

TNKK040003662022



Presented on : 07-11-2022
Registered on : 11-11-2022
Decided on : 16-03-2026
Duration : 3 years, 4 months, 9 days

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF,
NAGERCOIL.**

Present: Tmt.K. Chithra, B.A., B.L., (Hons)

Principal District Munsif, Nagercoil.

Monday, on the 16th day of March, 2026.

O.S. No. 195 of 2022

(CNR No. TNKK04-000366-2022)

Rajasingh

... Plaintiff

-vs-

1. Raja Thangam

2. Raja Chinnam

3. Thangathurai

4. Jagatpathy

5. Subseethapathy

6. Shanmugapathy

(3 to 6 are the legal heirs of Late Rajaselvi)

7. Raja Saker

8. Raja Geetha

9. Raja Lakshmi

... Defendants

This Suit came up before me on 02.03.2026 for a final hearing in the presence of Thiru.S.Athilingam, Advocate for the Plaintiff and Mr.S.A.Kanagasabapathi, Advocate for the 1st and 2nd Defendants and 3rd to 9th Defendants being ex parte and upon hearing the both side arguments, upon perusing the available case records and having stood over for consideration till this day, this court delivered the following:

JUDGEMENT

1. This suit was filed for the relief of i. a decree for partition and separate possession of plaintiff's $\frac{1}{7}$ th share in the total $16 \frac{1}{2}$ cents of the plaint schedule property and ii. a declaration that the release deed document No.2232/2022 of District Registrar office, at Edalakudy only binds 1st defendants $\frac{1}{3}$ share and does not bind the plaintiff's share in the plaint schedule property; and iii. a declaration that the release deed document No.2233/2022 of District Registrar office, at Edalakudy only binds 2nd defendants $\frac{1}{3} + \frac{1}{21}$ share and does not bind the plaintiff's share in the plaint schedule property; and iv. for permanent injunction restraining the defendants from making any encumbrance in the plaint schedule property affecting the plaintiffs $\frac{1}{7}$ shares of $\frac{1}{3}$ in the plaint schedule property and along with the cost of the suit.

2. CRUX OF FACTS STATED IN THE PLAINT:

2.1) The plaintiff's father Late.Shanmugam nadar had two wives namely 1.Rajalakshmi and 2.KanagaLeela. The 1st and 2nd defendants and one Rajaselvi were the children of Shanmugam and Rajalakshmi. The daughter Rajaselvi died leaving 3 to 6 defendants as legal heirs. The plaintiff, defendants 7 to 9 were the children of Shanmugam and KanagaLeela. The plaint schedule property of extent 16 ½ cents was purchased by Rajalakshmi vide Sale deed bearing document No.3747/1960 from her mother-in-law Mrs.Chinnammal @ Seethalakshmi.

2.2) Rajalakshmi died intestate on 22.12.1961 leaving her husband and three children. Shanmugam died on 14.03.2011 and Kanagaleela died on 18.01.2016. The plaint schedule property is 16 ½ cents of homestead land with shop bearing door No.6/151, 152, 153. After death of Rajalakshmi, the property devolved on her husband and two sons. Her daughter Rajaselvi had relinquished her right over the property vide Release deed bearing doc. No.616/1982 dt. 02.01.1982. So, Shanmugam and 2 sons got 1/3 share each. On death of Shanmugam, his children in total 7 nos had 1/7th share in his 1/3 share of the plaint schedule property.

2.3) The plaintiff and her other sisters wanted to effect partition in the plaint schedule property to develop and improve it. When they approached the 1st and 2nd defendants, the 1st and 2nd defendants initially dodging by various

reasons. Then they refused on the ground that they got entire share in the property. Thereafter, the plaintiff came to know of two relinquishment deeds bearing No.2232/2022 and 2233/2022. The 1st defendant relinquished his share in favour of 2nd defendant and the 2nd defendant relinquished his share to the 1st defendant. Neither the property devolved nor the defendants 1 and 2 were in possession and enjoyment of partitioned share. The property is in joint possession and enjoyment of all shareholders. So the division is to be effected in the property and the plaintiff seek partition of 1/7th share in 1/3rd share of plaintiff schedule property. Thus, this suit was filed.

