

**IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
UTHIRAMERUR**

Present: **Ms.R.KRITYA, B.A,L.L.B.,**
District Munsif cum Judicial Magistrate, Uthiramerur

On this the 23rd day of July 2026
O.S.No. 16 of 2021
CNR No. TNKP100000100-2021

Mr. C. Srinivasan S/o. Chinnapayyan

..... Plaintiff

Vs

Mr. C. Perumal S/o. Chinnapayyan

..... Defendant

This suit came up before me for the final hearing on 14.07.2026 in the presence of Mr. N. Arumugam, Mr. S. Vasantharaj, Advocates for Plaintiff and Mr. S. Dhandapani, Advocate for Defendant and upon perusal of the available records, and having stood over for consideration till this day this court delivered the following:

JUDGMENT

1. The suit has been filed for preliminary decree for partition to divide the schedule of property into 2 equal share and allot half share to the plaintiff free from all encumbrance by taking into consideration the good and bad soil by metes and bounds and to appoint advocate commissioner to divide the schedule mentioned properties in to 2 equal shares and allot one such share to the plaintiff and for costs.

CASE OF THE PLAINTIFF :

2. The The plaintiff contends that he and the defendant are brothers and the sons of Late Chinnapaiyan. According to the plaintiff, the suit schedule property is the joint family property of the plaintiff and the defendant, and both have been in joint possession and enjoyment thereof. It is stated that a joint patta stands in their names. The plaintiff further states that both of them jointly applied under the Government Group House Scheme and were allotted the suit property, upon which they jointly constructed a house. The plaintiff also claims to have put up a thatched house in the remaining portion of the suit property out of his own funds and has been paying the house tax and electricity charges. Since the plaintiff has been employed at Chennai, he was unable to frequently visit the native village, during which period the defendant allegedly attempted to obtain a separate patta in his favour.
3. The plaintiff further alleges that the defendant subsequently adopted a hostile attitude and attempted to interfere with his rights over the suit property. Though the plaintiff demanded an amicable partition of the suit property, the defendant refused to effect partition and, according to the plaintiff, attempted to deprive him of his legitimate share by indulging in illegal acts.
4. The plaintiff further states that, apprehending that the defendant was attempting to alienate the entire suit property without allotting his lawful share, he issued a legal notice dated 03.12.2020 calling upon the defendant to effect partition. Despite receipt of the notice, the defendant failed to comply with the demand.

Hence, claiming that he is entitled to an undivided one-half share in the suit schedule property, the plaintiff has instituted the present suit seeking partition and separate possession of his half share along with consequential reliefs. Hence this suit.

CASE OF THE DEFENDANT:

5. The defendant contends that the suit is false, frivolous and not maintainable, having been filed by suppressing material facts. While admitting that the plaintiff and the defendant are brothers, the defendant states that they belong to the branch of Late Chinnapaiyan, whose brother Madurai was their senior paternal uncle. It is pleaded that, after the demise of Late Chinnapaiyan, the plaintiff, the defendant and Madurai were in joint possession and enjoyment of the ancestral house property in Old S. No. 44/2 (Part), New S. No. 44/5, situated at Sithanakavoor Village, as well as the agricultural land in S. No. 108/4B. The plaintiff, being the elder member of the family, acted as the manager of the joint family.
6. The defendant further submits that, when Madurai was unwilling to cooperate for partition, the plaintiff and the defendant jointly issued a legal notice dated 06.10.2009 seeking partition of the joint family properties. Thereafter, an amicable settlement was arrived at through village elders, and an oral partition was effected in October 2009, whereby the properties were divided and each party was put in separate possession of the properties allotted to them.

According to the defendant, the suit property in Natham Survey No. 258/5, measuring 0.122 sq. metres, fell to his exclusive share.

