

TNKK040003772012



Presented on : 28-07-2012  
Registered on : 28-07-2012  
Decided on : 18-04-2026  
Duration : 13 years, 8 months, 21 days

**IN THE COURT OF THE I ADDITIONAL DISTRICT MUNSIF,  
NAGERCOIL.**

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

I Additional District Munsif (FAC), Nagercoil

**Saturday, on the 18<sup>th</sup> day of April, 2026.**

**O.S. No. 340 of 2012**

**(CNR NO. TNKK04-000377-2012 )**

1. Charlet Kamala Wilson (died)
2. Suresh Harrison
3. Sajatha Victoria
4. Rohit

(Amended as per order in I.A.No.6/2024  
dated 21.09.2024)

..... Plaintiffs

-vs-

1. Charles Christin Victor
2. Joysiline Victor
3. Victoria Rose Light (died)
4. Vicky Mercy Bai
5. Vicky Margret Bala
- Addl.6. W. Fragrant Rajula
- Addl.7. W. Joseph Jetson
- Addl.8. W. Joseph Shelton

Addl.9. Moses Wilson

(Amended as per Order in I.A.No.7/2025

dated 26.09.2025)

... Defendants

This Suit came up before me on 09.04.2026 for a final hearing in the presence of Mr. Anand A. Wilson, Advocate for the Plaintiffs and Mr.A.Samuel Edwin, Advocate for the 1<sup>st</sup> Defendant, and Mr. A.Nadarajan, Advocate for the 2<sup>nd</sup> Defendant and Mr.T. Sriram, Advocate for the 6<sup>th</sup> to 9<sup>th</sup> Defendant and upon hearing the plaintiff side arguments, and defendants side arguments and 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 by the plaintiff for the relief of Preliminary decree for partition and separate possession of his 1/6 share by metes and bounds from the suit properties and then to issue a Commission to partition by metes and bounds and then to pass a final decree allotting plaintiff's 1/6th share in the plaint schedule properties, along with cost of suit.

### **2. CRUX OF AMENDED PLAINT FILED BY THE PLAINTIFF DT.04.10.2024:**

**2.1)** The plaint schedule properties and some other properties are originally belonged to C.A.Victor and Paulis Ammal Victor. They were christians and were governed by the Indian Succession Act, 1925. C.A.Victor died on 24.08.1998 and his

wife died on 15.04.1996, leaving behind two sons, who were defendants 1 and 2 herein and 4 daughters including the plaintiff and defendants 3 to 5 herein. During their life time, they settled some of their properties in favour of their two sons, defendants 1 and 2 and so they were not included in this plaint.

**2.2)** After their death, the plaintiff and defendants are in joint possession and enjoyment of the plaint schedule properties. They are entitled to 1/6 share each over the plaint schedule properties. The joint possession causing much inconvenience and plaintiff is not able to make improvements in her share of the properties. Now the defendants 1 and 2 have colluded by creating forged documents and trying to alienate the plaint schedule properties. If they have succeeded in their attempt to sell, it will cause severe hardship and damage to the plaintiff and it cannot be compensated. So, the plaintiff made several oral demand for partition the last of which was on 04.06.2012, to which the defendants are not amenable and hence this suit is necessitated.

**3. CRUX OF AMENDED WRITTEN STATEMENT FILED BY 1ST DEFENDANT DT.08.04.2021:**

**3.1)** All the averments in the plaint save those which are specifically admitted hereunder shall be deemed to be denied. No property was allotted or settled to the 1<sup>st</sup> defendant during the life time of the parents of the parties. An area of measuring one hectare in a prime locality was lot of properties were given to the 2<sup>nd</sup> defendant by the parents of the parties. The averment that the plaint schedule properties are in joint

possession and enjoyment of the parties are absolutely false. The plaint item No.1 is in exclusive possession and enjoyment of this defendant by constructing a residential building in the year 2004 by due approval and also planted several trees and plants. This defendant is paying tax to the government and the same is well aware of by the plaintiff and other defendants also. This defendant had spent Rs.15,00,000/- for the construction of the building. The plaint item no.1, 2, 3 were in the possession and enjoyment of this defendant by cultivating coconut trees. This defendant has effected improvements and developments and enjoying its yield.

