



**IN THE COURT OF ADDITIONAL DISTRICT JUDGE,
RAMANATHAPURAM**

**PRESENT: Thiru. C. Mohanram, M.A., B.L.,
Additional District Judge,
Ramanathapuram.**

Saturday the 07th day of March 2026

Original Suit No.7/2021

(CNR No.TNRM 01 000491 2021)

1. Rakkammal

2. Mariammal

... Plaintiffs

/Vs/

1. Sundarrajan

2. Sathiyarajan

3. Kalaiyarasi

4. Indira

5. Gunasekaran

6. Mahendran

7. Gandhi

8. Mallika

9. Sekar

10. Jamuna Rani

11. Karuppayee

12. Vasantha

13. Mariammal @ Fathima Beevi

14. Muruganantham



15. Gopinathan ... Defendants
(Amended as per Order in I.A.No.410/2022 dated 07.12.2022)

This suit came up for final hearing on 05.02.2026 before this Court in the presence of Thiru.B.Sundarrajan, Counsel for the plaintiffs and Thiru.S.Balakrishnan, Counsel for the defendants 1 to 3, Thiru. A.Thirunavukkarasu, Counsel for the 6th defendant, Thiru.A.Arul Jebadurai, Counsel for the 14th defendant and the defendants 4, 5, 7 to 13, 15 have remained exparte and upon hearing both side arguments and upon perusing the entire case records and having stood over for consideration till this date, this Court delivers the following...

JUDGMENT

The suit has been filed by plaintiffs for Partition of their 2/3 share in the suit properties and for passing of preliminary decree and also for passing of final decree by appointing an Advocate Commissioner if the defendants refused to make division of their shares and for permanent injunction not to encumber the properties like othi, rent, sale, mortgage to be registered by the defendants, their men and agents till the effecting of partition in respect of their 2/3 share and for costs.



2. Brief case of the plaintiffs as per amended plaint:

i) The suit properties and an extent of 0.26.5 Hectare comprised in Sy.No.459/2A in Patta No.805 Pattamkathan Group originally belonged to plaintiffs' father Pootchi ancestrally. The said Pootchi was enjoying the suit properties after mutating the Patta and he had been paying the Tax. The said Pootchi died on 03.05.1993. The plaintiffs and 1st defendant are children of Pootchi. The defendants 2 and 3 are children of 1st defendant. The wife of said Pootchi namely Pandhanam died after the death of Pootchi. The plaintiffs and their mother Pandhanam and 1st defendant had acquired the suit properties by inheritance and were enjoying the suit properties. The plaintiffs and 1st defendant and their mother Pandhanam had jointly sold the land comprised in Sy.No.459/2A by virtue of registered Sale deed dated 18.08.2005. The mother of plaintiffs namely Pandhanam died on 17.11.2019. After the death of Pandhanam, the plaintiffs and 1st defendant have jointly been enjoying the suit properties and plaintiffs are having 2/3 share over the suit properties.

ii) In the meanwhile, the 1st defendant has mutated the Patta in favour of his son 2nd defendant in respect of 5th item of suit properties and in favour of his daughter 3rd defendant in respect of 2nd item of properties. The plaintiffs came to know of that when the defendants 1 and 2 were attempted to sell the suit properties on 10.01.2021. So the plaintiffs have issued a lawyer notice to



the District Registrar, Ramanathapuram and Sub-Registrar, Velipattinam not to register any document to be presented by defendants 1 and 2.

iii) The plaintiffs have come forward with this suit for partition as they felt that they can not enjoy the properties jointly along with defendants. The 1st defendant has refused to give their share on 25.01.2021 when the plaintiffs have demanded their share. The 1st defendant in his written statement has stated that the legal representatives of plaintiffs' father's brother Irulan and Chithiravelu have not been impleaded and therefore the legal representatives of Irulan and Chithiravelu are impleaded as defendants 4 to 15. The defendants 4 to 15 have no right or interest over the suit properties. Hence this suit is for partition.

