



**DMC ARAKKONAM**

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**OS.150/2012**

**IN THE COURT OF DISTRICT MUNSIF ARAKKONAM RANIPET DISTRICT**

**PRESENT:- Selvi.A.AMEENA.,BBA.,LLB(Hons)**

**DISTRICT MUNSIF, ARAKKONAM**

**Wednesday the 25<sup>th</sup> day of March 2026**

**OS.150/2012**

**(CNR - TNRP0800001122012)**

1. Nageshwari
2. Janaki
3. Vijaya
4. Uma
5. Amudha
6. Krishnaveni
7. Bharathi

---Plaintiffs

(vs)

1. Kumaresan
2. Ramesh @ Velumani
3. Kamatchi

---Defendants

This suit is coming for final hearing before me on 09.03.2026 in the presence of Mr.S.Prabakaran counsel appearing for plaintiffs. Mr.S.Md.Jamaludeen counsel appearing for D1. D2 is set exparte on 06.12.2012. D3 is set exparte on 03.01.2013. On perusal of entire case records having stood over for consideration till this day, this court has delivered the following:-

**JUDGMENT**

The suit is filed for passing a decree for partition directing the defendants 1 and 2 to divide the suit properties in to nine equal shares and to allot and put each plaintiff in separate possession of one such specific share and granting permanent injunction restraining the defendants 1 to 3 their men agents and servants from in any way alienating the plaintiffs 7/9 share in the suit properties in favour of any persons and awarding cost of the suit.

**1. Brief Averments of plaint:**

**1.1.** The plaintiff states that the said Gopal purchased the 1<sup>st</sup> and 2<sup>nd</sup> item of the suit by virtue of registered sale deed no.795/1975. Purchased 3<sup>rd</sup> and 4<sup>th</sup> item of the suit A schedule property by virtue of a register and sale deed no.796/1995. Purchased 5<sup>th</sup> item of the suit A schedule property by virtue of a registered sale deed no.2647/1976. Purchased 6<sup>th</sup> and 7<sup>th</sup> item of the suit A schedule property by virtue of a registered sale deed no.2247/1977.

**1.2.** Further states that the suit B schedule property is the self acquired property of the plaintiffs mother Ponnammal, she purchased the same by virtue of a registered sale deed no.3254/1978. The date of purchase the plaintiffs father Gopal and mother Ponnammal were in possession and enjoyment of the suit properties respectively. Gopal died intestate 25 years back leaving behind him his wife Ponnammal and the plaintiffs and the defendants 1 & 2 as legal heirs to succeed the suit A schedule property. After the death of their father the plaintiffs, defendants 1 & 2 and their mother Ponnammal were in peaceful possession and enjoyment of the suit properties as Co-owner without making any division in the suit A schedule properties.

**1.3.** Further states that their mother Ponnammal also died intestate on 31.07.2011 leaving behind her the plaintiffs and defendants 1 & 2 as her legal heirs to succeed suit B schedule property. After the death of their father Gopal and mother



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Ponnammal the plaintiffs and defendants 1 & 2 are in possession and enjoyment of the suit properties as Co-owners without making any division in the suit properties by metes and bounds. The plaintiffs demanding the defendants 1 & 2 from March-2012 to divide the suit properties into a equal shares by metes and allot them their respective shares that is 7/9 share for that the defendants 1 & 2 some how managed to postpone the division of suit properties.

**1.4.** Further states that when they had suspicious about the activities of the defendants 1 & 2, the plaintiffs immediately applied for encumbrance certificate for the suit properties on 04.10.2012 and they were very much shocked to see that on 23.02.2007 and 21.03.2011 without the consent, knowledge and signature of the plaintiffs and also alienated 6<sup>th</sup> and 7<sup>th</sup> items of the suit properties to the 3<sup>rd</sup> defendant. The plaintiffs are having undivided 7/9 share over the suit properties. The action of the defendants 1 & 2 partitioning the suit properties, without giving due share to the plaintiffs are highly illegal and against the provision of law. The partition deed numbers 1435/2007 and 2428/2011 collusively executed between the defendants 1 & 2 is void, not binding on the plaintiffs in respect of their 7/9 share in the suit property.

