

**IN THE COURT OF THE I ADDITIONAL DISTRICT JUDGE
RANIPET, RANIPET DISTRICT.**

Present: Thiru. A.BALAKRISHNAN, B.B.A., L.L.B.,
I Additional District Judge, Ranipet

Thursday, this the 5th day of March 2026

O.S.No.48/2021

(CNR.No.TNRP01-000263-2021)

.....

1. K. Vachala

2. K. Rajasekar

... Plaintiffs.

-Vs-

1. K. Aaliya Begum

2. K. Hakila Begum

3. K. Mynuddin

4. Rashima Bi

5. R.Shameem @ Shameemunissa

6. R. Mohamed Imran

7. The Sub Registrar,

Walaja Taluk.

...Defendants

This suit is coming before me for final hearing on 20.02.2026 in the presence of Tmt. Manjula Sankaran, Advocate for the Plaintiffs and Thiru.D.Mohammed Sadhiquddin, Advocate for the defendants 1 to 6 and Thiru.N.P.Nethaji, Advocate appeared for the 7th defendant but written statement not filed hence the 7th defendant called absent and set exparte and upon hearing the arguments of both side and having stood over for consideration till this day, this court delivered the following;-

JUDGMENT

The plaintiffs have filed the suit for the relief of **Partition** and separate possession in respect of the shares of the plaintiffs, **declaration of sale deed** dated 06.04.2017 executed by the defendants 1 to 4 in favour of the defendants 5 & 6 as null and void and to cancel the same and permanent injunction and also for the cost of the suit.

I. Crux of the plaint averments is as follows :

The 1st plaintiff married one Kareemuddin on 13.05.1981 as per Muslim rites and customs. Both had lived as husband and wife for 2 years in the 1st plaintiff's house and out of the above said wedlock, the 2nd plaintiff born on 06.05.1982. Since the 1st plaintiff belonged to Hindu Schedule Caste the said Kareemuddin deserted her from the year 1984 and married the 1st defendant as his second wife in the year 1986 without the knowledge and consent of the 1st plaintiff. The defendants 2 & 3 are the children of Kareemuddin and 4th defendant is the mother of Kareemuddin. All the defendants 1 to 4 very well know about the 1st plaintiff is the wife of Kareemuddin. The 1st plaintiff husband Kareemuddin did not provide any basic necessities to maintain her. Hence the 1st plaintiff filed a maintenance Petition under section 125 of Cr.P.C. in M.C.No.2/2009 before the Judicial Magistrate No.2 at Walajapet against her husband Kareemuddin and an exparte order was passed on 23.06.2009 directing him to pay Rs.2,000/- per month to the 1st plaintiff. But he did not comply the order and hence the 1st plaintiff filed a petition under section 126 of Cr.P.C., in Cr.M.P.No.2275/2009. The said Kareemuddin had continuously abstained the court and neglected to take care of plaintiffs. He died on 25.07.2016 intestate and in the month of January 2019, the plaintiffs came to know that the defendants 1 to 4 have obtained false legal heirs certificate from the Revenue Department and sold the self acquired house property of the

deceased Kareemuddin within their relatives defendants 5 & 6 on 06.04.2017. Hence the 2nd plaintiff gave an objection letter to the Sub-Collector, Ranipet on 10.01.2019. After a brief enquiry, the Sub-Collector, Ranipet cancelled the above said legal heirs Certificate. Hence the plaintiffs are entitled their legitimate shares in the suit property which was purchased by the deceased Kareemuddin. The plaintiffs repeatedly approached the defendants 1 to 4 and requested them to divide the suit property into 8 equal shares and allot 3/8th shares to the plaintiffs. But the defendants did not comply. Hence the suit is filed.

