

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF,  
VEDASANDUR**

**PRESENT: THIRU.B.PETER, M.A., B.L.,  
PRINCIPAL DISTRICT MUNSIF,  
VEDASANDUR**

**Monday the 20th day of April 2026**

**O.S.No.141/2003**

- 1.Ramasamy (death)
- 2.Shanmugavel
- 3.Kalimuthu
- 4.Muthammal
- 5.Chowdeshwari
- 6.Subbulakshmi
- 7.Maheswari
- 8.Minor.Jothi Chowdeshwari
- 9.Minor.Bhavathi raja

(By the 7th plaintiff who is the mother and guardian of the minor plaintiffs 8 and 9)  
(4 to 6 plaintiffs for the deceased 1st plaintiff as per I.A.No.45/2015 have been included as heirs dated 04.08.2016.

Amended as per order in I.A.No.3/2017 dated 08.03.2017

Amended as per order in I.A.No.372/2019 dated 07.12.2019.

.....Plaintiffs

*/Vs./*

- 1.Ponnammal
- 2.Balakrishnan
- 3.Kalavathi

- 4.Subbammal (Death)
- 5.Savadammal (Death)
- 6.Subbaiyan (Death)
- 7.Savadammal
- 8.Subbulakshmi
- 9.Rajaram
- 10.Rekha
- 11.Shanthi
- 12.Lakshmi
- 13.Nandagopal
- 14.Seetha
- 15.Renga nayaki
- 16.Thangavel (Death)

(The above 2 to 6 defendants have been added to the suit as per order passed in I.A.No.669/2010 dated on 24.03.2011)

(Amended as per order in I.A.No.3/2017 dated 08.02.2017)

(Amended as per order in I.A.No.372/2019 dated 07.12.2019)

(Amended as per order in I.A.No.4/2023 dated 15.11.2023)

(Amended as per order in I.A.No.5/2024 dated 07.11.2024)

..... Defendants

The suit was filed on 26.06.2003 and when it came for final hearing on 7.04.2026, in the presence of **Thiru.B.Ganesan** the learned counsel appearing on behalf of the Plaintiffs and **Thiru.V.Rathinam** the learned counsel appearing on behalf of the 1 to 8 defendants, and **Thiru.T.Sivachandran** the learned counsel appearing on behalf of the 12 defendant. D9 was set exparte on 14.02.2020, D10, D11 set exparte on 06.08.2022, D13, D16 set exparte on 5.02.2024, D14, D15 set

exparte on 22.01.2024, upon hearing the both side arguments, perusing the case records and having stood over for consideration till this day, this court delivers the following....

### **Judgement**

This suit is filed for the disputed properties, to carefully inspect, measure and divide the 1/2 share of properties legally due to 3 to 9 plaintiffs and to grant a preliminary decree against the defendants enabling them to obtain possession, and if the defendants fail to partition and deliver, to pass a final decree directing that the division be carried out through a court appointed commissioner.

#### **1. Summary of the plaint :**

(1.1) Originally the suit properties and other properties belonged to one Sadaiappa gowder as 'A' schedule property as per partition in the year 1935. Some other properties are his self-acquired property. His first wife is Thirumayai Ammal. His second wife is Thirumayi. Savadamuthu was born through the 1st wife, Sathiyamoorthi for the second wife. Sadaiappa gowder, keeping the suit property for his maintenance, gave away other properties allotted as his share to his legal heirs as their shares. In 1962, Sadaiappa gowder died intestate leaving behind his legal heirs. Savadamuthu and Sathiyamoorthi being the legal heirs of Sadaiappa gowder, obtained the same and each one was enjoying a share in the suit property as common undivided property. Sathiyamoorthi died in 1980 leaving his wife alone as his legal

heir. Savadamuthu died in the year 1990 leaving the plaintiffs as his legal heirs. Both the plaintiffs and the defendants are in possession and enjoy a share in the property which remains as undivided and common property.

