipts and A-Register extracts marked as Exs.B3 to B5 evidencing their possession and enjoyment. Though these documents by themselves may not confer title, they undoubtedly corroborate the chain of registered documents produced by them. The plaintiff has not produced any better evidence capable of dislodging the title and possession established by defendants 5 and 6, with respect to that survey number.

32. Thus, on an independent appreciation of the entire evidence, this Court finds that the learned trial Judge was perfectly justified in holding that the plaintiff had failed to establish the most fundamental requirement of his case, namely, that the suit schedule properties belonged to the family of Vellaichami and Valliammal and that the first defendant acquired any right therein pursuant to the alleged oral partition. Consequently, even assuming that the plaintiff is the son of the first defendant, no

enforceable right to seek partition has been established. The dismissal of the suit by the learned trial Judge therefore calls for no interference.

33. The learned counsel for the appellant would further contend that the learned trial Judge, having accepted Ex.A2 Muchalika, ought to have necessarily decreed the suit. This contention, in the considered opinion of this Court, is devoid of merit. A careful reading of the judgment of the trial Court shows that the learned trial Judge has not rejected Ex.A2 outright. On the contrary, the learned trial Judge appears to have accepted the existence of the said document. However, the learned trial Judge rightly held that Ex.A2, by itself, does not establish the plaintiff's title or confer any enforceable proprietary right over the suit schedule properties.

34. It is a settled principle of law that a partition suit cannot be decreed merely on the basis of an admission or understanding between parties unless the plaintiff first establishes the existence of a legal right in the properties sought to be partitioned. Ex.A2 is not a document of title and it does not delve in detail about the properties available and dealt with under it. It neither creates nor transfers any interest in immovable property. At the highest, it evidences an understanding between the plaintiff and defendants 1 and 2 that a sum of Rs.62,000/- would be paid to the plaintiff and a release deed would thereafter be obtained from him. Such an understanding presupposes the existence of a right, it cannot itself become the source of that right.

35. The learned trial Judge has rightly observed that before acting upon Ex.A2, the plaintiff was bound to establish that the suit schedule properties originally belonged to the family of Vellaichami and Valliammal, that the alleged oral partition among the six sons had in fact taken place, that one-sixth share had fallen to the first defendant and that the plaintiff had consequently acquired a legal share therein. Unfortunately for the plaintiff, no satisfactory evidence has been produced to establish any of these foundational facts. Therefore, even assuming Ex.A2 to be genuine and admissible, the same does not dispense with the plaintiff's obligation to prove the very basis of his claim.

36. It is also pertinent to note that Ex.A2 cannot enlarge the rights of the plaintiff beyond what is recognised in law. An acknowledgment or understanding between parties cannot confer title where none otherwise exists. Unless the plaintiff independently establishes his entitlement to the suit schedule properties, Ex.A2 cannot be treated as an independent source of title or as a substitute for proof of ownership. The learned trial Judge was, therefore, perfectly justified in accepting the document while simultaneously holding that it was insufficient to grant the relief of partition in the absence of proof regarding the origin and devolution of the suit properties.

37. This Court is in complete agreement with the said reasoning adopted by the trial judge. The appellant's attempt to contend that acceptance of Ex.A2 necessarily

results in a decree for partition overlooks the fundamental distinction between proof of an arrangement inter-se the parties and proof of a legal right in the subject property. The former cannot replace the latter. Consequently, the acceptance of Ex.A2 does not in any manner dilute the plaintiff's obligation to establish his title to the suit schedule properties.

Accordingly, Point Nos.1 to 5 are answered against the appellant.

38. **Point No.6 and 7:**

Before considering the merits of I.A.No.4 of 2025 filed under Order XLI Rule 27 read with Section 151 CPC, it is necessary to bear in mind the settled principles governing reception of additional evidence in appeal. The Hon'ble Supreme Court in Union of India v. Ibrahim Uddin, (2012) 8 SCC 148, has categorically held that the normal rule is that an appeal has to be decided on the evidence which was before the trial Court and that Order XLI Rule 27 CPC is only an exception to the said rule. The Supreme Court has further held that additional evidence cannot be permitted as a matter of right nor can it be allowed to enable a party to fill up omissions or patch up the weak portions of its case after suffering an adverse decree. Such evidence can be received only if the party establishes that despite exercising due diligence the evidence could not be produced before the trial Court, or if the appellate Court itself requires such evidence to enable it to pronounce judgment or for any other substantial cause. The true test is whether the appellate Court is able to pronounce a satisfactory judgment on the evidence already available on record.

39. The appellant has filed the present application seeking permission to produce ten additional documents, namely, certified copies of sale deeds dated 02.06.1926 and 02.06.1952, family voter records, settlement register extracts, A-register extracts, police acknowledgment, and pattas issued during the year 2022. Though the respondents have remained ex parte before this Court, the application cannot be allowed merely because it is uncontested. The jurisdiction under Order XLI Rule 27 CPC is controlled entirely by the statutory requirements contained therein and not by the conduct of the opposite party.