II. Nutshell of the written statement filed by the defendants 1 to 6 is as follows:-

The suit is not maintainable either in law or on facts. While, admitting relationship between the defendants and the marriage of the 1st defendant with the said Kareemuddin Saheb and his occupation and death on 25.07.2016. The defendants deny and dispute all other allegations of the plaintiff that the 1st plaintiff married the said Kareemuddin on 13.05.1981 according to the Islamic rites and customs and the 2nd plaintiff is the son of the said Kareemuddin out of the said wedlock. The 1st defendant is a legally wedded wife of the deceased Kareemuddin and out of the said marital tie the 1st defendant begotten the defendants 2 & 3 and the 4th defendant Rahima Bi is the mother of the deceased Kareemuddin. With the great support of the 1st defendant and out of family savings 1st defendant purchased suit property and constructed a dwelling house after availing loan from Vijaya Bank, Ranipet Branch. Apart from the said loan, there is a debt of around 40 Lakhs. Out of the sale prospects of Rs.24,00,000/- the defendants 1 to 4 cleared the debt of the deceased and still debt of Rs.15,00,000/- is pending to the outsiders. At no point of time the defendants have seen the plaintiffs during the life of the deceased

Kareemuddin. Just by taking advantage of exparte order in M.C.No.2/2009, the plaintiffs claimed that they are also one of the legal heirs of the deceased. Without proper enquiry, the revenue officials have cancelled the legal heirs certificate on the strength of the said exparte order in M.C.No.2/2009. From 28.12.1986 till the last breath of the deceased Kareemuddin the 1st defendant is the only wife of the deceased, **no marriage was taken place with the 1st plaintiff as alleged and the birth of the 2nd plaintiff out of the alleged marital tie is also denied.** Now, taking advantage of the death of the deceased, the plaintiffs come up with the present claim as if the 1st plaintiff married the said Kareemuddin. The claim of the plaintiff's is highly belated and they cannot dictate terms to absolute owners of the property and the relief's of declaration to declare the sale deed stand in the name of the defendants 5 & 6 as Null and Void will not and does not arise. That, for the valid consideration the defendants 5 & 6 purchased the suit property from the defendants 1 to 4 and mutation of documents is also taken place and they are enjoying the said property as its absolute owner thereof. It is therefore prayed to dismiss the suit with costs.

III. On the basis of the above pleadings, the following issues were framed on 04.11.2024 for trial :-

1.	Whether the plaintiffs are the legal heirs of deceased Kareemuddin?
2.	Whether the plaintiffs are entitled to get 3/8 shares in the suit property?
3.	Whether the sale deed executed by defendants 1 to 4 in favour of defendants 5 & 6 in respect of the suit property is void and liable to be cancelled?
4.	Whether the plaintiffs are entitled to get the relief of permanent injunction as prayed for?
5.	Whether the suit is not maintainable?
6.	To what other relief, the plaintiffs are entitled?

Discussions :-**IV. Issue Nos. 1, 2 & 5 :-****Point:**

1) The 1st plaintiff has claimed 1/8 share and the 2nd plaintiff who is the son of the 1st plaintiff has claimed 2/8 shares in the suit property which is admittedly belonged to the deceased Kareemuddin. The plaintiff has claimed that she is the 1st wife of deceased Kareemuddin and the 2nd plaintiff was born to them. The plaintiffs have also asserted in the plaint that the 1st defendant is the 2nd wife of Kareemuddin and the defendants 2 & 3 are the children born to the 1st defendant and deceased Kareemuddin.