3. Summary of the written statement of defendants 1 to 3:

i) The allegations stated in the plant is wrong. The plaintiffs have to prove the same. The 5th item of properties belongs to one Chinnan ancestrally. The said Chinnan's legal heir Chithiravelu has mutated the Patta in favour of 2nd defendant in respect of 5th item of properties and therefore the plaintiffs have to prove that the 5th item of property belonged to their father. It is true that the plaintiffs, 1st defendant and their mother Pandhanam had jointly sold the property in Sy.No.459/2A by virtue of registered Sale deed



dated 18.08.2005. The plaintiffs have executed a consent deed stating that they will not claim any right over the suit properties. The plaintiffs have filed the suit after the lapse of 16 years from the date of consent deed and therefore the suit is barred by law of limitation. The plaintiffs have not demanded any partition from the 1st defendant on 25.01.2021 as alleged in the plaint. The 1st item of suit properties comprised in Sy.No.459/2D jointly belonged to Pootchi, Irulan and Chithiravelu. Therefore, the suit is barred for non-joinder of necessary parties.

ii) The 1st plaintiff's marriage was performed by 1st defendant and the 1st defendant had given 25 Sovereign jewels and Rs.5,00,000/- value of Seervarisai to the 1st plaintiff's marriage and therefore the 1st plaintiff and her husband Karunanithi have executed a consent deed on 02.09.1989 stating that the suit properties absolutely belongs to 1st defendant and also handed over the consent deed. The 1st defendant has alone been enjoying the suit properties after the death of his father Pootchi. The 1st plaintiff's marriage was performed in the year 1986 and therefore the 1st plaintiff never jointly enjoyed the suit properties along with 1st defendant. The plaintiffs have jointly executed a partition release deed on 18.10.2005 in the presence of witnesses and thereafter they are living along with their husband. The plaintiffs never in joint possession of the suit properties. Therefore the court fee paid u/s.37(2) is



wrong. The plaintiffs have no right to claim partition and therefore the suit filed by plaintiffs is liable to be dismissed.

4. Summary of the written statement of defendants 6 and 14:

The 6th defendant's father Irulan, Chitharavelu and plaintiffs and 1st defendant's father Pootchi are brothers. The plaintiffs and 1st defendant are enjoying the properties which were allotted to the share of Pootchi. The defendants 6 to 14 have no right or interest over the suit properties. The legal heirs of Irulan are enjoying the properties that have been allotted to the share of Irulan. During UDR, Patta was wrongly made in the name of Chitharavelu in respect of 5th Item of properties. The 5th Item of property was allotted to the share of Pootchi. Neither 6th defendant's father Irulan nor Chitharavelu have no right over the 2nd item of properties. The said Chitharavelu had never given petition to transfer the Patta in favour of 1st defendant's son and daughter. The 1st defendant has wrongly mutated the Patta. The defendants 6 to 14 have no objection to partition the suit properties between plaintiffs and 1st defendant. Therefore the suit as against defendants 6 to 14 may be dismissed.

5. Upon perusal of plaint, written statements and documents and upon hearing both side the following issues were framed:



1. Whether the claim of the plaintiff is time barred?
 2. Whether the plaintiffs have relinquished their rights over the suit properties?
 3. Whether the plaintiffs are entitled for the relief of partition?
 4. Whether the plaintiffs are entitled for the relief of permanent injunction?
 5. To what other relief the parties are entitled for?
6. On the side of plaintiff, 1st plaintiff Rakkammal has been examined as PW1 and through whom 10 documents were marked as Ex.A1 to Ex.A10. During the cross of DW1, Ex.A11 and Ex.A12 were marked. During the cross of DW3, Ex.A13 was marked. On the side of defendants, the 1st defendant Sundarrajn has been examined as DW1 and through whom 13 documents were marked as Ex.B1 to Ex.B13. One Sridharan has been examined as DW2 and through whom no document was marked. One Muruganantham, 14th defendant has been examined as DW3 and through whom 3 documents were marked as Ex.B14 to Ex.B16.

7. Issue No.1 & 2:

The plaintiffs have filed the suit for partition of their 2/3 share in the suit properties. In order to prove the claim of the plaintiffs, the 1st plaintiff Rakkammal has examined herself as PW1 and she has marked 10 documents.



It is an admitted fact that the plaintiffs are sisters and 1st defendant is the brother of plaintiffs. It is also an admitted fact that the father of plaintiffs and 1st defendant is one Pootchi. It is the specific case of the plaintiff is that the suit properties belonged to their father Pootchi and their father Pootchi died on 03.05.1993 leaving behind his wife Pandhanam, son Sundarrajan (1st defendant) daughters Rakkammal and Mariammal (plaintiffs) as his legal heirs. The father and mother of Pootchi predeceased him. The original legal heir certificate is marked as Ex.A2. It is admitted by 1st defendant that after the death of Pootchi, he along with his mother Pandhanam, plaintiffs Rakkammal and Mariammal had sold the property comprised in Sy.No.459/2A Pattinamkathan Group Village, Ramanathapuram Taluk and District to one N.K.Sekar and S.Kumar by virtue of Sale deed dated 18.08.2005. The Sale deed has been marked as Ex.A3.

