

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
PERAMBALUR, STATE OF TAMILNADU.

Present: Tmt.A.Balkis, B.L.,
Principal District Judge.

Tuesday, this the 3rd day of June, 2025.

O.S.No.57/2024
(Filing No.OS/586/2024)
(CNR No.TNPB01-006130-2024)

1. Ramanathan, 69/2024,
S/o.(L) Veeraputhiran,
Permanently residing at
Wewesse Estate, Office Division,
Badulla, Republic of Srilanka,
Represented by his Power of Attorney
Rajalakshmi, 58/2024,
W/o.(L) Ganesan,
Mettu Palayam Road,
Kotakiri Taluk, Nilgris District.

... Plaintiff.

-Vs-

1. Kathirvelu, 78/2024,
S/o.(L) Veeraputhiran.

2. Padmanabhan, 50/2024,
S/o.(L) Kandhaiah.
Both are residing at
Thuraimangalam Village,
Perambalur Taluk & District.

... Defendants.

This suit is coming before me for final hearing in the presence of Thiruvalargal.M. Mohamed Rasul and K. Vinothini, Advocates for the plaintiff and the defendants were called absent set exparte and upon perusing the evidence and documents of plaintiff and after hearing the arguments on plaintiff's side, this Court has delivered the following:

JUDGMENT

The suit has been filed by the plaintiff Under Order VII Rule 1 of C.P.C to grant preliminary decree for partition of plaintiff's 1/3 share in the property in Elambalaur S.F.No.371/1 as stated in description of property in the suit property and pass final decree by appointing advocate commissioner to divide the suit property into three equal share and allot one share to the plaintiff and direct the defendants to give separate possession to the plaintiff and cost of the suit.

2. The brief averments of the plaint are as follows:-

The case of the plaintiff is that the suit property is situated within the territorial jurisdiction of this Court. The plaintiff herein is resident of Sri Lanka and he executed a power of attorney in favour of one Rajalakshmi Ganesan towards his share in the property And he had obtained a registered attestation from the Secretary, Ministry of Foreign Affairs, Colombo, Sri Lanka and had also obtained an attestation from the Supreme Court of Sri Lanka on 20.01.2020. Further, the Assistant High Commissioner of India attested the document on 26.08.2020 and the same was registered within a period of 3 months in the Sub-Registrar's office, Perambalur on 08.10.2020 in Doc.No.21/2020. A separate application is filed under order 3 of CPC to accord permission to the power of attorney to file and proceed the suit on behalf of the principal. The deceased namely Veeraputhiran had purchased the properties situated in Elambalur in SF.No.370 admeasuring 7.61 acres and Elambalur in SF.No.371/1 admeasuring 2 acres vide two sale deeds in Doc.No.1382 of 1937 and Doc.No.1383 of 1937 dated 02.07.1937 and the said deceased Veeraputhiran had left to Sri Lanka for occupational purposes. After the death of him, the property purchased by him in the above mentioned survey numbers devolved upon his sons. The said Veeraputhiran had 3 sons. The plaintiff herein is one of the sons of Veeraputhiran and other two sons namely kandhaiah and one Kadhivel. The said Kandhaiah is no more and his only son Padmanabhan who is the 2nd defendant

succeeded his estate. The said Kadhivel, Ramanathan and Padmanabhan holding each 1/3rd share in suit survey numbers. Patta for the property stands in the name of plaintiff and also the 1st and the 2nd defendants father namely Kandhaiah. In the suit survey number, the plaintiff and defendants are entitled to two acres as per the deed dated 02.08.1937 vide document No.1383/1937. The defendants are sold their properties partly and the plaintiff property remains as such. The plaintiff is entitled to sixty six cents. Any alienation without partition and without participation of this plaintiff is invalid and void in any event they can claim equity. On 2nd week of June 2024, when plaintiff's power of attorney demanded for amicable partition the 1st defendant refused adamantly hence the plaintiff has no other alternative to approach this Court for partition and separate possession. Further the plaintiff and the defendants are deemed to be in the joint possession of the suit property. Therefore this Court may be pleased to grant preliminary decree for partition of plaintiff's 1/3 share in the property in Elambalaur S.F.No.371/1 as stated in description of property in the suit property and pass final decree by appointing advocate commissioner to divide the suit property into three equal share in Elambalaur S.F.No.371/1 and allot one share to the plaintiff and direct the defendants to give separate possession to the plaintiff and cost of the suit.