2) In order to establish their case, the 1st plaintiff was examined as PW1 and the 2nd plaintiff was examined as PW2. Ex.A1 to Ex.A11 such as Order issued by the Sub-Collector, Ranipet for the Cancellation of Legal heirs certificate issued by the Tahsildar Walajah, Certified copy of Sale deed executed by Indhumathi Ammal and two others in favour of Kareemuddin, Certified copy of Sale deed executed by the defendants 1 to 4 in favour of defendants 5 & 6, Encumbrance Certificate for the period from 01.01.2017 to 15.04.2021, Death Certificate of Kareemuddin, Certified copy of Order in MC.No.2/2009 on the file of Judicial Magistrate Court No.2, Walajapet, Certified copy of Petition filed by the Vachala before the Judicial Magistrate Court No.2, Walajapet in Crl.MP.No.1025/2011, Copy of legal Heirs Certificate of Kareemuddin, Record Sheet of Rajasekar issued by the Sri Krishna Vidhyalaya Aided Middle School, Ranipet and copy of Aadhar cards of plaintiffs have been marked through PW1. Besides PW1 and PW2, one Mr.Sekar and one Mr.Jayaraj have been examined as PW3 and PW4 on the side of the plaintiffs.

3) The defendants 1 to 6 have contended in their written statement that the 1st plaintiff is not the wife of deceased Kareemuddin and the 2nd plaintiff is not the son of Kareemuddin. The defendants 1 to 4 have claimed that they are alone the legal heirs of the deceased Kareemuddin and hence the sale deed executed by them in favour of defendants 5 & 6 is valid in law and the plaintiffs are not entitled to get any share in the property of Kareemuddin under Mohammedan law.

4) To substantiate the case of the defendants, the 2nd defendant was examined as DW1 and Ex.B1 to Ex.B5 such as Death Certificate of Kareemuddin, Letter issued by Navalpur Masjid along with marriage register of the 1st defendant with Karimuddin, Hand Note book with accounts, Certified copy of Memorandum of deposit of title deeds executed by B.Kareemuddin in favour of Vijaya Bank and Certified copy of Receipt executed by Vijaya Bank, Ranipet in favour of B.Kareemuddin were marked. Besides DW1, one Tmt.M.Naseema was examined as DW2 on the side of the defendants 1 to 6. The 7th defendant, the Sub-Registrar against whom no relief is prayed did not contest the suit.

5) It is to be noted that the 1st plaintiff is a Hindu woman and she claimed herself that she is the 1st wife of a Muslim man namely Kareemuddin who died on 25.07.2016. According to the 1st plaintiff, she married the said Kareemuddin on 13.05.1981 as per Muslim rites and customs. Admittedly the plaintiffs have not produced any documentary evidence to prove the marriage alleged to be happened on 13.05.1981 between the 1st plaintiff and Kareemuddin. The 1st plaintiff has mainly depended upon Ex.A6 Certified copy of order passed by Judicial Magistrate Court No.II, Walajapet in M.C.No.2/2009 directing the Kareembai to pay monthly maintenance of Rs.2,000/- her under section 125 of Cr.P.C.

6) It is to be noted that the order in M.C.No.2/2009 has been passed solely on the ground that the respondent therein namely Kareembai did not file any counter and he remained exparte. The order passed under section 125 of Cr.P.C. alone cannot be considered as a conclusive proof of a valid marriage between a Hindu woman and Muslim Male. Only on the basis of expare order passed in M.C.No.2/2009, the Sub Collector, Ranipet has passed Ex.A1 order cancelling Ex.A8 legal heirs certificate issued in favour of the defendants 1 to 4 . The order passed in M.C.No.2/2009 and the order passed by the Sub Collector, Ranipet alone are not the documents to prove the valid marriage of 1st plaintiff with deceased Kareemuddin under Mohammedan Law.

7) The learned counsel for the defendants has pointed out by reading Section 252 of Mohammedan Law that for a valid marriage of muslim. there should be a proposal made by or on behalf of one of the parties to the marriage and an acceptance of the proposal by or on behalf of the other in the presence and hearing of two males or one male and two female witnesses, who must be sane and adult Muslim.

8) The learned counsel has further pointed out the 1st plaintiff is a Hindu woman and she has not converted herself to the religion of Islam and hence even if there was any marriage between the 1st plaintiff and Kareemuddin, it can not be a valid marriage and it is only a irregular marriage and as such the 1st plaintiff can not claim any share in the property of Kareemuddin.