40. From the pleadings and evidence, it is evident that from the very inception of the suit the defendants had specifically disputed not only the plaintiff's status but also the origin of the suit properties, the alleged oral partition, the devolution of title and the plaintiff's entitlement to claim any share therein. Therefore, the plaintiff was fully aware throughout the trial that he was required to establish the root of title by producing the best available evidence. Nevertheless, no attempt was made to produce the present documents before the trial Court though most of them are certified copies of public documents capable of being obtained during the pendency of the suit. The affidavit filed in support of the present application also does not disclose any satisfactory explanation as to why these documents could not be produced earlier despite exercise of due diligence.

41. Even on merits, this Court finds that the proposed additional documents do not remove the very deficiencies noticed by the learned trial Judge. The certified copy of the sale deed dated 02.06.1926 merely indicates that one Chinnandi Ambalam had purchased certain properties. However, the appellant has not explained either in the affidavit accompanying the application or otherwise as to how the properties purchased by Chinnandi Ambalam subsequently devolved upon his legal heirs or eventually became the properties of the branch of Vellaiyachami Ambalam, through whom the plaintiff claims title. The application is conspicuously silent regarding the chain of succession connecting the purchaser under the 1926 sale deed with the alleged common ancestor of the plaintiff. Thus, the first and most fundamental link in the chain of title remains completely unestablished.

42. Likewise, though the sale deed dated 02.06.1952 is relied upon to contend that Vellaiyachami Ambalam, stated to be the plaintiff's grandfather, acquired title over certain properties, the appellant has not produced any partition deed, family arrangement, release deed, succession records, revenue proceedings or any other acceptable document to establish the manner in which the said properties devolved upon the first defendant Vellathurai. More importantly, there is absolutely no evidence showing whether any partition had taken place among the legal heirs of Vellaiyachami Ambalam, the mode of such partition, or the specific survey numbers and extent of properties which allegedly fell to the share of the first defendant.

Therefore, the mere production of the sale deeds of the years 1926 and 1952, without establishing the subsequent devolution of title, does not advance the plaintiff's case in any manner.

43. Even according to the plaint averments, the suit properties are claimed to be ancestral or joint family properties. If that be so, it cannot automatically be presumed that the first defendant became the exclusive owner of the entire properties purchased by his predecessors. It was incumbent upon the plaintiff to establish how the suit properties devolved from the common ancestor to the first defendant and thereafter how the plaintiff became entitled to claim a share therein. The additional documents do not establish these crucial foundational facts. Consequently, they cannot be regarded as documents which directly prove the plaintiff's title or entitlement to partition.

44. The remaining documents also do not improve the appellant's case. The family voter records, police acknowledgment, settlement register extracts and A-register extracts do not establish the complete chain of title pleaded by the plaintiff. Similarly, the pattas dated 03.12.2022 came into existence subsequent to the judgment and decree passed by the trial Court on 11.08.2022. Being subsequent revenue records, they neither create title nor establish the position as it existed on the date of institution of the suit or on the date of decree. At best, they are revenue entries for

fiscal purposes and cannot cure the complete absence of evidence regarding the origin and devolution of title.

45. The conduct of the appellant also deserves notice. As already discussed, even Ex.A14 Birth Certificate, on which the plaintiff relies to establish his relationship with the first defendant, was admittedly obtained only during the pendency of the suit nearly fifty years after his birth. The plaintiff also admitted that the order directing delayed registration was never produced before the trial Court. The present attempt to produce ancient title documents only after suffering an adverse decree also indicates an endeavour to strengthen the case at the appellate stage rather than to produce evidence which genuinely could not have been obtained earlier.

46. This Court is fully satisfied that the appeal can be effectively decided on the basis of the oral and documentary evidence already available on record. The additional documents are neither indispensable for pronouncing judgment nor do they satisfy the statutory conditions prescribed under Order XLI Rule 27 CPC. On the contrary, permitting their production at this stage would virtually enable the appellant to fill up the lacunae noticed by the trial Court, a course specifically prohibited by the law declared by the Hon'ble Supreme Court in *Union of India v. Ibrahim Uddin* (2012) 8 SCC 148.

47. Accordingly, this Court holds that none of the contingencies contemplated under Order XLI Rule 27 CPC are attracted. I.A.No.4 of 2025 is therefore dismissed.

48. For the foregoing reasons, this Court finds no reason to reverse the judgment and decree passed by the court below. Accordingly, the Decree and Judgment passed by the trial court in O.S.No.347/2013, dated 11.08.2022 on the file of Principal Subordinate Court, Dindigul warrants no interference.

Accordingly, Point Nos.6 and 7 are answered against the appellant.

49. Result,

Appeal Suit No.74/2023

In the result, this appeal is dismissed with cost and thereby the Judgment and Decree in O.S. 347/2013, dated 11.08.2022 on the file of Principal Subordinate Court, Dindigul, is hereby confirmed.

I.A.No.4/2025 in A.S.No.74/2023

In the result, this petition in I.A.No.4/2025 is dismissed.

Directly dictated by me to the google docx, thereafter, made corrections and printed by stenographer and pronounced by me in Open Court on this the 31st day of July 2026.

Additional District Judge,
Dindigul.

APPENDIX :

No additional evidence and documents on either side.

Additional District Judge,
Dindigul.