**1.5.** Further states that the defendants 1 & 2 have alienated 6<sup>th</sup> and 7<sup>th</sup> items of the suit properties to the 3<sup>rd</sup> defendant without consent of the plaintiffs only to deceive and defraud the plaintiffs 7/9 share over the suit properties. The sale deed executed in favour of the 3<sup>rd</sup> defendant in respect of the plaintiffs 7/9 share in the suit properties without dividing the suit properties also not valid, void and not binding on the plaintiffs. Further the defendants 1 & 2 are now attempting to sell the suit properties to 3<sup>rd</sup> parties. Their action is highly illegal. Hence left with no other alternative the plaintiffs are forced to file this suit for partition and permanent injunction against the defendants and for other reliefs.

**2. Brief Averments Written Statement filed by 1<sup>st</sup> defendant:**

2.1. The defendant states that actually the suit properties are the ancestrally and hindu joint family properties of the hindu joint family consists of this defendant's father, this defendant and 2<sup>nd</sup> defendant though the sale deeds for the suit properties stands in the name of this defendant's father and mother. They had no any individual income to purchase the suit properties. Since the suit properties were ancestrally and hindu joint family properties of this defendant's father, this defendant and 2<sup>nd</sup> defendant, the plaintiffs have no any right title and interest over the suit properties to claim the partition. This defendant's father died in the year 22.03.1984 after his death, this defendant and 2<sup>nd</sup> defendant are alone in absolute possession and enjoyment of the suit properties without any interference from anybody with the knowledge of the plaintiffs.

2.2. Further states that during their possession and enjoyment of the suit properties, they divided the suit properties in the presence of the Panchayators under the registered partitioned deeds dated:23.02.2007 and 21.03.2011. This defendant and 2<sup>nd</sup> defendant have been in separate possession and enjoyment of the suit properties as per the partition deed. This defendant developed the landed properties into house sites and sold several persons. Likewise this defendant settled some of the properties obtained under the registered partition deed in favour of the plaintiffs under the registered settlement deeds. So the plaintiffs have no any right, title and interest over the other properties. Since this defendant sold as the house sites to several persons with the knowledge of the plaintiffs the suit for partition is not maintainable.

**3. Issues:**

1. தாவா சொத்தில் 9 ல் 7 பங்கு பாகம் வாதிகளுக்கு கிடைக்க கூடியதா?



2. தாவா சொத்தில் வாதிகளின் பாகத்தை எவ்வித மாற்றத்தமும் செய்ய கூடாது என பிரதிவாதிகளுக்கு எதிராக நிரந்தர உருத்து கட்டளை பரிகாரம் வாதிகளுக்கு கிடைக்கக் கூடியதா?
3. வாதிகளுக்கு கிடைக்கக்கூடிய வேறு பரிகாரங்கள் என்ன?

On the side of the plaintiff the plaintiff himself was examined as PW1 through him Ex.A1 to Ex.A12 was marked. Pw2 chief was eschewed. On the side of the defendant 1<sup>st</sup> defendant was examined as Dw1 and Ex.B1 to Ex.B3 were marked.

#### 4.Arguments:

##### Plaintiff side arguments

4.1. The learned counsel for the plaintiff argued that the suit has been filed for partition. Plaintiff, D1 and D2 are the son and daughters of Mr.Gopal and Ponnammal. D3 is the purchaser of the part of the property. Plaintiff's father Gopal purchased the suit A schedule in the year 1975 through Ex.A1 to Ex.A3. Ex.A4 is the sale deed in the name of plaintiff mother Ponnammal. D1,D3 are the elder brother of the plaintiffs, they have entered into partition within themselves without including plaintiffs through Ex.A5,Ex.A6. Ex.A7 and Ex.A8 are the legal heir certificate of Ponnammal and death certificate of Ponnammal.