7. It is the specific case of the defendant that, pursuant to the oral partition, he has been in exclusive, peaceful and uninterrupted possession and enjoyment of the suit property, having constructed an RCC residential building thereon and residing with his family. The property tax, water tax and electricity service connection stand in his name, and he has been exercising all incidents of ownership for more than thirteen years. Hence, according to the defendant, no joint property remains available for partition.
8. The defendant further contends that the plaintiff has deliberately suppressed the earlier oral partition and the separate possession and enjoyment of the parties and has instituted the present suit on false and untenable allegations. It is also contended that the suit is bad for partial partition and is therefore liable to be dismissed.
9. **Based upon the above said pleadings, this court framed necessary issues as follows :**
 - (i) Whether the suit property allotted to defendant by way of oral partition in the year of 2009?*
 - (ii) Whether the suit is bared for partial partition?*
 - (iii) Whether the plaintiff is entitled for ½ share in the plaint schedule property?*
 - (iv) Whether the plaintiff is entitled for preliminary partition decree as prayed for?*
 - (v) To what other relief?*

10. On the side of plaintiff, the plaintiff examined himself as PW-1 and One Babu examined as PW-2 and Ex-A1 to Ex-A7 were marked to prove their case. On the side of defendants, the defendant was examined as DW-1 and Ex-B1 to Ex-B7 were marked.

DISCUSSION AND ANALYSIS:

11. **Issues Nos. 1 to 4:** Since all these issues are interconnected and arise out of the same set of facts, they are taken up together for discussion.
12. The suit has been filed by the plaintiff seeking partition and separate possession of $\frac{1}{2}$ share in the suit schedule property. According to the plaintiff, the suit property patta standing in the joint names of the plaintiff and the defendant. It is his case that both of them jointly obtained patta, jointly applied under the Government Group House Scheme and constructed houses in the suit property. The grievance of the plaintiff is that the defendant is attempting to exclude him from the enjoyment of the property and therefore he is entitled to partition and separate possession of his half share.
13. The defendant, while admitting the relationship between the parties, has resisted the suit by contending that the plaintiff has suppressed the material facts. According to the defendant, there had already been an oral partition in the year 2009 among the plaintiff, the defendant and their paternal uncle Madurai in respect of the family properties, pursuant to which the suit property fell to the exclusive share of the defendant. It is also the specific defence that the suit is

bad for partial partition since several other joint family properties have not been included in the suit. The defendant has further pleaded that the sisters of the plaintiff and the defendant, who are also legal heirs, have not been impleaded as parties to the suit.

14. In order to substantiate his case, the plaintiff examined himself as PW-1 and marked Exs.A1 to A7. Ex.A1 is the joint patta standing in the names of the plaintiff and the defendant. Exs.A2 to A4 are house tax receipts and electricity records. Ex.A5 is the legal notice issued by the plaintiff and Ex.A6 is the acknowledgment card. Ex.A7 is the guideline value of the property.
15. The defendant examined himself as DW-1 and marked Exs.B1 to B7. The documents consist of electricity records, house tax receipts, water tax receipts and the patta relating to other family properties. The defendant has relied upon these documents to show his possession over the suit property and also to establish the existence of other family properties.
16. During the cross-examination, PW-1 has made certain admissions that the suit property is a joint family property. He further admitted that there exists another family property in the names of himself and his paternal uncle Madurai situated in Sithanakavoor Village. He has also admitted that the said property has not been included in the present suit. PW-1 has further admitted that his father had four children, namely, the plaintiff, the defendant and two daughters. However, the said daughters have not been impleaded as parties to the suit. These

admissions clearly establish that apart from the suit property, there are other family properties available for partition and that all the legal heirs have not been brought on record.

17. Likewise, DW-1, during his cross-examination, has admitted that the patta in respect of the suit property stands jointly in the names of the plaintiff and the defendant. He has also admitted that the plaintiff, the defendant and their sisters have shares in the family properties and that there are other family properties belonging to the family. Though the defendant has pleaded an earlier oral partition, no independent documentary evidence has been produced to conclusively establish such oral partition. Nevertheless, the burden of proving that the suit is maintainable and that all the joint family properties have been included rests upon the plaintiff.
18. It is a settled principle that a suit for partition should ordinarily include all the available joint family properties. When the plaintiff himself admits the existence of other joint family properties and excludes them from the scope of the suit without any satisfactory explanation, the suit becomes one for partial partition. A suit for partial partition is not maintainable unless there are exceptional circumstances, which have neither been pleaded nor proved in the present case.
19. It is also seen from the evidence of PW-1 that the plaintiff has admitted the existence of two sisters, who are also legal heirs of Late Chinnapaiyan. No explanation has been offered by the plaintiff for not impleading their sisters. In a

suit for partition, all the co-sharers whose rights are likely to be affected are necessary parties. In the absence of such necessary parties, an effective and complete partition cannot be granted by the Court.