3. CRUX OF ALLEGATIONS IN WRITTEN STATEMENT FILED BY 2ND DEFENDANT, WHICH IS ADOPTED BY 1ST DEFENDANT:

3.1) All the averments in the plaint are denied except those that are specifically admitted here under. It is true that the schedule property as per doc. No.3747/1960 belongs to Late.Rajalakshmi ammal. The plaintiff and defendants 7-9 are the Legal heirs of Kanagaleela, 2nd wife of father Shanmugam. The 1st and 2nd defendants, Late.Rajaselvi are the direct legal heirs of Rajalakshmi. The 3 to 6 defendants are the legal heirs of Rajaselvi. The 3 to 6 defendants are not necessary parties in the suit, since Rajaselvi has executed Release deed in favour of her two brothers.

3.2) The deceased Rajalakshmi had enjoyed the schedule of property independently. After her death, the defendants 1, 2 and Rajaselvi have jointly

acquired title, possession and received rents. The legal heirs listed by the plaintiff, are not the legal heirs of Late.Rajalakshmi, except the defendants 1,2 and Rajaselvi.

3.3) On 02.01.1982, Rajaselvi has executed a Release deed in favour of her two brothers vide Doc.No.616/1982. On 18.05.2022, the legal heirs of Rajalakshmi divided the schedule property into two portions. The 1 and 2 defendnats have executed Release deed No.2232/2022 and 2233/2022 reciprocally and relinquished their respective rights over the others. The 1st and 2nd defendants are in possession and enjoyment of 8 ½ cents each. Mutation came into effect and patta stands in name of 1st and 2nd defendants. The old buildings in the schedule property have been demolished by the 1st and 2nd defendants for constructing a new shopping complex.

3.4) The plaintiff can claim right against the self earned properties of Shanmugam only and not of Rajalakshmi. The plaintiff being stepson to the Rajalakshmi, cannot claim property right under the cloud of Shanmugam. The legal heirs produced by the plaintiff is not valid. There is no cause of action arose on facts.

3.5) The character and conduct of the plaintiff is relevant. The plaintiff has threatened, assaulted his own father and obtained many items of property through registered documents. In one occasion, father has submitted a complaint to the District collector against the plaintiff for his unlawful activities and

violence. The plaintiff has constantly contacted the 2nd defendant and demanded lumpsum amount by means of threat. On its refusal, he filed this frivolous and vexatious suit.

3.6) As a matter of fact, the 1st and 2nd defendants have acquired full title and possession over the schedule property from 02.01.1982, for the past 30 years. None have claimed any right for 30 years. This suit is not maintainable on facts and law. This suit is a test suit and also gambling litigation, vexatious and frivolous one. Thus they prayed to dismiss the suit, with cost.

(On 12.12.2023, the defendants 4 to 9 were set exparte for not appeared on summons. The defendants 4 to 9 were remained exparte.)

4. ISSUES:

4.1) Based on the pleadings and documents, this court has framed following issues

- i. Whether the plaintiff is entitled for partition?
- ii. If yes, What is the share to which the plaintiff is entitled?
- iii. Whether the plaintiff is entitled for suit prayer B declaration?
- iv. Whether the plaintiff is entitled for suit prayer C declaration?
- v. Whether the plaintiff is entitled for permanent injunction as prayed for?
- vi. To what other reliefs the parties are entitled? What order as to costs?

5. EVIDENCE:

5.1) On the plaintiff side, the plaintiff was examined as PW1, **Ex.A1 to Ex.A9** and Ex.B1 and Ex.B2 were marked. One third person named Kumari Selvan was examined as PW2, **Ex.A10** was marked. On 17.09.2025, upon endorsement of learned plaintiff counsel, the plaintiff side evidence was closed.