9) On the other hand, the learned counsel for the plaintiffs has argued that the marriage of the 1st plaintiff was held in the presence of witnesses and the said marriage was solemnized as per Muslim rites and customs.

10) The plaintiffs have examined PW3 and PW4 to show that they have also participated in the marriage between the 1st plaintiff and Kareemuddin. But PW3 himself has answered in his cross examination that he was only aged about 18 years at the time of the alleged marriage of 1st plaintiff with Kareemuddin. Further he has answered in cross examination that even though the marriage was held as per Muslim rites, he did not know as to whether a marriage document was reduced into writing and whether any Mehar amount was given in the said marriage. Further PW3 and PW4 have admitted that they have not signed in any document as witness to the marriage of 1st plaintiff. The oral evidences of PW3 and PW4 are not enough to prove that there was a valid marriage between the 1st plaintiff and Kareemuddin. It is to be noted that even though the 1st plaintiff has answered in her cross examination that she converted to Islam, it is also admitted by her that she bears her Hindu name till today and her Hindu name alone is given in the plaint. There is no satisfactory oral or documentary evidence adduced on the side of the plaintiff to prove that a valid marriage was held between the 1st plaintiff and Kareemuddin.

11) At this juncture, it is to be noted that the learned counsel for the defendants 1 to 6 has pointed out in his arguments by relying the decision of Hon'ble Supreme Court of India in Mohammed Salim (D) Through Lrs. & ORS vs Shamsudeen (D) Through Lrs & ORS that a marriage between a Hindu woman and Muslim male is an irregular (Fasid) marriage and hence the 1st plaintiff who is a Hindu woman cannot claim a share in the property of Kareemuddin. This court has already come to the conclusion that the plaintiffs have not produced any satisfactory evidence to prove a valid marriage between the 1st plaintiff and Kareemudin.

12) It is pertinent to be noted that the deceased Kareemuddin had received the notice from the court in M.C.No.2/2009 and even after engaging lawyer to appear for him, he did not file any counter and remained exparte. Further even after the 1st plaintiff filed another petition in Crl.M.P.No.1025/2011 on 14.07.2009 under section 128 of Cr.P.C to issue distress warrant against him for his failure to pay the maintenance arrear, the said Kareemuddin did not take any steps to set aside the exparte order. Further the plaintiffs have produced Ex.A9 School Record Sheet of the 2nd plaintiff and the parents name of 2nd plaintiff is mentioned as Kareemuddin and Vachala. Ex.A9 School Record Sheet being a public document, it can be legally considered as a document for proving the factom of birth of 2nd plaintiff to the 1st plaintiff and Kareemuddin. The oral and documentary evidences adduced on the side of the plaintiffs are revealed that the 1st plaintiff and Kareemuddin had livid together and out their joint living, the 2nd plaintiff was born to them.

13) The Hon'ble Supreme Court of India has held in the above decision of Mohammed Salim (D) Through Lrs. & ORS vs Shamsudeen (D) Through Lrs & ORS, cited on the side of the defendants as follows;

12. The position that a marriage between a Hindu woman and Muslim man is merely irregular and the issue from such wedlock is legitimate has also been affirmed by various High Courts. (See Aisha Bi v. Saraswathi Fathima, (2012) 3 LW 937 (Mad), Ihsan Hassan Khan v. Panna Lal, AIR 1928 Pat 19).

13. Thus, based on the above consistent view, we conclude that the marriage of a Muslim man with an idolater or fire-worshipper is neither a valid (sahih) nor a void (batil) marriage, but is merely an irregular (fasid) marriage. Any child born out of such wedlock (fasid marriage) is entitled

to claim a share in his father's property. It would not be out of place to emphasise at this juncture that since Hindus are idol worshippers, which includes worship of physical images/statues through offering of flowers, adornment, etc., it is clear that the marriage of a Hindu female with a Muslim male is not a regular or valid (sahih) marriage, but merely an irregular (fasid) marriage.