(1.2) In order to avoid unnecessary problem, the plaintiff demanded the defendant to divide the suit property in the 1st week of October 2003. But the defendant, who has no issues leads her life to whims and fancy and being influenced by other person, the defendant kept on postponing partition, attempts to create more encumbrances. But that shall not bind the plaintiff. Again when partition was demanded, the defendant intimidated the plaintiffs by her henchmen. Hence the plaintiff issued legal notice on 10.11.2003 demanding partition and give 1/2 share to the plaintiff. The defendant gave reply notice with false statement. The defendant refuses to divide. 2 to 6 defendants were added as necessary parties as per the written statement. Hence the suit is filed by the plaintiffs seeking 1/2 share in the property as they are entitled. 1st plaintiff died on 21.1.2009 leaving behind other 2-6 plaintiffs. Since 6th defendant died on 5.1.2025 during the pendency of the suit, 7,8 defendant were added. And during the pendency of the suit, 4th defendant died and hence 9 to 11 defendants were impleaded. Also, during the pendency of the suit. 7, 8 defendants in collusion with 12th defendants, 7, 8 defendants executed a sale deed in favour of the 12th defendant on 25.4.2018 in respect of the suit property. Hence, 12th defendant was impleaded. Also, during the pendency of the suit 2nd plaintiff died. Hence 7 to 9 plaintiff were added. And 5th defendant died during the pendency of the

suit and hence 13 to 16 defendants were impleaded.

**2. Summary of the Written statement filed by D1 and adopted by D2 to D6 :**

(2.1) Except the fact which are admitted expressly, all the other facts are denied. The averment that the suit property is the 'A' schedule property of the Sadaibaba gowder as per the 1935 partition deed is false. Also, Sadiyappa gowder has two wives and Savadamuthu is born for 1st wife and Sathyamoorthy for the 2nd wife is false. In fact Sadaibaba gowder had three wives. The 1st wife is Thirumayiammal who died long before leaving behind Savadamuthu who died left behind the 1st plaintiff Ramasamy in the year 1990. His second wife is Chikkammal @ Chikammal who died in the year 1975 leaving behind her children Savadammal, Subbammal, Sathiyamoorthi. Savadammal died leaving behind her children - Kalarani and Balakrishnan. Sathiyamoorthi died in the year 1980 leaving behind the defendant Ponnammal. His 3rd wife is Lingammal who died leaving behind his daughter Savadammal. Nandhagopal Sita, Ramalakshmi were born for Lingammal. Geneology is filed. It is true that Sadaibaba gowder died in the year 1962. It is true that Savadamuthu died in the year 1990 and Sathyamoorthi died in the year 1980. The averment that the suit was enjoyed in common as undivided is utterly false. The averments made in the legal notice sent by the plaintiff are all false.

(2.2) On 11.9.1935, Sadaibaba gowder and his brother Savadaya gowder, Kandasamy gowder, Savadamuthu gowder who is the son of 1st wife of Sadaibaba

gowder entered into partition and 'A' schedule property was allotted to Sadiappa gowder and D schedule property was allotted to Savadamuthu gowder, the father of the 1st plaintiff, and were enjoying the same. In the year 1990, Savadamuthu gowder died leaving behind his legal heirs. Since Sadaibaba gowder was living with his 3rd wife alone, there arose a trouble in the family and that caused for partition on 11.9.1935. Since Savadamuthu gowder was living with his 3rd wife till his death, he did not demand for partition. Hence, only his 2nd and 3rd wife alone are entitled to claim partition. Since in the year 1935 itself, the son of 1st wife of Sadaibaba gowder was allotted share, neither himself nor his family members are entitled to claim any partition. There is no joint family existing between the parties as averred.