4.2. Further argued that Ex.A9 shows that D1,D2 have partition to the suit property. Ex.A10,Ex.A11 is the patta in the name of Ponnammal. Ex.A12 shows that part of the property is sold to D3. It is admitted fact that Gopal purchased from his earning. Ponnammal purchased the property B schedule of her earning. Hence the suit property is self acquired property plaintiffs mother and father. The defendant states they have settled some property in name of plaintiff but no document were filed. In evidence of Dw1 he admits the relationship. என் தந்தை கோபால் அவர் சொந்த உழைப்பில் தான் வாங்கினார் என்றால் ஆம். 'B' schedule property



என் தாயார் வாங்கினார் என்றால் இல்லை, என் தந்தை பெயரில் வாங்கினார்.

4.3. Further argued that Dw1 was 16 years old when plaintiff got married, but he lies that he spent for the marriage Dw1 was only 2 years old when his father purchased the property but lies that it is joint family property. Dw1 states that in Panchayat partition had been taken place but in deposition he states that the partition was made in police station. After demise of father and mother of plaintiffs, the plaintiff are entitled for the partition. Ex.B1, Ex.B2 are xerox copies the Dw1 himself admits the same. The defendant filed Ex.B3 power of Attorney in name of Dw1's wife, the plaintiff had denied the signature in the said deed. Hence pray to decree the suit.

#### **Defendant side Arguments**

4.4. The learned Counsel for the defendant argued that the plaintiff had filed suit for partition by claiming 7/9th shares in the suit scheduled property. The schedule of properties are ancestral and some properties were purchased by the plaintiff, 1st and 2<sup>nd</sup> defendants mother and father. The 1<sup>st</sup> and 2<sup>nd</sup> defendants had already sold the suit properties. The properties were converted into lot and sold. Now there is no property in the hands of the 1<sup>st</sup> and 2<sup>nd</sup> defendants. The relief claimed by the plaintiff are not correct. Ex.A1 to Ex.A4 is the document through which mother and father had Purchased the suit property but no evidence have been filed by the plaintiffs to established that their mother and father purchased the property with their self acquired income. In 2007 itself partition had been taken place. The cause of action has not been stated by the plaintiff, he failed to mention properly that when he demanded for partition. The defendants have settled some properties in favour of the sisters but it is unregistered document. The partition deed was executed in the year 2007 within 3 years the plaintiff should have filed the suit. Non mentioning of the demand of partition is itself fatal to the plaintiffs case.



4.5. Further argued that the defendants 1 and 2 have sold properties to third parties, if it is out of possession the court fee should be paid as per section 7 of court fee and suit valuation act. It states that court fee should be paid as per the kist value. So once it is converted into Vacant site market value is to be calculated. All the properties were converted into plots and were not used for agriculture purpose, the defendants 1 and 2 are out of possession of the suit property . The court fee paid by the plaintiff is not correct. The parties who purchased the properties were not added as parties in the suit. Hence, it is bad for non joinder of necessary parties. In chief of pw2 he has stated that 25 years back they demanded partition but defendant 1 and 2 denied. Thus, the suit for barred by limitation. Out of the income accrued through ancestral property they plaintiffs, 1 and 2<sup>nd</sup> defendant mother and father purchased the suit properties. The plaintiffs states that they themselves have arranged marriage for themselves which is not correct. The power of attorney executed in favour of dw2 based on this suit property was sold. The Plaintiffs have denied their signature in the power of attorney deed but this court have power to compare their signature in the document. The defendant had filed the certified copy. The plaintiffs cannot generally deny the signature. In chief of pw1 he admitted that the property was divided. Hence prays to dismiss the suit.

