

**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)

Wednesday, the 01st day of April 2026

CNR. No. TNMY-0100-3515-2023

Original Suit No. 62/2023

Julyga Nachiyar

....Plaintiff

Vs.

1. Bismaludha
2. Anvar Nachiya
3. Arabathkani
4. Haja Mugaitheen

....Defendants

This suit came up for the final hearing on 10.03.2026 in the presence of Advocate Thiru E. Selvaraj, appeared for the Plaintiff and Advocate Tmt. C. Latha, appeared for D1 to D3 and Advocate Thiru. S. Balachandran, appeared for D4 and upon hearing both sides, 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 the relief of partition and separate possession of 1/6 share in the suit properties.

2. THE CASE OF THE PLAINTIFF AS STATED IN THE PLAINT IN BRIEF, IS AS FOLLOWS:-

One Abdul Sattar and Ummal Fajariya are husband and wife. They blessed

with 4 daughters and a son. One of the daughters has filed the suit for partition claiming 1/6 share.

3. As stated supra, the plaintiff is the sister of the defendants 1 to 4. The 4th defendant is her brother.

4. There are 11 items of properties described in the plaint schedule. Among them items 1 and 2 were purchased by the plaintiff's father the said Abdul Sattar under the registered sale deed dated 30.11.1973. the said Abdul Sattar said to be put a construction and made it as a residential building in both the 1 and 2 items of properties. Items 3 to 6 of the suit properties were purchased by him under a sale deed dated 02.12.1973. Items 7 to 10 of the properties were purchased under a sale deed dated 23.10.1985, in addition of the purchasers made by the plaintiff's father he had succeeded 11th item of suit properties from his family.

5. The said Abdul Sattar died on 22.11.2010, his wife Ummal Fajariya is pre deceased to him on 03.03.2018. After the demise of the parents the plaintiff and the defendants have been jointly enjoying the suit properties and a petition in EP No.32/2019 in RCOP No. 5/2014 was filed and the tenant was also evicted as per the order passed in Lok Adalat. In the meanwhile, the plaintiff made a request to amicably divide a properties as per law, but the defendants have not agree for same. Therefore, the plaintiff is constrained to file this suit. There was a suit in OS No.122/2023 regarding the oral permission said to have given by the plaintiff and defendants 1 to 3 to the 4th defendant to run business in the suit properties. The plaintiff has took definite stands in suit in OS No.122/2023 as a oral demands for partition ended in vein. The plaintiff has filed this suit for partition.

6. THE BRIEF AVERMENTS OF THE WRITTEN STATEMENT FILED BY THE 1st DEFENDANT AND ADMITTED BY D2 AND D3 IS AS FOLLOWS:-

The suit is not maintainable both under law and on facts. The suit properties are situate in Sirkali town and Karaimedu Village. It is true that the suit properties were owned by the plaintiffs and defendants father one Abdul Sattar. The details of purchase of suit properties by the said Abdul Sattar as given in the plaint are true and correct. It is also correct to state that there was a demand for partition from the plaintiff to the 4th defendant was not willing to divide it as per law and filed a suit in OS No.122/2023 on the file of the District Munsif Court, Sirkali for the relief of permanent injunction. The defendants 1 to 3 are willing to divide the suit properties into 1/6 share and they are also ready to pay a court fee for their respective share.

7. THE BRIEF AVERMENTS OF THE WRITTEN STATEMENT FILED BY THE 4th DEFENDANT IS AS FOLLOWS:-

The 4th defendant is the brother of the plaintiff and defendants 1 to 3. He denied allegations made in the plaint which admitted as true and correct in the written statement.

8. The purchase of the suit properties comprised in item nos.1 to 10, as detailed in the plaint is correct. The 11th item of property is Natham site and it is also belonged to the said Abdul Sattar. The share claimed by the plaintiff is not maintainable as per Mohammedan Law.

9. One Poomuthu was the tenant in the item nos. 1 to 6 of suit properties and the possession was recovered from him as per order dated 12.11.2022 in EP No.32/2019 in RCOP No.5/2014. The 4th defendant has been in possession and enjoyment of the items 1 to 3 of the suit properties. He has been running a footwear shop in it. Further, the 4th defendant alone is paying the house tax and electric consumption charges of the suit properties. He has also filed a suit for permanent injunction in OS No.122/2023 on the file of the District Munsif, Sirkali against the plaintiff and defendants 1 to 3. the suit is not maintainable and liable to be dismissed with costs.

10. ISSUES, ANALYSIS AND ANSWERS

On completion of the pleadings, this court after providing opportunities to both sides, framed following issues under Order XIV CPC.