**3.2)** Likewise, the 2<sup>nd</sup> defendant is also in exclusive possession and enjoyment of the items No.4 and 5 of the plaint schedule properties. As per the family arrangement made among the plaintiff and defendants, the sisters of this defendant accepted to relinquish their share over the plaint schedule property and hence the defendants 1 and 2 have been executed a partition deed and in accordance with the document, the defendants 1 and 2 are in exclusive enjoyment and possession of their share of properties. The defendant has no intention to alienate the property and there is no necessity for the same.

**3.3)** Since the defendants 3 to 5 and the plaintiff were given in marriage by providing sufficient dowry such as jewels and cash by their parents, they relinquished their share to the defendants 1 and 2. Now they have suppressed the earlier family arrangement and filed this frivolous suit in order to harass the defendant. Though parents died in the year 1996, 1998, the plaintiff kept silence till date. The plaintiff

and the defendants 3 to 5 were living happily along with their family and no hardship and damage will be caused to the plaintiff if properties are not partitioned. The plaintiff at no point of time, demanded for partition to none of the defendants. The date of demand for oral partition is imaginary. No cause of action to file this suit. The valuation of plaintiff's claim is imaginary one. All the properties are valuable, the court fee is paid is incorrect as the plaint schedule properties are in exclusive possession of this defendant and 2<sup>nd</sup> defendant.

**3.4)** This defendant is retired scientist and after his retirement, he constructed a residential building by spending more than Rs.15,00,000/- and also effected developments from 2004 onwards in the item No.1, 2, 3. Anyhow in the interest of justice, the defendant is ready for amicable settlement that item no.1,2 may be allotted to this defendant and this defendant is prepared to relinquish item no.3 to the plaintiff and other defendants in other properties. The suit claim is barred by limitation. The description of plaint properties are incorrect. The suit is not maintainable in law and on facts because all the movable and immovable properties of late father and mother are not included in the suit and hence this suit for partial partition, may be dismissed.

**4. CRUX OF LETTER TO THE SUMMONS, SUBMITTED BY THE 2ND DEFENDANT ON 30.08.2012:**

**4.1)** The plaintiff was born in 1939 as a daughter to Arulaiyya Victor. On her completion of SSLC, She was given in marriage to father's sister's son (Wilson), by

giving dowry of Rs.3,500/-. As per customs prevailed, the customary practice of Kalyana virunthu, veedukanuthal, maruveedu kanuthal, surul koduthal, giving mothiram/ring to two brothers of groom, thalaipirasavam paarthal, etc, in grand manner. Those expenses would be Rs.5,000/-.

**4.2)** In 1966, after getting retirement, Arulaiyya victor settled in his native place Puthalam. In the year 1983, he was residing at plaintiff's home at Kaliyankadu. The 2<sup>nd</sup> defendant has sent Rs.200/- per day to the plaintiff to meet expenses of food and medicine of their father. Suddenly, the plaintiff sent her father out of her home. At Puthalam, their father took sleep pills due to heavy depression. To save his life, this defendant gave medical treatment for 1 month at Edalakudy Abdul Kadar Hospital to their father and the plaintiff did not visit at hospital at any time and not took participate in the medical expenses of Rs.5,000/-.

**4.3)** This defendant was the 5<sup>th</sup> child born in 1947 and went to Tea estate for work in 1971. He got married in 1986. From 1971 to 1986, he had done all the basic amenities to his parents. After his marriage, he took care of both parents and his marital family. His father sustained cold at Maanjolai, for this defendant's company till the father's last breath at age of 89. He was taken care of by a separate paid off-person. The plaintiff did not participate in the last rituals, constructing burial tomb, remembrance day, by spending single paise. She did not do her duty. In the period of 1957-plaintiff's marriage, the married female did not claim in the profit and loss incurred in their parent's wealth and they did not seek share in the property also. The

plaintiff did not seek partition during the life time of her father. She did not claim partition to this defendant before filing this suit. The plaintiff did not honour her parents at any point of time in any manner. She did not provide any assistance in building wealth of her parents. Thus, she is not entitled to any relief of partition.