8. It is the specific case of the plaintiffs that subsequent to the execution of the Sale deed dated 18.08.2005 under Ex.A3, their mother Pandhanam died on 17.11.2019. The death certificate of Pandhanam is marked as Ex.A4. Thereafter the plaintiffs and 1st defendant have jointly been enjoying the suit properties. But to the shock and surprise, the 1st defendant has illegally mutated the Patta in favour of his son 2nd defendant herein in respect of 5th



item of property and in favour of his daughter 3rd defendant herein in respect of 2nd item of property and the defendants 1 and 2 have made an attempt to sell the property and their attempt was known to the plaintiffs on 10.01.2021. So, they have issued a lawyer notice dated 22.01.2021 to the Sub-Registrar, Velipattinam, Sub-Registration Office not to register any Sale deed if any presented by defendants 1 and 2 without giving notice to the plaintiffs. The lawyer notice is marked as Ex.A5. The plaintiffs after issuance of notice under Ex.A5 have demanded their share from 1st defendant on 25.01.2021. The 1st defendant has refused to give their share and he has also made an attempt to sell the suit properties. Under such circumstances, they have come forward with this suit for partition.

9. The case of the defendants 1 to 3 is that the plaintiffs have executed a Release deed on 18.10.2005 relinquishing their rights after receipt of consideration of Rs.1,00,000/- each. The said document has been marked as Ex.B13. It is further case of the defendants 1 to 3 that the husband of the 1st plaintiff has executed a Partition Release consent deed on 02.09.1989 and thereby he had given an undertaking that he and his wife will not claim any right over the suit properties. The document executed by 1st plaintiff's husband Karunanithi is marked as Ex.B12. The Patta was mutated in the



name of 1st defendant on the strength of the deeds executed by plaintiffs and 1st plaintiff's husband Karunanithi. The above said deeds were executed in the year 02.09.1989 and 18.10.2005. The plaintiffs are claiming right over the properties after 16 years. Therefore the suit claim is barred under limitation Act.

10. Now the issue is whether the suit claim is barred by law of limitation. This Court carefully perused the contents of Ex.B12 and Ex.B13. On perusal of Ex.B12, the said document was executed by 1st plaintiff's husband A.Karunanithi. The said document was obtained in the name of 1st plaintiff and it was attested by Notary Public G.M.Bimio and the executant was identified by P.Seenivasan, Advocate, Madras. This Court upon perusal of Ex.B12, understands that the Enrollment number of the Notary Public has not been mentioned and also the Enrollment number of the Advocate Seenivasan who has identified the executant A.Karunanithi has not been mentioned. One of the attestors of said document Sridharan has been examined as DW2. The said Sridharan in his cross examination has admitted that Ex.B12 document was typed in the Varanda of Chennai High Court. It was typed by Advocate Seenivasan through a typist in the Varanda of the Madras High Court. He has also admitted that prior to 02.09.1989 he had not known Advocate Seenivasan



and thereafter he has not seen him. He does not know whether Advocate Seenivasan is a Notary Public or not. Advocate Seenivasan has obtained Notary Seal from some other person and he has not seen the document marked as Ex.B12 after 02.09.1989. From the evidence of PW2 and upon perusal of Ex.B12, this Court is of the considered view that the document dated 02.09.1989 marked as Ex.B12 could not have been executed by the Karunanithi.

11. The specific case of the plaintiffs case is that the documents marked as Ex.B12 and Ex.B13 have to be registered under the Registration Act. The learned counsel for plaintiffs have relied on the Judgment of our *Hon'ble High Court in the case of Muthu Vs. Sampath and others 2024 (6) CTC 399* wherein it was held that “ *under the said Release Deed, the releasor has allegedly relinquished his right, title and interest in the subject property. Therefore, under Section 17 of the Registration Act, the said Release Deed is a document, which requires to be registered compulsorily. Mere payment of deficit Stamp Duty would not cure the defect of non registration.*”

The **Hon'ble High Court** has further held that “ *when the document is sought to be looked into for collateral purposes, in such circumstances, the same has to be first impounded and duty and penalty as stipulated in*



Clause (a) of Section 35 of the Indian Stamp Act, 1899, will have to be determined and collected.”