(2.3) Sadaibaba gowder sold a portion having extent of 00.92 cent in his allotted share to one. Ayyavel gowder on 24.8.1939. In that sale deed, the father of the 1st plaintiff was a witness accepting that he has no share and has no objection for the deed. Since the husband of the defendant herein was a minor at that time, on 29.12.1948, Sadaibaba gowder sold some other portion to Perumal gowder and Co. In that sale deed also, Savadamuthu signed as a witness and on the same date Sadaibaba gowder purchased the property from Perumal gowder and Co vide document No.1057/2004 to the extent of 1.16 cents. In that deed also, Savadamuthu gowder signed as a witness. Knowing all these facts. Savadamuthu gowder did not take any steps for 42 years. On 2.1.1975, the 2nd wife of Sadiappa gowder Chikkammal @ Chikkammal died leaving behind her children - Savadammal, Subbammal,

Sathyamoorthi @ Sakthivel, Moorthy. The property purchased by Sadaiappa gowder and the house bearing patta No.1429, S.No.1994/3 - old S.No.1060/1, was enjoyed by Sathyamoorthi the husband of the defendant even after the death of Sadaiappa gowder. Sathyamoorthi died in the year 1980. Since 1980 the defendant obtained patta 2692, 14229 in her name and has been possessing and enjoying the same.

(2.4) On 2.7.1964, Sathyamoorthi purchased a portion of suit property from Chinnammal to whom Sadaiappa gowder sold the same on 19.8.1956. Having known all these, Subbammal, the sister of husband of the defendant, and the daughters of another sister of the husband of the defendant issued notice on 10.2.2002 claiming 1/2 share. On 12.2.2002, the defendant sent a reply notice. Even after that, on 5.4.2022, Savadammal the daughter of the 3rd wife of Sadaiappa gowder filed partition suit OS.No.50/2002 against the defendant also and the same was settled out of court. The husband of the defendant was in possession and enjoyment over the suit property since 1962 to 1975 and after his death, the defendant was in possession and enjoyment over the same till 5.11.2003 and sold the same to Subbaian on 5.11.2003 because of ill health and old age. Subbaiyan is in possession and enjoyment. The plaintiff's have no right whatsoever over the suit property. It is filed with ulterior motive of grabbing money. The suit is bad for non-joinder of necessary parties.

### **3. Summary of the Written statement of 12th defendant :**

This defendant denied the case of the plaintiffs in respect of 3rd item in the 1st

item of the suit property - S.No.1057/6. The extent of land in S.No.1057/6 was purchased by one Chinnammal from Sadaippa gowder on 19.8.1956. The husband of the defendant Sathyamoorthy purchased the same from Chinnammal on 2.7.1964. Sathyamoorthi died leaving behind his wife - 1st defendant herein before 39 years. Hence as a legal heir, the defendant got the same, was in enjoyment over the property and got patta No.2692 in her name. The fact being so, the 1st defendant sold the same to 6th defendant on 5.11.2003. 6th defendant obtained patta in his name. His wife - Lakshmi and his Son - Ganesan died before the death of Subbaian. Now his daughters 7th and 8th defendant are in possession and enjoyment over the same. Then 7th and 8th defendants sold the 3rd item of the 1st item of the suit property - ic, land in S.No.1057/6 to 12th defendant on 25.4.2018 for proper consideration. 12th defendant obtained patta No.7296 in his name, is in enjoyment over the same. 2,3 plaintiffs herein are the relative to 7th and 8th defendant. But though 2,3 plaintiffs attempted to purchase the same, the 7th and 8th defendant turned down the offer of purchase. Because of that enmity, on 1.6.2018, when the 12th defendant was ploughing the land 2 and 3 plaintiffs disturbed but the disturbance was overcome with the help of village elders. The plaintiffs have no right in S.No.1057/6. Hence the 12th defendant filed suit OS.No.188/2018, before the Hon'ble Sub Court, Vedasandur seeking the relief of injunction. Right to file additional written statement is reserved, if needed. Plaintiffs have no cause of action. Hence, the suit is to be dismissed.