**5. CRUX OF ADDITIONAL SUBMISSION IN LETTER FILED BY 2<sup>nd</sup> DEFENDANT DT.20.12.2019:**

**5.1)** The 2<sup>nd</sup> defendant accepted the judgment and decree in this suit on 08.07.2014. The plaintiff did not take any step to execute the decree. Except the plaintiff, other sisters of this defendant had not file any case for partition. The 3<sup>rd</sup> sister Vicky Morzi Bai Jerold and younger sister Vicky Margret Bala George executed a release deed with respect to their share in Survey No.206/14B, 585/10, 110/3 and 592/8, to the 1<sup>st</sup> defendant and to this defendant separately. They did not say about the survey No.97/8. As per Judgment, this defendant is willing to give their 1/6 share to them.

**5.2)** In the survey No.206/14B (21 ½ cents), 585/10 (24 cents), 97/8 (40 cents), 110/3 (50 cents), 592/8 (38 ½ cents) out of 5 properties, the 1<sup>st</sup> and 2<sup>nd</sup> defendant had executed partition deed by allotting first 3 items to the 1<sup>st</sup> defendant and other 2 items to this defendant. Hence this defendant prayed to divide equally and allot to the brothers without any future suits or legal issues to them or their children.

**6. CRUX OF ADDITIONAL WRITTEN SUBMISSION FILED BY 2ND DEFENDANT DT.24.08.2023:**

The plaintiff has deposed that in land of survey no.592/8 (38 ½ cents), the burial tomb of her husband's two brothers were created. So, this defendant agreed to take his 1/6th share in the said land also. Additionally, this defendant agreed to divide the survey No.110/3 (50 cents) into 6 equal portions and allot the first portion to the plaintiff. Without dragging the case, this defendant requested to allot their share.

**7. CRUX OF ADDITIONAL WRITTEN STATEMENT FILED BY 1ST DEFENDANT DT.26.02.2026:**

7.1) All the averments in the plaint save those which are specifically admitted hereunder shall be deemed to be denied. The plaintiff as PW1 in her cross-examination, deposed that all the properties of the parents are not included in the suit and hence PW1 alone knows the details of the properties which are not included in the plaint schedule properties. And the legal heirs of plaintiffs are not competent to say about the remaining properties. This suit is not maintainable in law and on facts because all the movable and immovable properties are not included. The item no.6 in the plaint schedule properties is not the property of the father of this defendant and the said property is situated in Kerala state and none of the parties to the suit knows its location. It is the burden of the additional plaintiffs to prove the survey number area of the property and boundaries and description of the property.

7.2) The 3<sup>rd</sup> defendant was remained exparte and after her death, her legal heirs are impleaded as additional defendants 6 to 9 and they are also entitled for any share over the plaint schedule properties. The additional plaintiffs are not entitled for any reliefs from this court in respect of the plaint schedule porperties. Thus, he pleaded to dismiss the suit.

**8. CRUX OF WRITTEN STATEMENT DT.22.10.2025 FILED BY 7th DEFENDANT, WHICH WAS ADOPTED BY DEFENDANTS 6, 8, 9 VIDE SEPARATE MEMO DT.22.10.2025:**

It is admitted that the plaint schedule properties and some other properties belonged to father and mother of 1<sup>st</sup> plaintiff and defendants 1 to5. The date of death of C.A.Victor and his wife were admitted. In this suit, all the properties of C.A.Victor was not included. The property in gift deed no.3680/1983 of Parasala Sub Registrar has to be included. C.A.Victor and his wife have no property in Parasala, Kerala state. So, the document is a fictitious document. The plaintiff and the defendants 1 to 5 are entitled to get 1/6 share. The defendants 6 to 9 are legal heirs of 3<sup>rd</sup> defendant and they altogether entitled to get 1/6 share in suit properties. The partition deed No.3766/2008 before Edalakudy Sub Registrar office between defendants 1 and 2 is fraudulent document and it has to be set aside. And the gift deed in favour of 2<sup>nd</sup> defendant has also to be set aside. This Defendants 6 - 9 prayed to pass a supplementary preliminary decree of 1/6 share.

**9. ISSUES:**

**9.1)** Based on the pleadings and documents, this court has framed the following issues on 27.06.2013

**i.** Whether the plaintiff and defendants 3 to 5 have relinquished their shares in respect of plaint schedule properties?

**ii.** Whether the plaintiff is entitled for preliminary decree and separate possession of her 1/6th share in the plaint schedule properties?

