

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

Present: Thiru.V.Padmanabhan, M.A., M.L., D.H.,
Principal District Judge, Dindigul.

Thursday, dated this the 13th day of August 2026

O.S.No. 357/2021

1. Varalakshmi
2. Selvarani
3. Kennady
4. Anburaj
5. Rajadurai
6. Rathinamala
7. SuthaPriya
8. Jothilakshmi
9. Sasikumar

... Plaintiffs.

-Vs-

1. Jeyaraj
2. Jeganathan

... Defendants.

This suit came before this Court on 03.08.2026 for hearing in the presence of Tvl. M.Ravikumar and S. Xavier Sanjeev Kumar, counsels appearing for the plaintiffs and Tvl. S.Merlin, T.Jeyapraksh, V. Ramesh, K. Velumayil, counsels appearing for the defendants; upon perusing the entire records of the case and after hearing the arguments on

both side and having stood over for consideration till this day, this Court delivered the following:

JUDGMENT

The plaintiffs filed this suit under Order VII Rule 1 of C.P.C. to pass a judgment and decree in favour of the plaintiffs as against the defendants for preliminary decree for partition and separate possession of the plaintiffs 2/4 share in the suit property by metes and bounds, for costs and any other relief.

2. The averments made in the plaint are brief as follows:-

(a) The plaintiffs filed the suit for partition and separate possession. One vellaiyammal is the sister of 1st plaintiff and the defendants. 1st plaintiff, one Vellaiyammal, who is the mother of the plaintiffs 2 to 6, mother-in-law of the 7th plaintiff and the paternal grandmother of the 8th and 9th plaintiffs and the defendants are sisters and brothers. The suit property was inherited by their father namely late. Pachaimuthu Servai and chitta patta was mutated in their name and was enjoyed jointly by by them for the past 40 years. The said Vellaiyammal passed away on 04.03.2019, after her demise, the plaintiffs 1 to 9 and the defendants are enjoying the suit property. Since there was difference of opinion arose

between them regarding the enjoyment of the suit property, when the Vellayammal was alive and until her death, the Vellayammal and the 1st plaintiff have repeatedly requested the defendants to divide the suit property. But, the defendants have not cooperated. Thereafter, after the death of Vellayammal, her heirs plaintiffs 2 to 9 have repeatedly requested the defendants to divide their share separately along with the 1st plaintiff for which the defendants have refused. The defendants said that the plaintiffs have no share in the suit property and the suit property has been allotted to them alone.

(b) When the plaintiffs verifying the encumbrance certificate on November 2020, they came to know that the defendants have fraudulently entered into a registered partition deed between themselves on 03.11.1995. On the basis of that, the 2nd defendant executed a settlement deed measuring 11 cents to his son Rajasekaran on 04.05.2018 and the said Rajasekaran has obtained a loan by depositing the title deeds with Indusind Bank Ltd., Dindigul on 02.08.2018. The above said partition deed and settlement deed shall not in any way binding the plaintiffs with respect of their share. The 1st plaintiff and late Vellaiyammal are entitled to 2/4 share in the suit property. Late Vellaiyammal has enjoyed the suit property and died intestate, leaving plaintiffs 2 to 9 as her heirs.

Thus, the plaintiffs are entitled to 2/4 share in the suit property. Hence this suit.

3. The brief averments in the written statement filed by the 2nd defendant and adopted by the 1st defendant as follows :-

(i) The plaintiffs are not entitled to the relief as prayed for. The plaintiffs are well aware of the details of the partition deed, settlement deed and the loan. The plaintiffs have no any right in the suit property and they have filed this suit with an intention to cheat the defendants. At the time of marriage of Vellaiyammal and 1st plaintiff, the father of the defendants had spending money and bought each house for them and settled them. Therefore, Vellaiyammal and the 1st plaintiff have released their claim from the property and they have no share in the suit property as per the Hindu Succession Act.

(ii) The father of the defendants namely Pachaimuthu Servai died before 42 years. After his demise, the defendants have enjoyed the suit property beyond the statutory limitation period without any hindrance and have entered into registered partition deed on 03.11.1995. The defendants have been enjoying their shares in the suit property for about 22 years. The right of the 1st plaintiff and late Vellaiammal has

been extinguished by ouster. Therefore, the plaintiffs are not entitled to any share or enjoyment in the suit properties. The court fee paid is not correct. The cause of action and description of properties mentioned in the plaint are not correct and prays to dismiss the suit with cost.

4. In the light of the above said pleadings, the following issues (22.06.2023) and additional issues (17.07.2026) were framed by this Court.

1. Whether the plaintiffs are entitled to get 2/4 share by metes and bounds and separate possession in the suit schedule mentioned property?
2. Whether the partition deed dated 03.11.1995 entered into between the defendants is legally valid ?
3. To what other relief the plaintiffs are entitled ?

Additional Issues:

1. Whether the plaintiffs paid correct Court fee?
 2. Whether plaintiffs' claim is barred by ouster plea?
 3. Whether the suit properties are in joint possession of the plaintiffs and the defendants?
 4. Whether the plaintiffs are entitled to 2/4 share legally?
5. On the side of plaintiffs, the 1st plaintiff herself examined as Pw1, Ex.A1 to A7 were marked and 3rd plaintiff himself examined as PW2. On the side of defendants, the 2nd defendant examined as Dw1 and Ex.B1 to B4 were marked.

