



IN THE COURT OF DISTRICT JUDGE, MAYILADUTHURAI.

Present: Dr. L.S. SATHIYAMURTHY, M.A., M.L., Ph.D.,

District Judge, Mayiladuthurai.

(J.O.Code - TN01523)

Monday, the 24th day of November 2025

CNR.No. TNMY-0100-2663-2023

O.S. No. 47/2023

Poongulazhi

....Plaintiff

Vs.

1. Devasena

2. Ezhilarasi

3. Manikandan

...Defendants

This suit came up for the final hearing on 30.10.2025 in the presence of Advocate Thiru. S. Sankaranarayanan for the Plaintiff, Advocate Thiru. D. Amirtharajan appeared for third defendant, non cross examination of PW.1 D3 set exparte and for D1 Advocate Thiru. D. Amirtharajan filed vakalath, non filing of written statement D1 called absent set exparte and D2 called absent set exparte and upon hearing Plaintiff side, perusing the pleadings, documentary and oral evidence available on record and having stood over for consideration till this day, this court delivers the following

JUDGMENT

This is a suit for partition and allotment of separate possession of 1/4 share to the plaintiff.

2. **THE CASE OF THE PLAINTIFFS AS SET OUT IN THE PLAINT IS AS FOLLOWS:**

The plaintiff is a daughter of the first defendant.

3. The 2nd defendant is her sister and the third defendant is her brother. The

plaintiff and the defendants 2 and 3 are born to the first defendant and one Radhakrishnan. The said Radhakrishnan was a teacher and he purchased Item Nos. 1 to 7 and S.No.1 of 12th item from and out of his earnings. Indeed, the said items of property were owned by him as per the compromise decree in AS No.22/1998 on the file of the Additional District Judge, Nagapattinam. The other items of property were purchased by him. All the said properties have been in joint possession and enjoyment of the plaintiff and D1 to D3. The plaintiff's father the said Radhakrishnan died intestate on 10.06.2012. The plaintiff requested the defendants to divide and allotted 1/4 share. But they refused to do so. Therefore, after several requests she has filed this suit for partition.

4. In this suit, after the service of summons the 3rd defendant appeared through a counsel of his choice. D1 and D2 called absent and set exparte.

5. Subsequently, after filing of written statement by the 3rd defendant and framing of issues the suit came up for trial but the 3rd defendant failed to appear on 30.10.2025. Therefore, he was set exparte.

6. ***The point for determination is whether the plaintiffs are entitled to 1/4 shares as claimed in the plaint?***

7. Heard, the learned counsel appearing for the plaintiff. The plaintiff examined as PW.1. Ex.A1 to Ex.A6 was marked through PW1.

8. This court carefully read plaint and document available on record.

9. In this suit for partition the plaintiff and the defendants D2 and D3 are sisters and brothers. Plaintiff has claimed rights and shares into the properties left by her father Tr. Radhakrishnan. The relationship and the description of property given in

the plaint schedule are not in dispute and also the suit property is belongs to their father Tr. Radhakrishnan are not in dispute.

10. As stated supra, originally this suit was filed for partition in 12 items of immovable property. In the description of property item nos. 1 to 7 and sl. no 1 in item no.12 are obtained by their father through Compromise decree in AS No.22 of 1998 on the file of Additional District Sessions Court, Nagapatinam. On 10.06.2012 said Radhakrishnan died. It is evidenced by Ex.A5 produced by plaintiff.

11. The 3rd defendant has set up a plea under virtue of a gift settlement deed dated 10.02.2005, registered release deed dated 29.04.2015 and claimed right and title to the properties described as item no. 1 and 1/4 share in the properties described in the plaint. Therefore, this is a important plea to be proved by the 3rd defendant, who is a beneficiary under the said gift settlement deed and registered release deed.

12. It is a basic principle of law that mere raising of a plea in a written statement is not sufficient and it should be proved by the party, in the manner known to law. In this case there is no gift settlement deed and release deed which is a document proved by examining the witnesses, has not been proved.

In the absence of evidence, the plea in the written statment that there was a gift settlement deed dated 10.02.2005 and registered release deed dated 26.02.2014 can't be said to be held as a proved, even though registration is a public notice. Therefore, this court is of the view there is no evidence to prove the claim made by the 3rd defendant through the gift settlement deed dated 10.02.2005 and release deed dated 26.02.2014.

13. In the absence of contrary evidence as to the gift settlement deed etc., the inevitable conclusion would be that the plaintiff is entitled to be 1/4 share in the

properties left by her father.

RESULT:

In the result preliminary decree is passed in favour of the plaintiff allotting 1/4 share in the suit properties. Considering the relationship between the parties all are directed to bear their own costs.

Dictated to the steno-typist, taken by her in short hand, transcribed by her in computer, corrected and pronounced by me in the open court this 24th day of November 2025.

**District Judge,
Mayiladuthurai.**

ANNEXURE:

Witness examined on the side of the Plaintiff :-

P.W.1 Poongulazhi

Documents marked on the side of the Plaintiff :-

Ex. A1	11.10.1999	Compromise decree made in AS No. 22/1998 (Certified copy)
Ex. A2	29.10.2003	Sale deed in the name of Radhakrishnan (Online copy)
Ex. A3	06.10.2003	Sale Deed in the name of Radhakrishnan (Online copy)
Ex. A4	21.01.2004	Sale Deed in the name of Radhakrishnan (Online copy)
Ex. A5	20.06.2012	Death Certificate of Radhakrishnan (Photostat copy)
Ex. A6	19.07.2012	Legal heirs Certificate of Radhakrishnan (Photostat copy)

Witnesses examined on the side of the Defendants:- Nil

Documents marked on the side of Defendants:- Nil

**District Judge,
Mayiladuthurai.**