**iii.** To what other reliefs the plaintiff is entitled?

**9.2)** On the date of judgment on 08.07.2014, this court has framed additional issue as

1. Whether the plaintiff has paid correct court fee?

**9.3)** This court has decreed the suit on 08.07.2014 and passed preliminary decree. Against the preliminary decree, the 1<sup>st</sup> defendant had preferred A.S. No.116/2014 in which, the Hon'ble Appellate Court remanded this suit to the trial court as per the judgment and decree of Hon'ble I Additional Subordinate Judge, Nagercoil on 20.03.2017 with following observation that

“In the result the appeal is allowed and the judgment and decree of the I Additional District Munsif is set aside and suit is remanded to the trial court for amendment of the written statement, for partition of the suit property and other property for proper and effective adjudication and to dispose the suit expeditiously on that point alone. Parties to bear their own cost.”

**9.4)** This suit was taken on file on 25.10.2019 and issue notice to both parties and counsels. The 1<sup>st</sup> defendant had filed petition in I.A. No.2/2020 under Order VI Rule 17 of CPC to amend the written statement by including “suit bad for partial partition”. It was allowed on 25.03.2021. Meanwhile, the sole plaintiff died on 12.06.2020 and her legal heirs were impleaded belatedly through the orders of this court in I.A.No.3/2021, 4/2023, 5/2023 under S.5 of Limitation Act, U/O.22 R.9 CPC, U/O.22 R.3 CPC respectively. I.A.No.3/2021 was allowed on 22.12.2023 and other I.A.No.4/23, 5/23 were allowed on 29.01.2024 in common order. I.A.No.6/2024 U/O.VI R.17 CPC was filed to amend the plaint by seeking consequential relief to implead legal heirs of plaintiff and it was 21.09.2024. While being so, the 3<sup>rd</sup> defendant died on 05.12.2024 and her legal heirs were impleaded as additional defendants 6 to 8 vide orders in I.A.No.7/2025 dt.11.09.2025. In addition, the additional 9<sup>th</sup> defendant who was left by oversight, was impleaded vide order I.A.No.9/2025 dt. 11.09.2025.

**9.5)** Then the plaintiff has filed petition in I.A.No.10/2025 under Order VI Rule 17 of CPC to amend the plaint by including 3 items of property in the plaint schedule property. It was partly allowed on 10.02.2026. The 2<sup>nd</sup> respondent I.A.No.10/2025 has filed petition in I.A.No.11/2026 under Order IX Rule 7 of Code of Civil Procedure, to set aside the exparte order and it was allowed on 29.01.2026.

**9.6)** Based on the amended pleadings and the remand order of Hon'ble Appellate Court, this court has framed the following two additional issues on 22.10.2025

I. Whether the suit is bad for partial partition?

ii. Whether the suit is bad for non-joinder of necessary parties?

**10. EVIDENCE:**

**10.1)** On the plaintiffs side, the original plaintiff was examined as PW1, Ex.A1 to Ex.A5, Ex.B1 to Ex. B3 were marked. The additional 4<sup>th</sup> plaintiff was examined as PW2, Ex.A7 was marked. On endorsement, the plaintiff side evidence was closed on 12.03.2026.

**10.2)** On the defendant side, the 1<sup>st</sup> defendant was examined as DW1, Ex.B1 to Ex.B3 were marked, Ex.A6 was marked in cross-examination. The 2<sup>nd</sup> defendant's son was examined as DW2, no document was marked. On endorsement, the 1<sup>st</sup> defendant side evidence was closed on 13.03.2026; the 2<sup>nd</sup> defendant side evidence was closed on 23.03.2026 and the 6 to 9<sup>th</sup> defendants' side evidence was closed on 23.03.2026. The defendants 3 died and the defendants 4 to 5 were remaining exparte till date.

**11. ARGUMENTS:**

**11.1)** The learned counsel for plaintiff argued that the suit was decreed and as per appellate court's remand order, the issue of partial partition has to be decided now. The plaintiff has filed amendment petition in I.A.No.10/2025 to add three items

of properties, but this court allowed with respect to one item of property in Kerala state. It is admitted that there was no property in Kerala state entitled to 1<sup>st</sup> plaintiff's father. But the other two properties constrained in gift deed No.3680/1983 of Parasala SRO, were self-acquired properties of father Arulaiyya Victor. The execution of gift deed is illegal and void, by enabling the registration of land in Kanyakumari district in the Parasala Registrar by including strip of land in which the conveyor had no title, right, etc. The plaintiff has submitted citation in 2003 (1) CTC 539 to support his argument. The plaintiff has included the omitted properties, hence the plaintiff is entitled to the relief of partition as prayed for.