3. The defendants are remained ex-parte.

4. The point for determination is:

Whether the plaintiff is entitled to the relief as prayed for?

5. On plaintiff's side, Pw1 was examined, Ex.A1 to A5 have been marked.

Point:

6. The suit is filed by the plaintiff as the power agent of one Ramanathan who

is the resident of Sri Lanka claiming 1/3 share in the suit schedule property. The General Power of Attorney deed is marked as Ex.A1. The suit property and another property were purchased by one Veeraputhiran who is the father of the said Ramanathan. Ex.A2 and Ex.A3 are the sale deeds stands in the name of said Veeraputhiran. The said Ramanathan, the 1st defendant and one Kandhaiah are the sons of Veeraputhiran. The said Kandiah was dead and the 2nd defendant is the only heir of Kandhaiah.

7. The said Veeraputhiran died on 01.05.1964 and his legal heir certificate is marked as Ex.A4. After the death of Veeraputhiran, the suit property devolved upon his sons. Ex.A5 is the patta in respect of the suit property stands in the name of the plaintiff, the 1st defendant and father of the 2nd defendant. With an evil intention to cheat the share of the plaintiff, the defendants have sold their properties. The suit property is claimed to be joint family property. Hence the defendants have no right and power to sell the property without consent of the plaintiff. So the said sale will not bind the plaintiff in any way. Since the defendants did not contest the case on merits, the plaintiff is entitled to 1/3 share in the suit property as claimed and this point is answered in favour of the plaintiff.

8. In the result, the suit is decreed with cost and preliminary decree for partition is passed and the suit property is divided into 3 equal shares and allotted 1/3 share to the plaintiff and for passing a final decree in terms of preliminary decree, appointment of Advocate Commissioner is necessary for taking delivery and for separate possession. Therefore, Advocate Ms.Vinodhini is appointed as Advocate Commissioner and her remuneration is fixed at Rs.20,000/- to be paid by the plaintiff directly. The Advocate Commissioner is directed to measure the suit schedule property with the help of qualified surveyor and suggest allotment of 1/3 share to the plaintiff with regard to good and bad soil and file a report with plan on or before

02.7.025. Call on 02.7.2025.

Directly dictated to the Executive Assistant and computerized by her, corrected and pronounced by me in open Court, this the 3rd day of June, 2025.

Principal District Judge,
Perambalur.

I. Plaintiff's side witness:

| | | |
|---|-----|-------------------|
| 1 | Pw1 | Mrs. Rajalakshmi. |
|---|-----|-------------------|

II. Plaintiff's side Documents:

| | | |
|---|-------|---|
| 1 | Ex.A1 | General Power of Attorney, dated 08.10.2020. |
| 2 | Ex.A2 | Photostat copy of Sub-Registrar's Office Certified copy of Sale Deed, dated 02.07.1937. |
| 3 | Ex.A3 | Photostat copy of Sub-Registrar's Office Certified copy of Sale Deed, dated 02.07.1937. |
| 4 | Ex.A4 | Photostat copy of L.Rs. Certificate of deceased Veeraputhiran. |
| 5 | Ex.A5 | Photostat online copy of Patta No.542. |

Principal District Judge,
Perambalur.

PDJ Court,
Perambalur.

Fair/Draft Judgment
O.S.No.57/2024
D.D: 03.06.2025.