**4. On careful perusal of the plaint, Written statements and the documents available on record, this court framed the following Issues:**

- 1) வாதிகள் கோரும் பரிகாரம் வாதிகளுக்கு கிடைக்கத்தக்கதா?
- 2) பிராது சொத்துக்களில் வாதிகளுக்கு உரிமை உள்ளதா?
- 3) பிராது சொத்துகள் பிரிவினை செய்யப்படாத குடும்பசொத்துகளாக உள்ளதா?
- 4) வழக்கு அவசிய தரப்பினர்களை சேர்க்காததால் பாதிக்கப்பட்டுள்ளதா?
- 5) வாதிக்கு கிடைக்கத்தக்க இதர பரிகாரம் யாது?

5. The 3rd plaintiff was examined as PW1. Ex.A1 to A9 were marked and PW2 , PW3 were examined. On the side of the defendants, D12 was examined as DW1 and Ex.B1 to Ex.B13 marked.

**6. Determination Issues No. 1 to 4:**

This suit has been filed by the plaintiffs seeking preliminary decree for awarding 1/2 share in the undivided suit property to the plaintiffs that they are entitled.

7. To briefly state the case of the plaintiff from the pleadings made in the plaint and statements made in the proof affidavit of PW1, the suit property originally belonged to Sadaiappa gowder father of 1st plaintiff and grand father of 2nd, 3rd plaintiff out of partition which took place as per Ex.A1 dated 11.9.1935. Sadaiappa gowder, except retaining the suit properties for his maintenance gave away his other properties to his legal heirs, and died in the year 1962. After the death of Sadaiappa

gowder, Savadamuthu the son of 1st wife of Sadaibaba gowder and Sathyamoorthi son of 2nd wife of Sadaibaba gowder as legal heirs obtained the same and were in joint possession and eachone occupying a portion of the suit property. Savadamuthu died in the year 1990 and Sathyamoorthi died in 1980. In order to avoid unnecessary trouble in the family, the plaintiffs demanded for partition in october 2003. The 1st defendant did not heed to the demand. Hence, on 10.11.2003 legal notice was issued demanding partition over the suit property. For that the 1st defendant sent reply notice. Now the burden is upon the plaintiffs that the suit property is the ancestral property and is jointly possessed by the plaintiffs and defendants and the suit property till date remains as undivided. Now the onerous to prove the case is considerably very high on the plaintiffs because D1 to D8 after filing written statement failed to participate in the trial by cross examining the witnesses produced on the side of the plaintiffs and 12th defendant and D9, D10, D11, D13 to D15 remain set exparte.

8. From the perusal of the Ex.A1 it becomes clear the the suit property is one of those properties allotted as the share of Sadaibaba gowder. The same is admitted by D1 to D6 and D12 in their written statement. Hence there arises no doubt in concluding that the suit property is the ancestral property. The learned counsel for the plaintiffs strongly contended that 12th defenant has no locus standi to question the entitlement of the plaintiffs because 12th defendant is not the co shares along with the plaintiffs, and hence 12th defendant should restrict her defence exclusively confining

to 3rd item in the 1st item of the suit property. This court accepts the above contention and hence the defence put up by the 12th defendant questioning the entitlement of the plaintiffs for the alleged 1/2 share in regard to other item of the suit property excluding the 3rd item in the 1st item of the suit property is rejected and is not taken into consideration in determining issues in the suit.

9. As stated above, it is the case of the plaintiffs that Sadaiappa gowder, retaining the suit properties for his maintenance gave away his other properties to his legal heirs as their share and Sadiappa gowder died in 1962. D1 to D6 admitted that Sadaiappa gowder died in 1962. Now the question is, as plaintiffs averred, whether they are in joint possession with the defendants, and what are the properties Sudaippa gowder gave away to his heirs as their share.