5.2) On the defendants 1, 2 side, the 1st defendant was examined as DW1, Ex.B1 to Ex.B6 were marked. On 12.01.2026, upon endorsement of learned defendants 1,2 counsel, the defendants 1,2 side evidence was closed. On careful examining of documents, Ex.B1 and B2 were marked at the cross-examination of PW1, so the 6 documents marked in chief examination of DW1 should be re-arranged and marked from Ex.B3 to ex.B8. but mistakenly those were marked as Ex.B1 to B6. Now this error is rectified by renumbering the exhibits which were marked in chief-examination of DW1 as **Ex.B3 to Ex.B8**.

6. ARGUMENTS:

6.1) The learned plaintiff counsel had argued that it is admitted by both parties that the plaint schedule property was purchased by Rajalakshmi on 29.11.1960. Plaintiff's father Shanmugam had two wives, namely Rajalakshmi and KAnagaleela. The plaintiff and defendants 7 to 9 were children born through KAnagaleela; Defendants 1, 2 and Rajaselvi were children born through Rajalakshmi. The plaint schedule property was purchased in name of Rajalakshmi on payment of sale consideration by her husband Shanmugam. The

1st wife Rajalakshmi died on 22.12.1961 and her property devolved to her husband and her 3 children; each got 1/4th share. Her daughter Rajaselvi executed a release deed/Ex.A2 on 02.01.1982 to defendants 1 and 2. So the three sharers got 1/3 share. Father Shanmugam died on 14.03.2011 intestate by leaving 7 children. All the 7 children got 1/7 share in his 1/3rd share. The patta Ex.A3 stands in name of Shanmugam, defendants 1 and 2. To prove the 7 legal heirs of the deceased Shanmugam, the Ex.A7/legal heir certificate was produced. Property tax receipts/Ex.A9 still stand in the name of Shanmugam. For the fact of joint enjoyment of suit property by Shanmugam, the person/PW2, who rented one shop in suit property from Shanmugam, was examined. The plaintiff claimed his share after the death of his parents only. Thus, the suit is to be decreed.

6.2) The learned defendants 1, 2 counsel argued that the suit property was purchased by their mother Rajalakshmiammal on 29.11.1960 from her mother-in-law on payment of sale consideration from the sale of another ancestral property from her parents. Rajalakshmi was the only daughter to their parents and she was given stridana property at Maavadi pannaiyar, Tirunelveli. It was sold to pay out the sale consideration of suit property. She had title, right, possession and enjoyment over the property till her death. So, her husband has no right over it. On her death, her 3 children had been in possession and enjoyment of property. Among the three, her daughter Rajaselvi had executed a

Release deed/Ex.A2 to her two sons with respect to her 1/3rd share in suit property. Since then, the defendants 1 and 2 have title, right, possession and enjoyment over the property. The plaintiff had threatened his father Shanmugam's life several times and he had caused serious injuries to his father. Their father Shanmugam had lodged complaint/Ex.B5 to the District collector to safeguard his life and his wife life. Thus, he disentitled from the share of their father's property. In Ex.B5, their father had stated that he gave ¾ of his property to the plaintiff. It was proved through Ex.B1, B2, B6. The plaintiff has executed an undertaking not to seek share in the property till the life time of his parents. Thus, this suit has to be dismissed with cost.

7.POINT FOR DETERMINATION:

ISSUE NO.1: Whether the plaintiff is entitled for partition?

ISSUE NO.2: If yes, What is the share to which the plaintiff is entitled?

7.1) The facts-in-issue and their reasons to issues No.1 and 2, were interconnected to each other, so they were taken together for discussion.

7.2) SUIT PROPERTY IS SELF-ACQUIRED OR ANCESTRAL?:

The suit property was described as 16 ½ cents of property constrained in Resurvey No.538/1 of Puthalam village, Agasteeswaram Taluk, Kanyakumari District.