In Savithri Ammal and others Vs. Sakunthala and others 2022 (3) MWN (Civil) 503 wherein our Hon’ble High Court held in Para 28 that “Even though the document indicates that she had received monies on earlier dates, the act of relinquishment of her right over the properties commenced from the date of Ex.B3 namely 19.01.1976. Therefore, it was only under Ex.B3 that she had relinquished her birth right namely, the right which she acquired as daughter of Venkatasami Naidu to the ancestral properties on the death of her father. Only on that particular date, by that document had she relinquished her rights. She might have received sreedhana properties at the time of her marriage. Her husband might have received a sum of Rs.15,000 at regular intervals for construction of house. But receipt of such sreedhana and receipt of money for construction of house had been directly linked to her relinquishment of her birthright over the ancestral properties only under Ex.B3 to take effect from the date of execution of Ex.B3. This would indicate that Ex.B3 must be registered under Section 17(1)(b) of the Registration Act, 1908. So, the same not having been registered cannot be admissible in evidence.”



In *Vasantha Ammal Vs. Gunasekaran 2011(2) MWN (Civil) 594* the *Hon'ble High Court* held that ***“by means of execution of the document, the Respondent is stated to have released his right over the property. Hence, the document has to be registered and without registration, it could not be admitted in evidence.”***

12. By applying those principles to the facts of the case in hand, this Court looked into the contents of the Ex.B12 and Ex.B13. The contents of the Ex.B13 clearly indicate that the plaintiffs have received Rs.1,00,000/- each in consideration of execution of Sale deed dated 18.08.2005. Moreover, the Xerox copy of Ex.B13 has been marked on the side of plaintiffs as Ex.A12. After execution of Ex.A12, some contents have been interpolated in Ex.B13. Therefore under Ex.B13, this Court cannot come to conclusion that the plaintiffs have relinquished their rights, interest over the suit properties and also the same is not admissible in evidence as it has not been sufficiently stamped under Stamp Act and not registered under Indian Registration Act. So, the contents of the defendants that the plaintiffs suit is barred under law of limitation is unsustainable in law based on the execution of Ex.B12 and Ex.B13. Accordingly, the Issue No.1 and 2 is answered.

**13. Issue No.3:**

It is admitted by both parties that the suit properties are belonged to father of plaintiffs and 1st defendant. The case was footforth on the side of defendants that the Patta is stood in the names of plaintiffs and 1st defendant's father Pootchi and his brothers and the legal heirs of Pootchi's brother namely Chithiravelu and Irulan are necessary parties. So, the plaintiffs have impleaded the legal representatives of Irulan and Chithiravelu. On behalf of the defendants 6 and 14, a separate written statement has been filed. In the written statement, the defendants 6 and 14 have specifically admitted that the plaintiffs' father Pootchi and his brother Irulan and Chithiravelu had partitioned their properties. On behalf of 14th defendant, Muruganantham has been examined as DW3. He has specifically admitted in his evidence that his father and his maternal uncle Irulan had no rights in the 5th item of properties. Therefore, the contents made on the side of defendants, the 5th item of properties has wrongly been included in the suit is not acceptable.

14. It is the specific case of the plaintiffs that the 1st defendant has mutated the Patta in favour of his son and daughter namely defendants 2 and 3 and the defendants 1 to 3 have attempted to encumber the properties on the strength of Patta. The plaintiffs have specifically stated that they came to know of the



attempt made by the defendants only on 10.11.2021 and they immediately issued a lawyer notice to the Sub-Registrar, Velipattinam, Ramanathapuram and the District Registrar, Ramanathapuram not to register any document to be presented by defendants 1 to 3.

15. It is the specific case of the plaintiffs that they have demanded their share and 1st defendant refused to give their share. So they come forward with this suit. The defendants 1 to 3 have failed to substantiate their case that the suit properties are absolutely belongs to 1st defendant and the mutation of Patta in respect of suit 2nd and 5th item of properties in favour of defendants 2 and 3 are perfectly valid and therefore the plaintiffs have no right to claim their share in the suit properties.

16. On the other hand, the plaintiffs have categorically proved that even after partition held amongst between their father and his brothers, the Patta still stands in the name of their father and his brothers. Such contention made by the plaintiffs has been fortified by the 14th defendant in his evidence and also in the written statement filed on the side of defendants 6 and 14. The plaintiffs have categorically proved that their father Pootchi and his brothers had partitioned their family properties and the suit properties were absolutely



belonged to their father Pootchi and after the death of their father, they inherited the suit properties along with their mother and brother. They have also categorically proved that after the death of their father, the properties were sold by plaintiffs along with their mother and brother and the suit properties are not yet partitioned between plaintiffs and 1st defendant. So, the plaintiffs are having 2/3 share in the suit properties and they are entitled to claim partition. Accordingly, the Issue No.3 is answered.