10. It is interesting to mention here that defendants D2 to D6 was added as necessary parties based on the pleadings of written statement of D1. It is stated in the written statement of D1 that the suit is bad for non-joinder of necessary parties because the legal heirs of Sadaiappa gowder - particularly his children born through his 3rd wife were not impleaded. Hence the plaint was amended to the effect by adding 2-6 defendants but no steps were taken to amend the plaint that along with 1st plaintiff - Savadamuthu born through 1st wife of Sadaiappa gowder and Sathiyamoorthi, the husband of the 1st defendant born through 2nd wife of Sadaiappa gowder, the defendants - children born through Lingammal the 3rd wife of Sadaiappa gowder

were in joint possession. And it is not the case of the plaintiffs that the children born through 3rd wife of Sadaiappa gowder relinquished their right of share. But there is no pleading amended to the effect that the children born through 3rd wife of Sadaiappa gowder were also in joint possession. However, in the joint family property if a co sharer is in the possession of the same it is deemed that the property is jointly possessed and enjoyed by all the co sharers. However this court finds that there is no amendment made to the effect that the children born through 3rd wife of Sadaiappa gowder is also in joint possession and enjoyment over the suit property.

11. Secondly, of the Ex.A1 to Ex.A8 there are no revenue records produced to prove the fact that both the plaintiffs and the defendants who are the legal heirs of Sadaiappa gowder are in joint possession over the suit properties. Ex.A1 - which is the partition deed dated 11.9.1935 shows the partition between Sadaiappa gowder, his brothers and Savadamuthu the father of the 1st plaintiff. Ex.A2 is the legal notice sent to the 1st defendant. Ex.A3 is the legal reply notice sent by the 1st defendant. Ex.A4 is the sale deed dated 29.12.1948 standing in the name of Sadaiappa gowder. In Ex.A2 it is stated that the legal heirs of Sadaiappa gowder, Savadamuthu and Sathiyamoorthi partitioned and the property and the property allotted to Sathiyamoorthi was possessed and enjoyed by Sathiyamoorthi. But the legal notice Ex.A3 sent by the plaintiffs to the 1st defendant did not show that what are the properties sold by Sadaiappa gowder and gave away to legal heirs. So from the above it becomes clear that no semblance of document - particularly revenue records

were produced to prove that plaintiffs and defendants - the legal heirs of Sadaibaba gowder are in joint possession and enjoyment over the suit properties.

12. Thirdly, the plaintiffs utterly failed to prove the fact about what are the properties which Sadaibaba gowder left to his legal heirs, while retaining the suit properties for his maintenance. The bare perusal of the Ex.A1 clearly shows that along with the suit properties, other properties were also allotted. Ex.A4 is the sale deed dated 29.12.1948 standing in the name of Sadaibaba gowder. Those properties as per Ex.A1 were not included as suit property. The reason why they were not included is only known to the plaintiffs. By the very act of failure to prove the fact about other properties which were left, as averred by the plaintiffs, for his legal heirs it amounts to partial partition in the well considered opinion of this court. Because, as pleaded, except the suit properties other properties were given by Sadaibaba to his legal heirs. It means that the properties given away are within the knowledge of the plaintiffs and if so why they were not included was not explained by the plaintiffs. Hence the case of the plaintiffs should fall to the ground on the sole ground of partial partition.

13. As per the pleading made in the plaint and the proof affidavit of PW1, it is also the case of the plaintiffs that during the pendency of the suit, both 7,8 defendants executed a sale deed Ex.B6 in respect of the suit property in favour of the 12th defendant. As a result of that, D12 was impleaded. Ex.B6 is the sale deed standing in

the name of 12th defendant.

14. Vehemently denying the above stated averments D12 pleaded in the written statement that the property subject to Ex.B6 is the part of the share allotted to Sadaibaba gowder - father of the 1st plaintiff and grandfather of 2nd 3rd plaintiffs, and the same was sold to one Chinnammal from whom Sathiyamoorthi, the husband of the 1st defendant purchased the property in Ex.B6 by virtue of Ex.B2 on 2.7.1964. As a result, it became the self-acquired property of Sathiyamoorthi. In the year 1980, Sathiyamoorthi died leaving behind his wife the 1st defendant. The 1st defendant obtained the property as legal heir of Sathiyamoorthi who died issueless. The 1st defendant obtained Ex.B3 patta No.2692 in her name. Then 1st defendant sold the same along with other properties to one Subbaian - 6th defendant on 5.11.2003. After purchase, 6th defendant obtained patta Ex.B5 in his name. After death of 6th defendant the 7th and 8th defendant who are the legal heirs of 6th defendant got the property and during the pendency of the suit, Ex.B6 was executed by 7th and 8th defendant in favour of 12th defendant for proper consideration.