**11.2)** The learned counsel for 1<sup>st</sup> defendant argued that in the oral evidence of original Plaintiff, she admitted that there was jewels, furnitures, other movable properties and immovable properties available for partition, which were not included in the suit. Those movable and immovable properties were not included in this suit till now. Hence this suit is bad for partial partition and it is not maintainable. The properties in gift deed No.3680/1983 were self acquired property of father Arulaiyya victor and he executed gift deed to 1<sup>st</sup> defendant with full knowledge of all other brother, sisters, mother, etc. The gift deed was effected and the 9<sup>th</sup> defendant -one of legal heirs of deceased 3<sup>rd</sup> defendant, was one of the attesting witness in the said gift deed. Thus, the properties in gift deed became the absolute properties of the 1<sup>st</sup> defendant. The 1<sup>st</sup> defendant has constructed house by investing his retirement money in the year 2004 with the full knowledge of his siblings. The 1<sup>st</sup> defendant ready to

relinquish 3<sup>rd</sup> item of property to the plaintiff but the plaintiff adamantly seek share in the 1<sup>st</sup> item of property -land, in which residential building is situated. The plaintiff has not approached this court with clean hand. This suit was filed by inducement of plaintiff's son, after the 14 years lapse from the death of their parents. Thus, he pleaded to dismiss the suit with cost.

**11.3)** The learned counsel for 2<sup>nd</sup> defendant adopted the arguments of the 1<sup>st</sup> defendant.

**11.4)** The learned counsel for defendants 6 to 9 paid court fee for the relief of partition for their share. They repeated the arguments of plaintiff.

## **12. REASON FOR DETERMINATION:**

**ADDITIONAL ISSUE NO.I:** Whether the suit is bad for partial partition?

**12.1)** The plaint item No.1 schedule is the 21 ½ cents constrained in resurvey No.206/14B of Thengamputhur village, Agasteeswaram Taluk, Kanyakumari district. The plaint item No.2 schedule is the 24 cents constrained in resurvey No.585/10 of Thengamputhur village, Agasteeswaram Taluk, Kanyakumari district. The plaint item No.3 schedule is the 40 cents constrained in resurvey No.97/8 of Thengamputhur village, Agasteeswaram Taluk, Kanyakumari district. The plaint item no.4 schedule is the 50 cents constrained in resurvey No.110/3 of Thengamputhur village, Agasteeswaram Taluk, Kanyakumari district. The plaint item No.5 schedule is the 38 ½ cents constrained in resurvey No.592/8 of Thengamputhur village, Agasteeswaram Taluk, Kanyakumari district.

**12.2)** The 1<sup>st</sup> defendant alleged that this suit is bad for partial partition, because all the movable and immovable properties of their parents were not included in the suit. The original plaintiff as PW1 in her cross-examination, *admitted to the suggestions* of 1<sup>st</sup> defendant counsel, that her father had 48 cents of land in Kaniyaan vilai village, her mother wore jewels, her parents had furnitures like cot, table and chairs. But she *explained* that the said 48 cents of land might be sold out and she did not seek partition for those movables such as jewels and furnitures; she did not know its value too.

**12.3)** Further, the defendant in a partition suit shall be treated as plaintiff. The 1<sup>st</sup> defendant in his written statement denied the suit merely on the basis of partial partition by not including all movables and immovables of their parents. He did *not detail the left out properties in specific* as per Order VIII rule 5 of CPC. On reading the oral evidence of PW1, it is clear that she did not know the details of the parents' properties. In written statement of 2<sup>nd</sup> defendant, the educational qualification of plaintiff as SSLC completion and immediate marriage in the year 1957 at age of 18years to her cousin. She admitted in her cross-examination that she did *not know the contents of Ex.A4, Ex.A5* as she could not understand the letters which were written in spiral.

**12.4)** On comparing the Ex.A4/Ex.B1-Partition deed No.831/1968, their father Arulaiyya victor was allotted with A schedule. It contains 6 items with 18 cents 334 sq.links puraiyidam constrained in Survey No.740, 20  $\frac{3}{4}$  cents puraiyidam in

Survey No.741, 24 ½ cents puraiyidam in survey No.357, 20 cents puraiyidam in resurvey No.761, 18 cents puraiyidam in survey No.2426, 3 cents puraiyidam in survey No.2620.