17. Issue No.4:

The plaintiffs have categorically proved that without the knowledge of the plaintiffs, the 1st defendant has mutated the Patta in favour of his son and daughter in respect of suit 2nd and 5th item of properties. Prior to that the 1st defendant for himself and on behalf of the plaintiffs has obtained consent document from the Irulan and their legal heirs. On the strength of their consent document executed by Irulan and his legal heirs, Patta was mutated in the name of 1st defendant and 1st defendant has in turn mutated the Patta in favour of his son and daughter the defendants 2 and 3 herein. So, the apprehension of the plaintiffs that the defendants 1 to 3 have made attempt to alienate or encumber the properties is proved by the plaintiffs. If the attempt of the defendants 1 to 3 is not restrained by an order of injunction restraining



the defendants 4 and 5, the plaintiffs would put into irreparable loss and injury. The balance of convenience is also in their favour. If an order of injunction is granted no serious prejudice would have been caused to the defendants 1 to 3. Therefore, this Court holds that an order of injunction has to be granted in favour of plaintiffs restraining the defendants and their men and agents not to encumber the suit properties like Sale, Othi and Mortgage. Accordingly, Issue No.4 is answered.

18. Issue No.5:

In the foregoing issues, this Court has categorically held that the plaintiffs are having 2/3 share in the suit properties and therefore they are entitled to claim partition in the properties. Therefore, the suit is allowed as prayed for and granting a preliminary decree for partition of plaintiffs 2/3 share and they are also permitted to file final decree petition for partition of their share by metes and bounds with cost. Accordingly, Issue No.5 is answered.

In the result, the suit is decreed with cost in favour of plaintiffs declaring that the plaintiffs are entitled to 2/3 share over the suit properties and a preliminary decree for partition is granted and the plaintiffs be permitted to take steps to get a final decree for partition. The plaintiffs are



also entitled to get an order of permanent injunction restraining the defendants, their men and agents not to encumber the suit properties by way of Othi, Rent, Sale and Mortgage.

Dictated to the Steno-Typist, transcribed and typed by her in the Computer, corrected and pronounced by me in the open Court this the 07th day of March 2026.

**Additional District Judge,
Ramanathapuram.
07.03.2026**

Annexure:

List of Witness on the side of Plaintiffs:

PW1 - Tmt. Rakkammal

List of Exhibits on the side of Plaintiffs:

- Ex.A1 03.05.1993 Original Death Certificate of plaintiffs' father
- Ex.A2 29.01.2015 Copy of legal heir Certificate
- Ex.A3 18.08.2005 SRO Copy of Sale deed
- Ex.A4 12.12.2019 Copy of Death Certificate of plaintiffs' mother
- Ex.A5 22.01.2021 Office Copy of lawyer notice
- Ex.A6 02.02.2021 On-line Copy of Patta in Patta No.1363
- Ex.A7 02.02.2021 On-line Copy of Patta in Patta No.12456
- Ex.A8 16.09.2005 Original Patta in Patta No.1362
- Ex.A9 02.02.2021 On-line Copy of Patta in Patta No.1290
- Ex.A10 23.01.2021 On-line Copy of Patta in Patta No.12763
- Ex.A11 01.09.2005 Copy of Patta in Patta No.761



Ex.A12 18.08.2005 Phpto Copy of document

Ex.A13 10.04.2015 Copy of Consent deed

List of Witnesses on the side of Defendants:

DW1 – Thiru. Sundarrajan

DW2 – Thiru. Sridharan

DW3 – Thiru. Muruganantham

List of Exhibits on the side of Defendants:

Ex.B1 14.08.2021 Copy of Joint Patta in Patta No.1363

Ex.B2 05.12.2019 Copy of Joint Patta in Patta No.12763

Ex.B3 14.08.2021 Copy of Joint Patta in Patta No.1290

Ex.B4 26.07.2020 Original V.A.O. Certificate

Ex.B5 26.07.2019 Original V.A.O. Certificate

Ex.B6 05.09.2022 Copy of Joint Patta in Patta No.1363

Ex.B7 05.09.2019 Copy of Patta in Patta No.12456

Ex.B8 Original Photo - 1

Ex.B9 Original Photo - 1

Ex.B10 28.02.2022 Particulars obtained from RTI Act

Ex.B11 02.09.1989 Original Partition Release deed

Ex.B12 02.09.1989 Original Consent deed

Ex.B13 18.10.2005 Original Release deed

Ex.B14 27.11.2024 Copy of Patta in Patta No.457

Ex.B15 27.11.2024 Copy of Patta in Patta No.124

Ex.B16 10.04.2015 Original Consent deed

**Additional District Judge,
Ramanathapuram.
07.03.2026**