14) It is clear from the above decision that any child born out of fasid marriage is entitled to claim a share in his father's property. Hence the 2nd plaintiff who is born to the 1st plaintiff and Kareemuddin is legally entitled to claim a share in the property of Kareemuddin.

15) The learned counsel for the defendants 1 to 6 has strenuously argued that even if the court comes to the conclusion that the 2nd plaintiff is entitled to get a share in the property of Kareemuddin, he must be held liable to pay his proportionate share in the debts of deceased Kareemuddin. It is to be noted that there is no dispute that the suit property was purchased by deceased Kareemuddin in his name. Further DW1 and DW2 have clearly deposed that a building was constructed in the suit land by Kareemuddin after his marriage with 1st defendant. The defendants 1 to 4 have produced Ex.B4 copy of Memorandum of deposit of title deed executed by Kareemuddin in favour of Vijaya Bank, Ranipet Branch for the loan amount of Rs.5,00,000/-. The defendants 1 to 4 have also produced Ex.B5 copy of loan discharge receipt to show that the mortgage loan amount was settled on 09.12.2016 i.e., after the death of Kareemuddin. The defendants 1 to 4 have also produced Ex.B3 hand note book with the hand writing entries in respect of expenses incurred for construction of building.

16) The learned counsel for the defendants has argued that when the 2nd plaintiff claims a share in the property of deceased Kareemuddin as in the capacity of son born to him, he is legally liable to pay his share in the debts incurred by the deceased Kareemuddin. Admittedly the defendants 1 to 4 have not furnished the exact share amount payable by the plaintiffs in respect of debts of deceased Kareemuddin. However the 2nd plaintiff who himself claimed as a son born to the said Kareemuddin, he is under legal obligation to pay his proportionate share in the debts of deceased Kareemuddin if any. Considering the entire facts and circumstances of the case, this court is of the view that the marriage of the 1st plaintiff with the Kareemuddin is not proved as a valid marriage and it can be considered only as a fasid marriage and hence the 1st plaintiff cannot claim any share in the property of Kareemuddin. But at the same time, the 2nd plaintiff is entitled to claim 2/8 share as per Mohammedan law in the property of his father Kareemuddin. The defendants 1 to 4 have already sold their share to the defendants 5 & 6 by executing a registered sale deed dated 06.04.2017. Hence the remaining share of the 2nd plaintiff alone to be partitioned and allotted by the defendants. As per the principles of Mohammedan law, the 2nd plaintiff is entitled to get his share in the equation of 2/8 in the property of his father Kareemuddin. Issue Nos.1, 2 & 5 are answered accordingly.

V. Issue No.3:-

Point:- This court has come to the conclusion that the 2nd plaintiff is entitled to get his share in the property of deceased Kareemuddin as per Mohammedan law. Hence the sale deed dated 06.04.2017 executed by the defendants 1 to 4 in favour of the defendants 5 & 6 will not bind the share of the 2nd plaintiff and as such the said sale deed is void in respect of the share of 2nd plaintiff. Hence the 2nd plaintiff is entitled to get the relief of declaration that the sale deed dated 06.04.2017 is void in respect of his

share. The sale deed cannot be ordered to be cancelled in total. Issue No.3 is answered accordingly.

VI. Issue No.4:-

Point:- The plaintiff has prayed the relief of permanent injunction against the defendants 1 to 6 not to make encumbrance in the suit property. As this court has come to the conclusion that the 2nd plaintiff alone is entitled to get his 2/8 share in the suit property as per Mohammedan law, the relief of permanent injunction totally prohibiting the defendants 5 & 6 from dealing with the suit property cannot be granted. Hence the plaintiffs are not entitled to get the relief of permanent injunction. Issue No.4 is answered accordingly.