**12.5)** The Ex.A6/partition deed between the defendants 1 and 2 was executed with respect to the plaint schedule of properties item No.1 to 5. The defendants 1 and 2 did not state any reason for the partition of **5 property, which was lesser than the parent title deeds** such Ex.A4/Ex.B1-partition deed, Ex.A5/Sale deed No.354/1953, Ex.B3/Sale deed dt. 10.10.1968 and also other movables and immovable properties as they alleged in the written statement. The properties in Ex.A4/B1- partition deed with **old survey numbers were not mentioned in the Ex.A6/Partition deed** No.3766/2008 which was executed by mentioning Ex.A4/partition deed as parent deed, between the defendants 1 and 2. Both parties were **not produced the correlation certificate** for the old survey numbers.

**12.6)** It is evident that the original plaintiff did not concentrate on the details of survey number, village name, extent, etc., The **1<sup>st</sup> defendant had the custody of the original documents** Ex.B1- partition deed No.831/1968 and the **Ex.B3**-sale deed dt.10.10.1968. The 2<sup>nd</sup> defendant in his written letter admitted that he had took care of his parents since 1971 to 1986 and then from 1989 to 1998. Hence there was no scope to the original plaintiff being a married daughter, get to know with every details of all movable and immovable properties.

**12.7)** Based on **Ex.A7/Gift deed No.3180/1983**, the plaintiff filed I.A. No.10/225 to include the scheduled 3 items of properties in the plaint schedule properties for partition relief in suit. The 2<sup>nd</sup> defendant admitted that the scheduled items of properties were purchased by their father out of his earning. He alleged that the settlement deed/Ex.A7 was acted upon and patta No.7077 for resurvey No.542/20 with extent of 24.5 ares in Puthalam village, was in name of 2<sup>nd</sup> defendant. He produced the patta No.7077 and another patta No.6936 in I.A. No.10/2025. The patta No.6936 stands in the name of 6 persons including the 2<sup>nd</sup> defendant's son's name Ebi Victor for resurvey No.540/10 with extent of 17.00ares in puthalam village. The said Ex.A7/settlement deed was registered at Parasala Registrar office by including fictitious strip of land falling within jurisdiction of parasala Registrar as security to enable registration of land in Kanyakumari district. The defendants 6 to 9 and the 4<sup>th</sup> plaintiff admitted that *their grandfather had no property in Kerala state as alleged in the 3<sup>rd</sup> item of property in Ex.A7/settlement deed.*

**12.8)** In Ex.A7/Settlement deed, the details of previous predecessor in title explained that the two items were purchased by Arulaiyya Victor vide ***Sale deed No.1134/1905*** of Agasteeswaram Sub Registrar office and 3<sup>rd</sup> item vide ***Ottri Adharam( Lease document) No.1112/1965*** of Neyyatram karai Sub Registrar office. The 2<sup>nd</sup> defendant alleged that he paid the deficit registration fee and made the deed as valid. But he did not adduce any evidence to prove the title over the 3<sup>rd</sup> item of property at Parasala or to prove the genuineness of Ex.A7/Settlement deed by

producing the said deficit payment receipt. Hence by applying the dictum of Hon'ble Madras High Court, in **2003 (1) CTC 539 – M.Manoharadhas v. C.Arumughaperumal pillai and another**, the Ex.A7/Settlement document, which was executed without possessed any strip of land in Kerala, is **illegal and void** in its entirety as it constitutes fraud on registration.

**12.9)** The plaintiff did not seek relief with respect to the declaration of Ex.A7/Settlement deed as null and void. In the I.A. No.10/2025, this court partly dismissed the amendment petition with respect to the said two items of properties in Ex.A7/Settlement deed No.3180/1983. Hence, those properties could not be considered herein. Further, the plaintiff in her plaint itself pleaded that her parents during their lifetime had settled some of their properties to their children. She sought partition for the listed 5 items of properties only. The plaintiff has listed all the properties she got to know.