15. PW1 categorically admitted that suit properties along with other properties were allotted to Sadaibaba gowder as his share as per Ex.A1. Also, PW1 admitted in his cross examination that Sadaibaba gowder sold some portions in the share allotted to the third parties. As per Ex.A1 the 'A' schedule property allotted to Sadaibaba gowder as his share became his self-acquired property and by virtue of holding the 'A'

schedule property in Ex.A1 as his share, Sadaiappa gowder, as admitted by PW1, sold some portions in the 'A' schedule property in Ex.A1.

16. PW1 also categorically admitted that this suit was filed after obtaining the knowledge about Ex.B4. Ex.B4 is the sale deed executed by 1st defendant wife of Sathyamoorthi in favour of the 6th defendant. PW1 testified to the fact, that PW1 came to know about Ex.B10 after filing written statement by the 12th defendant. Ex.B10 is the sale deed executed by Sadaiappa gowder in favour of one Chinnammal on 19.8.1956 in respect of 3rd item in the 1st item of the suit property. But even after knowing that, the plaintiffs failed to take steps to amend the plaint for the relief of declaring Ex.B10 and Ex.B6 are null and void.

17. As contended by the learned counsel for the plaintiffs, it is the stand of the plaintiffs that Ex.B6 is hit by the doctrine of lis pendens. It is settled law that subsequent transfer made during the pendency of suit is not void but the purchases is bound by the final decree passed in the suit, making the rights of subsequent purchaser subservient to the outcome of the suit. 12th defendant placed the decision rendered in **2026 INSC 339 Supreme court of India , Russi Fisheries P. LTD and another Vs. Bhavna setha and others by Hon'ble Supreme court.** The learned counsel for the 12th defendant contended that as per section 52 of Transfer of Property Act 1882, transfers of property made during the pendency of litigation are subject to the

doctrine of lis pendens and are subservient to the final decision of the court - such transfers are not void ab initio but remain invalid if the litigation goes against the transferor. Hence, it becomes very clear that Ex.B6 is not void but it is bound by the decree passed in this suit.

18. Now on the side of DW12, to show that the third item in the 1st item of the suit property belongs to the 12th defendant Ex.B1 to Ex.B13 marked. Of those Exhibits, Ex.B2 is the sale deed standing in the name of Sathiyamoorthi the husband of 1st defendant. Ex.B3 is the patta standing in the name of 1st defendant. Ex.B4 is the sale deed standing in the name of 6th defendant in respect of the 3rd item in the 1st item of the suit property. Ex.B5 is the patta standing in the name of 6th defendant. Ex.B6 is the sale deed standing in the name of 12th defendant. Ex.B7 is the patta standing in the name of 12th defendant. Ex.B8 is the extract of A register standing in the name of 12th defendant Ex.B9 is the Encumbrance certificate. Ex.B10 is the sale deed standing in the name of Chinnammal.

19. Now though the plaintiffs pleaded that the suit properties are possessed and enjoyed in common, as stated above, no document is produced. PW1 admitted categorically that no document is produced to show that Sadaiappa gowder was in possession and enjoyment of the suit property till his death. Also, it is the categorical admission of PW1 that no document is produced to show that after the death of Sadaiappa gowder, the suit property was jointly possessed and enjoyed by

Savadamuthu and Sathyamoorthi. So it becomes clear that the plaintiffs utterly failed to establish the fact that the suit property was jointly possessed and enjoyed by Savadamuthu, Sathiyamoorthi - the sons of Sadaiappa gowder. 12th defendant produced Ex.B7 to show her possession and enjoyment over the property in Ex.B6. In the cross examination, DW1 admitted that Ex.B7 is cancelled and Ex.B5 which is the patta in the standing in the name of Subbaiyan - 6th defendant was restored. But unfortunately Ex.B6 which is the title document standing in the name of 12th defendant is in force. Because no relief was sought to declare Ex.B6 as null and void. Such failure in the well considered opinion of this court, is fatal to the plaintiff's case.