7.3) The plaintiff stated that the Plaintiff's father Shanmugam had two wives namely 1.Rajalakshmi and 2.KanagaLeela. The 1st and 2nd defendants and

one Rajaselvi were the children of Shanmugam and Rajalakshmi. The daughter Rajaselvi died leaving 3 to 6 defendants as legal heirs. The plaintiff, defendants 7 to 9 were the children of Shanmugam and KanagaLeela. The plaint schedule property of extent 16 ½ cents was purchased by Rajalakshmi vide Sale deed bearing document No.3747/1960 from her mother-in-law Mrs.Chinnammal @ Seethalakshmi. These facts were admitted by the defendants 1 and 2 in their written statement.

7.4) Admittedly, it was purchased by one Rajalakshmi vide Ex.A1/registered Sale deed No.3747/1960 dt. 29.11.1960. The plaintiff alleged its sale consideration was paid by his father Shanmugam. The defendants 1 and 2 claimed that it was paid out from the proceeds of sale of her stridana property. On thorough reading of Ex.A1, the source of sale consideration was not elaborated. The necessity to sell suit property by her mother-in-law to redeem mortgaged property at cost of Rs.1,000/- and to meet out her daughter's marriage expenses, was stated. Hence the plaintiff's claim was denied as totally unsustainable and the claim of the defendants was not proved by defendants by producing the alleged sale deed. Therefore, this court hold that the suit property was self-acquired property of the deceased Rajalakshmi.

7.5) Admittedly, the deceased Rajalakshmi did not execute any deed to settle her self-acquired property to her heirs and she died on 22.12.1961 intestate. As per *S.15(1)(a) of Hindu Succession Act*, when a female hindu dies

intestate, her property firstly devolves *upon her sons, daughters and husband.*

In this case on hand, the deceased Rajalakshmi had legal heirs consisting of her husband, 2 sons (the defendants 1 and 2) and 1 daughter Rajaselvi. So, each of them got $\frac{1}{4}$ share in the suit property.

7.6) While the plaintiff contends that Shanmugam Nadar retained a $\frac{1}{4}$ share, the conduct of the parties over the last 60 years suggests otherwise. The **Release Deed of 1982 (Ex.A2)**, a 40-year-old document, carries a presumption of correctness under **Section 92 of the BSA, 2023**. The recitals therein explicitly state that the three children were the sole enjoyers of the property. Shanmugam Nadar, during his lifetime, never challenged this arrangement nor asserted his $\frac{1}{4}$ share. The plaintiff also admitted the said Release deed and he did not contend its content.

7.7) It is admitted by the plaintiff in his cross-examination, that he did not challenge the Ex.A2 before any court of law at any time. Therefore, this court presumes the validity of Ex.A2 as genuine. As per the contents of Ex.A2, the three children only have rights over the suit property; among the three, the daughter released her rights to other two brothers.

7.8) The plaintiff alleged the existence of patta, property tax records in the name of Shanmugam, defendants 1 and 2 jointly. It is settled position of law that Patta is not title document. The patta/Ex.A3 was downloaded on 19.09.2022 and the Ex.A9 property tax receipts-6nos were dated 06.12.2022. The

Ex.A3/patta and Ex.A9/property tax receipts were dated just before the filing of this suit. There is a total 'evidential vacuum' regarding the joint possession of Shanmugam Nadar from 1961 to 2011. In the absence of proof that Shanmugam held or exercised rights over this specific property, his heirs from the second marriage cannot now rake up a claim that was effectively abandoned by their father. Consequently, the Plaintiff is not entitled to partition and thus the issue no.1 and 2 were answered in negative.

ISSUE NO.3: Whether the plaintiff is entitled for suit prayer B declaration?

ISSUE NO.4: Whether the plaintiff is entitled for suit prayer C declaration?

7.9) The facts-in-issue and their reasons to issues no.1 and 2, were interconnected to each other, so they were taken together for discussion.

7.10) The defendants had defended this case on the ground that the plaintiff had threatened his father Shanmugam's life several times and he had caused serious injuries to his father. Their father Shanmugam had lodged complaint/Ex.B5 to the District collector to safeguard his life and his wife life. Thus, he disentitled from the share of their father's property. These allegations were not supported by any documentary and oral evidence. The Ex.B5/mere complaint does not be a proof of its content, without any lodging of FIR, its investigation, final report of investigation officer and its proof before the court of law where finally ended up in conviction. So it is totally irrelevant to this case as the character and conduct do not relevant to the civil suit as per S.46 of

Bharathiya Sakshya Adhinayam, 2023.