6. Heard both sides. Records perused.

7. **Issue No.1, Additional issue No.3 and 4:**

It is an admitted fact that the suit properties originally belonged to common ancestor namely Pachaimuthu ancestrally. He died 40 years ago leaving behind two daughters and two sons. The 1st plaintiff and deceased Vellaiyammal are the daughter and the defendants 1 and 2 are the sons of Pachaimuthu. The deceased Vellaiyammal died on 04.03.2019. The plaintiffs 2 to 9 are her legal heirs. Further, it is also not in dispute that on 03.11.1995, the defendants 1 and 2 entered into partition by virtue of Ex.A6 registered partition deed. Thereafter, the 2nd defendant executed settlement deed on 04.05.2018 in respect of land measuring 11 cents and by in turn his son on 02.08.2018 by execution of the registered memorandum of deposit of title deeds, obtained loan from Indusind Bank.

8. The plaintiffs' case is that the common ancestor namely Pachaimuthu died intestate leaving his two daughters and two sons as his legal heirs and the 1st plaintiff and the legal heirs of deceased Vellaiyammal and the defendants 1 and 2 are enjoying the suit properties as joint family properties and the plaintiffs are entitled to 2/4 undivided share totally in the scheduled properties.

9. The defendants' specific case is that when their father was alive, the daughters were given to marriage and he also purchased properties in his daughters' name and also constructed house for them. Further, it is specific defence stated on defendants' side that on 03.11.1995, the defendants entered into registered partition deed through which partitioned the family properties and thereafter no joint family survives and the properties are not in joint possession and they are enjoying their properties separately as their own property.

10. The 1st and 3rd plaintiffs examined themselves as PW1 and PW2 respectively. In the light of plaint averments, they have in their proof affidavit has specifically stated that the suit properties are in joint possession and they have 2/4 shares and that both defendants fraudulently executed Ex.A6 registered partition deed dated 03.11.1995. The said fact was specifically denied on defendants' side. Infact, the plaintiffs did not produce any legally acceptable oral or documentary evidence to show that the suit properties are in joint possession of the plaintiffs and the defendants. In the plaint itself, they have specifically stated that through Ex.A6 registered partition deed, both defendant partitioned the properties. The PW2 in his cross examination would also admit that after the

said partition, they are not in joint possession. Further, he would admit that based upon the registered partition deed, the 2nd defendant also executed the registered settlement deed on 04.05.2018 to his son and he also mortgaged the same to Indusind Bank. The defendants also produced pattas in their name and also kist receipts paid by them. It would show that after partition, they enjoying the properties. Thus, the plaintiffs failed to prove that the suit properties are in enjoyment of plaintiffs and defendants as joint family properties on the date of filing of plaint.

11. The 1st plaintiff and deceased Vellaiyammal as female legal heirs of deceased Pachaimuthu claimed equal share as co-parceners in the joint family properties. As already indicated, the suit properties were divided between male members of the family namely between the defendants 1 and 2 through Ex.A6 registered partition deed. In other words, before 2005 Hindu Succession (Amendment) Act came into force, the partition took place in the family. In such circumstances, the learned counsel for the defendants relied upon the proviso of Sec.6(5) of the Amendment Act, argued that since the registered partition Ex.A6 took place before the commencement of the Act, the female members cannot be treated as co-parceners and they have no share in the properties. Sec.6(5) of Hindu

Succession (Amendment) Act reads as follows:

" Sec. 6. Devolution of interest in coparcenary property :-

(1) On and from the commencement of the Hindu Succession (Amendment) Act, 2005, in a joint Hindu family governed by the Mitakshara law, the daughter of a coparcener shall -

(a)

(5) Nothing contained in this section shall apply to a partition, which has been effected before the 20th day of December, 2004. "

As already discussed, it is clear that before the Amendment Act came into force, partition was taken place in the plaintiffs' family through Ex.A6 registered partition deed between the family members and no joint family properties available for partition. In such circumstances, as per proviso clause, the 1st plaintiff as female member and the plaintiffs 2 to 9, legal heirs of another one female member are not entitled to share over the suit properties and these Issues are answered accordingly.

12. Issue No.2 and Additional Issue No.1 and 2:

In view of the discussions made in the earlier issues, this Court feels there is no need to discuss these issues elaborately.

13. Issue No.3:

Considering the facts and circumstances of the case, it is decided that

the plaintiffs' are not entitled to any other relief and thus, this issue is answered accordingly.

In the result, the suit is dismissed. Considering the nature of case and relationship between the parties, the parties are directed to bear their own costs.

Dictated to the Grade-I Stenographer, transcribed and computerized by her, corrected and pronounced by me in Open Court, this the 13th day of August, 2026.

**Principal District Judge,
Dindigul**

ANNEXURE:

I. Plaintiffs' side witness :

1	PW1	Varalakshmi
2	PW2	Kennady

II. Plaintiffs' side Documents :

Ex.A1	--	Chitta in the name of Late. PachaiMuthu (Xerox True Copy)
Ex.A2	21.03.2019	Death Certificate of Late Vellaiyammal (Copy)
Ex.A3	29.09.2000	Death Certificate of Late V.R.Selvin Raj(True Copy)
Ex.A4	05.02.2001	Legal Heir Certificate of Late V.R.Selvin Raj (Original)
Ex.A5	27.04.2019	Legal Heir Certificate of Late Vellaiyammal (Computerized Copy)

Ex.A6	03.11.1995	Partition deed entered into between the defendants (True Copy)
Ex.A7	04.03.2021	Guideline value of suit property.(Computerized copy)

III. Defendants' side witnesses:

1	DW1	Mr.Jeganathan
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IV. Defendants' side Documents:

1	Ex.B1	24.03.1986	Partition deed entered into between the defendants (with objection)
2	Ex.B2	--	Kist receipt (4 Nos.) (Original)
3	Ex.B3	--	Patta (No.3492) stands in the name of Jeganathan (Computerized opy)
4	Ex.B4	--	Patta (No.1746) in the name of Jeganathan Servai and Jeyaraj Servai (Computerized opy)

**Principal District Judge,
Dindigul.**