20. It is the strong contention of the plaintiff that without seeking permission from this court to examine the husband of the 12th defendant, the husband of the plaintiff was examined as DW1. Also, the learned counsel for the plaintiffs persuasively argued that DW1 admitted categorically that no prior permission was sought for his being examined and no reason is placed before the court why 12th defendant was not examined and hence the 12th defendant's case must fail on that sole ground.

21. The learned counsel for the 12th defenant relied on the decision rendered by out **Hon'ble High Court of Madras in 2024(4) CTC 113 - Marallin Mari Christian and others -Vs- L.Rajendiran** and other and contented that as per S.120 of the Indian Evidence Act, in all Civil proceedings the parties to the suit and the husband

or wife of any party to the suit shall be competent witness, as such no permission is required for examining the husband of the 12th defendant, the learned counsel for the plaintiffs, on the contrary would argue that section 120 of Indian Evidence Act, it is applicable to the fact that DW1 the husband of 12 defendant can be examined but barring few exceptions. The learned counsel for the plaintiffs further argued that in this case, the failure on the part of 12th defendant to step into the witness box to make statements supporting the pleadings, as set out in the written statement leads necessarily to take adverse inference.

**22. The Hon'ble Apex Court in Janki Vashdeo Bhojwari and another Vs. Indasind Bank Ltd and other 2005 2 SCC 217, and Mankuur (dead) by Lrs. Vs.Hartar Singh Sangha, (2010) 10 Sec 512** held that in a Civil proceeding the non litigant of the spouse can be a competent witness as per section 120 of Indian Evidence Act. Hence the argument by the learned counsel for the plaintiffs is rejected based on the above legal position.

23. Also, the learned counsel for the plaintiffs advanced an argument that the failure by D1 and other defendants to enter into witness box and bear witness would necessarily lead to draw adverse inference against the 12th defendant who is the sole fighter defendant in the suit. The learned counsel for the 12th defendant made arguments refuting that the 12th defendant is entitled to defend the title of her vendor confining exclusively to the extent of land purchased under Ex.B5. The vendor of the

12th defendant did fail to appear before this court and to enter into witness box. But it is not uncommon like these litigants whose title and right was transferred will fail to enter into witness box as their entitlement was transferred. Hence in the well considered opinion of this court, the failure on the part of other the defendants would not enable the court to draw adverse inference against the case of 12th defendant. Also, as the 12th defendant also argued drawing strength from the decision rendered in 2024(4) CTC 113 cited supra, that subsequent purchasers can defend the title of the vendor.

24. The learned counsel for the plaintiffs argued that 1st defendant who is the wife of Sathyamoorthi, allegedly got married to Subbaiyan after the death of Sathyamoorthi, and PW2, PW3 support this case through their evidence and she is no more the legal heirs of Sathyamoorthi. But unfortunately no pleading is made to the effect that 1st defendant married the 6th defendant after the death of Sathyamoorthi. It is settled law that without pleading no evidence can be let in and no proof is acceptable. Even it is assumed to be valid that D1 has no right to transfer the property in Ex.B6 by the fact after the death of Sathyamoorthi, no prayer and relief is sought for declaring the same as null and void.

25. To sum up, the plaintiffs throughly failed to establish the fact that the suit property after the death of Sadaibaba gowder was jointly possessed and enjoyed by the plaintiffs and defendants. The plaintiffs also failed in letting clear cut evidence in

showing what are the properties given away by Sadaiappa gowder to his legal heirs during his life time as their share,keeping the suit properties for his maintenance, and whether Sadaiappa gowder alienated the 3rd item in the 1st of the suit property as per Ex.B9. In addition to that, the plaintiffs failed to seek no relief to declare Ex.B1, B3, B5, B9 as null and void.