VII. Issue No.6:-

Point:- This court has come to the conclusion that the 2nd plaintiff alone is entitled to get the relief of partition in respect of his share in the suit property and the plaintiffs are not entitled to get the relief of permanent injunction. The 2nd plaintiff shall file necessary application for passing of final decree in respect of his share in the property of his father Kareemuddin. The proportionate share if any in the debts of deceased Kareemuddin payable by the 2nd plaintiff shall be determined in the final decree proceedings and the said proportionate share amount of 2nd plaintiff shall be adjusted in the value of his share in the suit property. This issue is answered accordingly.

In the result, the suit is partly decreed and a preliminary decree for partition in respect of 2nd plaintiff's 2/8 share in the suit property as per the principles of Mohammedan law is passed. The relief of declaration in respect of the sale deed dated 06.04.2017 is granted only in respect of the share of 2nd plaintiff. The suit in respect of the relief of permanent

injunction is dismissed. The 1st plaintiff is not entitled to get any relief in the suit. The 2nd plaintiff shall take necessary steps for passing of final decree in respect of his share within a period of 30 days from the date of preliminary decree. The proportionate share payable by 2nd plaintiff if any in the debts of deceased Kareemuddin shall be determined in the final decree proceedings. Considering the facts and circumstances of the case there shall be no order as to cost.

Dictated by me to the Steno-typist transcribed and typed by her in the computer, corrected and pronounced by me in the open court, this, the 5th day of March 2026.

I Additional District Judge,
Ranipet.

Witnesses Examined on the side of Plaintiffs.

PW1 Tmt. Vachala
PW2 Thiru.Rajasekar
PW3 Thiru. Sekar
PW4 Thiru.Jayaraj

Exhibits marked on the side of Plaintiffs

Ex.A1	11.02.2020	Order issued by the Sub-Collector, Ranipet for the Cancellation of Legal heir certificate issued by the Tahsildar Walajah.	(Original)
Ex.A2	23.10.2006	Sale deed executed by Indhumathi Ammal and two others in favour of Kareemuddin.	(Certified copy)
Ex.A3	06.04.2017	Sale deed executed by the defendants 1 to 4 in favour of the defendants 5 & 6.	(Certified copy)
Ex.A4	16.04.2021	Encumbrance Certificate for the period from 01.01.2017 to 15.04.2021.	(Printed copy)

Ex.A5	27.10.2017	Death Certificate of Kareemuddin.	(Original)
Ex.A6	23.06.2009	Order in MC.No.2/2009 on the file of Judicial Magistrate Court No.2, Walajapet.	(Certified copy)
Ex.A7	-----	Petition filed by the Vachala before the Judicial Magistrate Court No.2, Walajapet in CrI.M.P.No.1025/2011.	(Certified copy)
Ex.A8	29.12.2016	Legal Heir Certificate of Kareemuddin.	(Xerox copy)
Ex.A9	18.09.2007	Record Sheet of Rajasekar issued by the Sri Krishna Vidhyalaya Aided Middle School, Ranipet.	(Original)
Ex.A10	----	Aadhar card of the Vachala.	(Xerox copy)
Ex.A11	----	Aadhar card of the Rajasekar.	(Xerox copy)

Witnesses Examined on the side of the defendants 1 to 6.

DW1 Tmt.Hakila Begum

DW2 Tmt.Naseema.

Exhibits marked on the side of defendants 1 to 6 :-

Ex.B1	15.09.2016	Death Certificate of Kareemuddin.	(Original)
Ex.B2	07.10.2016	Letter issued by Navalpur Masjid along with marriage register of the 1 st defendant with the deceased Karimuddin.	(Original, True copy)
Ex.B3	-----	Hand note book with accounts.	(Original)
Ex.B4	-----	Memorandum of deposit of title deeds executed by B.Kareemuddin in favour of Vijaya Bank.	(Certified copy)
Ex.B5	09.12.2016	Receipt executed by Vijaya Bank, Ranipet in favour of B.Kareemuddin.	(Certified copy)

I Additional District Judge,
Ranipet.