20. The plaintiff has mainly relied upon the joint patta and tax receipts to establish his claim. Mere production of joint patta and revenue records does not by itself confer title nor does it establish the exact share of the parties. Such documents are only pieces of evidence regarding possession and cannot override the admissions made by the plaintiff regarding the existence of other joint family properties and other co-sharers.
21. Though the defendant has taken a plea of oral partition, this Court is of the view that the evidence adduced is not sufficient to conclusively hold that the oral partition pleaded by the defendant has been established in accordance with law. However, the failure of the defendant to establish the oral partition does not improve the case of the plaintiff. It is settled that the plaintiff has to succeed on the strength of his own case and not on the weakness of the defence. In the present case, the admissions made by the plaintiff themselves are sufficient to hold that the suit has been laid only in respect of one among several joint family properties and without impleading all the necessary co-sharers. In view of the above discussion, this Court holds that the plaintiff has failed to establish case. The suit is clearly bad for partial partition and also suffers from non-joinder of

necessary parties. Consequently, the plaintiff is not entitled to a preliminary decree for partition as prayed for.

22. Accordingly, Issue No.(i) is answered against the defendant to the extent that the alleged oral partition has not been satisfactorily proved. Issue No.(ii) is answered in favour of the defendant by holding that the suit is bad for partial partition. Issue Nos.(iii) and (iv) are answered against the plaintiff by holding that he is not entitled to ½ share in the suit property in the present suit or to the relief of preliminary decree for partition.

23. **ISSUE No. 5 :** By considering the facts and circumstances of this case, this court is not inclined to grant any other relief to the parties. No cost.

In the result, the suit is dismissed. No cost.

Directly typed by me in my official laptop, formatted by steno-typist, corrected and pronounced by me in the open court, on this the 23rd day of July 2026.

District Munsif Cum Judicial Magistrate,
Uthiramerur.

LIST OF WITNESS EXAMINED ON THE SIDE OF PLAINTIFF:

PW1- Srinivasan (Plaintiff)
PW2 – Babu (3rd Party)

LIST OF DOCUMENTS MARKED ON THE SIDE OF PLAINTIFF:

Sl. No.	Date	Particulars of Documents	Remarks
Ex. A1	14.12.2020	Joint patta stand in the name of plaintiff and defendant	Online copy
Ex. A2	14.09.2020	House Tax receipt in the name of Plaintiff	Original
Ex. A3	-	EB Card in the name of Plaintiff	Original
Ex. A4	11.01.2001	EB receipt	Original
Ex. A5	03.12.2020	Legal Notice	Office copy
Ex. A6	-	Rpad Card	Original
Ex. A7	-	Guide line Value of Suit property	Online copy

LIST OF WITNESS EXAMINED ON THE SIDE OF DEFENDANT:

DW1- Perumal (Defendant)

LIST OF DOCUMENTS MARKED ON THE SIDE OF DEFENDANT :

Sl. No.	Date	Particulars of Documents	Remarks
Ex. B1	-	EB Card in the name of Defendant	Original
Ex. B2	10.10.2003	EB Receipt in the name of Defendant	Original
Ex. B3		House Tax receipts in the period of 2009 to 2020 – 7 Nos.	Original
Ex. B4	-	Water Tax Receipt	Original
Ex. B5	-	Natham Joint patta in the name of Srinivasan and Madurai	Online Copy
Ex. B6	27.03.2022	House Tax Receipt	Original
Ex. B7	21.07.2025	House Tax Receipt	Original

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