26. For the foregoing discussions and decision the plaintiffs failed to establish the case and hence are not entitled to the relief as sought for. Accordingly 1 to 4 questions are answered negatively against the plaintiffs.

**27. Issue no 5:**

Since issues no 1 to 4 is answered against the plaintiffs no other relief can be granted for the plaintiffs. Accordingly this issue is answered against the plaintiffs.

**In the result, The suit is dismissed. No costs.**

Directly dictated to the steno-typist typed by her, corrected and pronounced by me in open court on this the 20th April 2026.

**Principal District Munsif Judge,  
Vedasandur.**

**1. Plaintiffs side Witness :**

- 1.PW1 - Kalimuthu
- 2.PW2 - Subramani
- 3.PW3 - Rasappan

**2. Plaintiffs side documents:**

<b>Serial No</b>	<b>Date</b>	<b>Documents</b>	<b>Nature of the documents</b>
Ex.A1	11.09.1935	Partition deed	Certified copy
Ex.A2.	10.11.2003	The legal notice sent by the plaintiffs to the 1st defendant along with the postal receipt and the postal acknowledgment card	Original
Ex.A3	14.11.2003	The 1st defenanant issued a reply notice to the plaintiffs	Dependent copy
Ex.A4	29.12.1948	The sale deed is in the name of Sadaibaba gowder	Certified copy
Ex.A5	-----	Patta No.2692	Online copy
Ex.A6	-----	Proof affidavit of 12th defendant filed in OS. No.188/2018 before Sub Court Veda sandur	Dependent copy
Ex.A7	30.05.2018	Legal notice of the plaintiffs filed in OS.No 188/2018 on the file of Sub Court Veda sandur	Certified copy
Ex.A8	13.04.2018	Prior to this case paper publication effected in Dina Thanthi newspaper	Original
Ex.A9	-----	Marriage invitation having the name of 1st defendant filed before Sub court Veda sandur in OS.No.188/2018	Certified coy

### 3. Defendants side Witness :

1.DW1 - Subramaniyan

### 4. Defendants side documents :

<b>Serial No</b>	<b>Date</b>	<b>Documents</b>	<b>Nature of the documents</b>
Ex.B1	-----	Patta No.4724 standing in the name of plaintiffs	
Ex.B2	02.07.1964	The sale deed for the disputed property in the name of Sathiyamoorthi gowder	Certified copy
Ex.B3	-----	The patta numbered 2692 for the disputed property was held in the name of Ponnammal, the wife of Sathyamoorthi gowder	Certified copy
Ex.B4	05.11.2003	The sale deed for the disputed property in the name of Subbaiyan	Certified copy
Ex.B5	-----	The computerized patta no.2692 for the suit property standing in the name of Subbaiyan	Certified copy
Ex.B6	25.04.2018	The sale deed standing in the name of 12th defendant	Certified copy
Ex.B7	-----	The computerized patta no.7296 for the suit property standing in the name of the 12th defendant	Certified copy

<b>Serial No</b>	<b>Date</b>	<b>Documents</b>	<b>Nature of the documents</b>
Ex.B8	-----	The 'A' Register standing in the name of the defendant	Certified copy
Ex.B9	-----	The encumbrance certificate for the suit property	Certified copy
Ex.B10	19.08.1956	The sale deed in respect of the suit property executed by Sadaiappa gounder in favour of Chinnammal	Certified copy
Ex.B11	29.12.1948	The sale deed standing in the name of (document No.2081/1948) Sadaiappa gounder to show his purchase of other property	Certified copy
Ex.B12	29.12.1948	The sale deed (Document No.2076/1948) executed by Sadaiappa gounder in favour of Perumal gounder and his family members to show Sadaiappa gounder sold his other properties	Certified copy
Ex.B13	24.08.1939	The sale deed executed by Sadaiappa gounder in favour of Ayyavel gounder in respect of other propeprties	Certified copy

**Principal District Munsif Judge,  
Vedasandur.**