1. Whether the plaintiff is entitle to the preliminary decree for partition for the suit property as prayed for?
2. Whether the plaintiff is entitle for the separate possession in the suit property to his 1/6 share as prayed for?
3. Whether the petitioner is entitle to the final decree and separate possession as prayed in the suit?
4. Whether the plaintiff is entitle to the mesne profit from the suit property until separate possession in the suit property?
5. Whether the plaintiff is entitle to permanent injunction as prayed for?
6. Whether the suit property Item No.11 is the ancestral property of the plaintiff and the defendants?
7. To what other relief the plaintiff is entitle to?

11. The plaintiff examined as PW.1 and Ex.A1 to Ex.A17 are marked. On the side of the defendants DW1and DW.2 have been examined and no document marked through them.

12. Issue Nos.1 to 3:-

This is a suit between the sister and brother for the relief of partition and separate possession, in respect of the properties left by their father.

13. The parties are claimed as Muslims. Therefore, the personal law governed upon for the succession in this suit, is the Mohammedan Law.

14. The plaintiff and defendants 1 to 3 are the sisters of the 4th defendant. In other words the 4th defendant is the only son and the defendants 1 to 3 and plaintiff are the daughters born to Abdul Sattar and Ummal Fajariya. The properties comprised in item nos.1 to 10 were purchased by the plaintiff's father and the 11th property had succeeded by him. In all the properties the plaintiff is entitled to 1/6 share as a daughter under Mohammedan Law. This is the plea raised by her. The plaintiff herself examined as PW.1 and Ex.A1 to Ex.A17 are marked through her. The 1st defendant examined as DW.1 and the 4th defendant examined as DW.2. There is no documents marked through the defendants. The learned counsel appearing for the plaintiff have submitted their arguments on the basis of the oral and documentary evidence let in by the parties.

15. As the plaintiff has claimed 1/6 share in her capacity as a daughter of the said Abdul Sattar, the issues relating to the share of the plaintiff and her entitlement to the preliminary decree are clubbed together to address by this court and also avoid the repetition on facts. Above all these issues are pertaining to a major aspect of division of shares between the daughters and son of the said Abdul Sattar. To decide them comprehensively issue nos.1 to 3 are clubbed together.

16. As stated supra, there is no dispute as to the relationship between the parties to this suit. The plaintiff and defendants 1 to 3 are daughters of the Abdul Sattar and Ummal Fajariya. The 4th defendant is the only son born to the suit couple and he is the only brother to the plaintiff and defendants 1 to 3.

17. The plaintiff has produced the sale deed dated 30.11.1973, Ex.A1 in respect of item nos.1 & 2 of the suit properties. It was purchased by her father the said Abdul Sattar. Ex.A2 is a sale deed dated 02.12.1973 in favour of the plaintiff's father for the purchase of item nos.3 to 6. Subsequently, by a sale deed dated 23.10.1975, Ex.A3 properties comprised in item nos.7 to 10 are produced. The Patta and other revenue records relating to the suit properties are marked Ex.A4 to Ex.A11. The award of Lok Adalat dated 12.11.2022 marked as Ex.A12. The plaint copy in OS No.122/2023 marked as Ex.A13.

18. With these documents the plaintiff have established that her father the said Abdul Sattar was the owner of the suit properties comprised in item nos.1 to 10. The death certificate Ex.A16 would go to show that the said Abdul Sattar died on 22.10.2010 and Ex.A17 would also go to show that his wife Tmt. Ummal Fajariya died on 03.03.2018. She is predeceased to her husband. The records detailed above and produced by the plaintiff in this suit are suffice to hold that the suit properties in item nos.1to 10 belongs to the plaintiff's father Abdul Sattar. The plaintiff's mother predeceased to her husband and the her father died intestate.

19. Under the circumstances, the oral request for partition of the plaintiff was not accepted and she has filed the suit for relief of partition and separate possession. As per Mohammedan Law all the 4 daughters entitled to 1 share and the 4th defendant the only son is entitled to 2 shares. Therefore, the properties are to be divided into 6

shares and one such share to be allotted to the plaintiff. The plaintiff is entitled to 1/6 share in the properties comprised in items 1 to 10 in the suit properties.

Issue nos.1 to 3 are decided accordingly.