7.11) In further, the defendants alleged that in Ex.B5, their father had stated that he gave $\frac{3}{4}$ of his property to the plaintiff. It was proved through Ex.B1, B2, B6. The plaintiff has executed an undertaking not to seek share in the property till the life time of his parents. While considering these allegations, every Karta has right to dispossess the property to his children or any person before his death. The settlement of $\frac{3}{4}$ share of property to the plaintiff by his father does not disentitle his share in any of common ancestral property. Ex.B3/consent deed not to claim any share till death of parents by the plaintiff, does not help either to prove the plaintiff case or to disprove the case. Generally, **the civil rights of a party are not lost due to bad character**, unless it specifically hits a legal disqualification like the 'Murderer Disqualification' under Sec 25 Hindu Succession Act.

7.12) Upon the above discussions and this court already held that the plaintiff is not entitled to the relief of partition, this court held that the plaintiff is not entitled to the relief of declaring the release deeds bearing No.2232/2022, 2233/2022 as null and void and not binding on the plaintiff's share in the suit property and the issues No.3 and 4 were answered negatively.

ISSUE NO.5: Whether the plaintiff is entitled for permanent injunction as prayed for?

7.13) This court already held that the plaintiff is not entitled to the relief of partition, this court held that the plaintiff is not entitled to the relief of permanent injunction with respect to the suit property and the issues no.5 is answered negatively.

ISSUE NO.6: To what other reliefs the parties are entitled? What order as to costs?

7.14) This court held that the parties are not entitled to any other relief. The plaintiff is directed to pay the suit cost to the defendants 1 and 2. And this issue No.6 is answered accordingly.

8. In fine, this suit is dismissed with cost of the defendants 1 and 2.

Dictated to Steno-Typist and typed by her directly in the Computer and corrected and pronounced by me in the Open Court on this the 16th day of March, 2026.

(Sd/-K.Chithra)

Principal District Munsif,
Nagercoil.

Appendix:

1) Plaintiff side witnesses:

PW1 - Rajasingh

PW2 - Kumari Selvan

2) Plaintiff side documents:

Ex.A1	29.11.1960	Certified copy of sale deed No.3747/1960 in the name of Rajalekshmi.
Ex.A2	02.01.1982	Certified copy of Sale deed No.9/1982

Ex.A3	-	Online copy of Patta No.3344
Ex.A4	18.05.2022	Certified copy of Release deed No.2232/2022
Ex.A5	18.05.2022	Certified copy of Release deed No.2233/2022
Ex.A6	14.03.2011	Original Death certificate of Shanmugam
Ex.A7	19.04.2018	Original Legal heir Certificate of Shanmugam
Ex.A8	-	Compared copy of Aadhar card of plaintiff
Ex.A9	-	Original Land tax receipt
Ex.A10	-	Compared copy of Aadhar card

3) Defendants side witnesses:-

DW1 - Raja Thangam

4) Defendants side documents:-

Ex.B1	10.02.1997	Certified copy of Settlement deed No.281/97
Ex.B2	10.02.1997	Certified copy of Settlement deed No.280/97
Ex.B3	10.02.1997	Original consent deed executed by the plaintiff
Ex.B4	27.12.1997	Original Consent deed executed by the plaintiff
Ex.B5	28.02.2004	Original complaint submitted to the District Collector by Shanmugam Nadar
Ex.B6	13.03.1998	Certified copy of sale deed NO.517/1998 executed by Shanmugam
Ex.B7	25.09.1999	Certified copy of Settlement deed No.1893/1999
Ex.B8	25.07.2025	Online copy of Encumbrance Certificate

(Sd/-K.Chithra)
Principal District Munsif,
Nagercoil.

PDM Court, NGL,
O.S.No.195 of 2022
Draft/Fair Judgment,
Dated : 16.03.2026.