**12.10)** It is pertinent to note that the **1<sup>st</sup> defendant in his written statement admitted the plaint item no.1 to 5 schedule of properties were not partitioned till the death of his parents**. The 1<sup>st</sup> defendant during the cross-examination of PW1 suggested in 13<sup>th</sup> line of 3<sup>rd</sup> page dt.21.03.2014 that the female children have equal right over their parents properties. There is no discrimination of gender to succession of parents properties to the plaintiff as per **S.36 to S.38 of Indian Succession Act, 1925**. The 1<sup>st</sup> defendant in the cross-examination of PW1/original plaintiff suggested that in Ex.A4- partition deed No.831/1968, the 5 sisters of Arulaiyya Victor were not

included because those 5 sisters relinquished their right orally, so male children had executed Ex.A4/partition deed; likewise the 1<sup>st</sup> and 2<sup>nd</sup> defendants had executed Ex.A6/partition deed on female children's relinquishment of their right over the properties. ***Indian Succession Act, 1925 does not authorise the oral relinquishment of right over the properties.*** Regarding the Ex.A4/partition deed, it is of 1968 year and its content were agreed by both parties in their pleadings. The 1<sup>st</sup> defendant did not plead in his written statement, such relinquishment of 5 sisters to his father Arulaiyya victor. Hence, this court held that this suit is not bad for partial partition.

**ADDITIONAL ISSUE NO.ii.** Whether the suit is bad for non-joinder of necessary parties?

**12.11)** The 2 sons and 3 daughters of Arulaiyya Victor were impleaded as the defendants 1 and 2; the plaintiff and the defendants 3 to 5. The ***plaintiff was died on 12.06.2020*** and her legal heirs were impleaded belatedly through the orders of this court in I.A.No.3/2021, 4/2023, 5/2023 under S.5 of Limitation Act, U/O.22 R.9 CPC, U/O.22 R.3 CPC respectively. I.A.No.3/2021 was allowed on 22.12.2023 and other I.A.No.4/23, 5/23 were allowed on 29.01.2024 in common order. I.A.No.6/2024 U/O.VI R.17 CPC was filed to amend the plaint by seeking consequential relief to implead legal heirs of plaintiff and it was 21.09.2024. While being so, the ***3<sup>rd</sup> defendant died on 05.12.2024*** and her legal heirs were impleaded as additional defendants 6 to 8 vide orders in I.A.No.7/2025 dt.11.09.2025. In addition, the additional 9<sup>th</sup> defendant who was left by oversight, was impleaded vide order in

I.A.No.9/2025 dt. 11.09.2025. Therefore, all the necessary parties were impleaded in the suit and this issue No.2 is answered negatively.

**13.** In fine, this suit is allowed. The plaintiff 2 to 4 are altogether entitled to the 1/6th share in plaint item no.1 to 5 schedule of properties. The defendants 6 to 9 as legal heirs of the deceased 3<sup>rd</sup> defendant are altogether entitled to get 1/6 share in the plaint item No.1 to 5 schedule of properties. On considering the relationship, the parties shall bear their costs.

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 18<sup>th</sup> day of April, 2026.

(Sd/-K. Chithra)

I Additional District Munsif (FAC)  
Nagercoil.

**Appendix:**

**1) Plaintiff side witnesses:**

PW1 - Charlet Kamala Wilson

PW2 - Rohit Wilson

**2) Plaintiff side documents:**

Ex.A1	06.07.2012	Original plaintiff's mother death certificate
Ex.A2	11.06.2002	Certified copy of plaintiffs father death certificate
Ex.A3	-	Certified copy of Sale deed No.2754 in the name of plaintiffs father
Ex.A4	21.03.1968	Certified copy of partition deed No.831 in the name of plaintiffs father

Ex.A5	14.03.1953	Certified copy of sale deed No.354 in the name of plaintiffs father
Ex.A6	23.09.2008	Certified copy of partition deed No.3766/2008
Ex.A7	07.06.1983	Certified copy of gift deed No.3680/1983

**3) Defendants side witnesses:**

DW1 - Charles Christin Victor

DW2 - Epi Victor

**4) Defendants side documents:-**

Ex.B1	21.03.1968	Original partition deed No.831/1968
Ex.B2	-	Original Photos (Nos.3)
Ex.B3	10.10.1968	Original sale deed No.2823/1968

(Sd/-K. Chithra)

I Additional District Munsif (FAC)  
Nagercoil.

I ADM Court  
Draft/Fair Judgment  
O.S.340 of 2012  
Dated: 18.04.2026.