20. Issue No.6:-

Item no.11 in the plaint schedule described as a property succeeded by the plaintiff's father. There is no objection raised in the written statement filed by the defendants 1 to 3 and 4th defendant. However, there are disputes raised in respect of enjoyment of the same. The 1st defendant in her evidence has deposed that 11th item of property is a RCC roof house constructed in the Natham site at Karaimedu Village in Sirkali Taluk. The documents Ex.A9, Ex.A10 and Ex.A11 would go to show that the plaintiff's father has been entered as the owner of the suit properties. Therefore, in the absence of contrary evidence Ex.A9 to Ex.A11 are sufficient to hold that the property comprised in item no.11 is the property of the said Abdul Sattar left by him and plaintiff and defendants are now entitled to the division of the same as per Mohammedan law.

This issue is decided accordingly.

21. Issue No.4:-

The plea of *mesne* profit cannot be decided in the present suit on hand. It shall be determined in a separate proceedings under Order 20, Rule 12 CPC.

22. Issue Nos.5 & 7:-

As per the conclusion arrived in Issue nos.1 to 3 and 6 the plaintiff and defendants are entitled to the preliminary decree and the plaintiff and defendants 1 to 3 are each entitled to 1/6 share and the 4th defendant is entitled to 2/6 shares in all the 11 items of suit properties. The parties are entitled to the preliminary decree and the

question of permanent injunction and any other reliefs are not at all arise. Therefore, the plaintiff is not entitled to permanent injunction and any other relief except the relief of preliminary decree of a partition and separate possession of 1/6 share in the suit properties.

Both the issues are decided accordingly.

23. As discussed and findings arrived in the issue nos.1 to 7 the plaintiff is entitled to 1/6 share in the suit properties.

Defendants 1 to 3 are also entitled to 1/6 share and 4th defendant is entitled to 2/6 share.

In the result, this suit is decreed in part. The preliminary decree is passed by allotting 1/6 share to the plaintiff in the suit properties. In respect of permanent injunction this suit is dismissed. Considering the relationship between the parties there is no order as to 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 01st day of April 2026.

**District Judge,
Mayiladuthurai.**

ANNEXURE:

Witness examined on the side of the Plaintiff :-

P.W.1 Julyga Nachiyar (Plaintiff)

Documents marked on the side of the Plaintiff :-

| | | |
|--------|------------|-------------------------------------------------------------------------------------------------------------|
| Ex. A1 | 30.11.1973 | Sale Deed in the name of Abdul Sattar in respect of the 1 & 2 items of the suit properties (Certified copy) |
|--------|------------|-------------------------------------------------------------------------------------------------------------|

| | | |
|---------|------------|----------------------------------------------------------------------------------------------------------------------|
| Ex. A2 | 02.12.1973 | Sale Deed in the name of Abdul Sattar in respect of the 3 to 6 items of the suit properties (Certified copy) |
| Ex. A3 | 23.10.1985 | Sale Deed in the name of Abdul Sattar in respect of the 7 to 10 items of the suit properties (Certified copy) |
| Ex. A4 | 21.12.2022 | TSR given by RDO, Sirkali in respect of 1 st & 3 rd items of the suit properties (Online copy) |
| Ex. A5 | 21.12.2022 | TSR given by RDO, Sirkali in respect of 2 nd item of the suit properties (Online copy) |
| Ex. A6 | 21.12.2022 | TSR given by RDO, Sirkali in respect of 4 th item of the suit properties (Online copy) |
| Ex. A7 | 21.12.2022 | TSR given by RDO, Sirkali in respect of 5 th item of the suit properties (Online copy) |
| Ex. A8 | 21.12.2022 | TSR given by RDO, Sirkali in respect of 6 th item of the suit properties (Online copy) |
| Ex. A9 | 07.08.2023 | Patta for 7 th & 9 th item of the suit properties (Online copy) |
| Ex. A10 | 07.08.2023 | Patta for 8 th item of the suit properties (Online copy) |
| Ex. A11 | 07.08.2023 | Patta for 10 th item of the suit properties (Online copy) |
| Ex. A12 | 12.11.2022 | Lok Adalat Award (Certified copy) |
| Ex. A13 | 27.07.2023 | Served copy of OS No.122/2023 on the file of the District Munsif, Sirkali |
| Ex. A14 | 28.10.2023 | Guide line value |
| Ex. A15 | 28.10.2023 | Guide line value |
| Ex. A16 | 27.01.2023 | Abdul Sattar's Death certificate |
| Ex. A17 | 30.03.2023 | Ummal Fajriya's Death certificate |

Witnesses examined on the side of the Defendants:-

DW.1 Bismaludha (1st Defendant)

DW.2 Haja Mugaitheen (4th Defendant)

Document marked on the side of Defendants:- Nil

**District Judge,
Mayiladuthurai.**

Fair/Draft Judgment
O.S.No. 62/2023
Date:- 01.04.2026