### **5. Discussion and findings:**

#### **Issue No.1 and 2 are decided together as they are interconnected:**

5.1. Heard both sides. Peru's the records. The case of the plaintiff is that the suit gay schedule property was purchased by Mr. Gopal who is the father of plaintiff and the defendants one and two. Rescheduled property is a self acquired property of the plaintiff's mother Ponnammal. From the date of purchase the plaintiff's father Gopal and mother Ponnammal were in possession and enjoyment of the suit properties their father Mr Gopal died in the state 25 years back leaving behind his wife Ponnammal and the plaintiffs and the defendants 1 and 2 as they his legal heirs to



succeed the suit a scheduled property. The plaintiffs, defendants 1 and 2 and their mother Ponnimal were in peaceful possession of the suit properties as co-owner without making any division. Their mother Ponnamal also died intestate on 31.7.2011 leaving behind her the plaintiffs and the defendants 1 and 2 as her legal heirs to succeed the B schedule property. The plaintiff demanded the defendants to divide the suit property in the year 2012 but the defendant postponed the division of suit properties later the plaintiffs came to know that the defendants 1 and 2 partitioned the suit properties between them on 23.02.2007 and 21.3.2011 without the consent of the plaintiffs and also alienated 6<sup>th</sup> and 7<sup>th</sup> item of the suit property to the third defendant since the plaintiffs got married and settled in various places they are not in possession in the suit property along with the defendants 1 and two. So, the defendants are in actual possession of the property and the plaintiffs are out of the possession of the suit properties. Hence, prays for partition and permanent injunction.

**5.2.** Whereas, the contention of the defendant is that the suit properties are the ancestral and joint Hindu family properties The defendant's father and mother had no individual income to purchase the suit properties. Since they suit property is Hindu joint family properties of the defendant's father the plaintiffs have no any right, title and interest over the suit properties. The defendant developed the land properties into house sites and sold several persons. The defendant settled some properties obtained under the registered partition deed in favor of the plaintiffs under the registered settlement deeds so the plaintiffs have no any right title and interest over other properties. Since the defendant sold as the house sides to several persons with the knowledge of the plaintiff. The plaintiffs filed the suit as they are out of the possession and assessed the court fee under the kist value. When there is no kist received filed by the plaintiffs either in their name or any other name so the court fee paid by the plaintiff is not correct on this ground alone the suit is to be dismissed.



**5.3.** On perusal of rival submission this court is of opinion that to prove the case of the plaintiff, the 1<sup>st</sup> plaintiff herself was examined as Pw1 and EX.A1 to Ex.A12 were marked. Ex. A1 to Ex.A3 reveals that suit 'A' schedule property was purchased by Mr. Gopal the father of plaintiffs, 1<sup>st</sup> and 2<sup>nd</sup> defendant. Ex.A4 reveals that suit 'B' schedule property was purchased by Ponnammal the mother of plaintiffs, 1<sup>st</sup> defendant and 2<sup>nd</sup> defendant. Ex.A5 and Ex.A6 reveals that the suit property was partitioned only between 1<sup>st</sup> and 2<sup>nd</sup> defendant in the year 2007 and 2011. Ex.A7 reveals that Plaintiffs mother Ponnammal died on 31.07.2001. Ex.A8 reveals that plaintiffs, 1<sup>st</sup> and 2<sup>nd</sup> defendants are the legal heirs of Ponnammal. Ex.A9 the encumbrance certificate also reveals the entries of the execution of partition deed. Ex.A10 is the Patta in the name of plaintiffs mother Ponnammal. Ex.A10 is the Patta in the name of Plaintiffs mother Ponnammal, 1<sup>st</sup> and 2<sup>nd</sup> defendant and others. Ex.A12 reveals that the power agent of 1<sup>st</sup> and 2<sup>nd</sup> defendant had sold part of suit property to in favor of one Mrs.Kamatchi on 10.10.2007.

**5.4.** It is pertinent to note that the Ex.A1 to Ex.A4 clearly establishes that the suit A and B schedule properties are self acquired property of the plaintiffs, 1<sup>st</sup> and 2<sup>nd</sup> defendant mother and father. Ex.A7 reveals that plaintiffs, 1<sup>st</sup> and 2<sup>nd</sup> defendant are the legal heirs of the Ponnammal. The defendant also admits the relationship and death of Ponnammal and Gopal. It is admitted by the 1<sup>st</sup> and 2<sup>nd</sup> defendant that their mother and father died intestate. When that is the case, all the plaintiffs, 1<sup>st</sup> and 2<sup>nd</sup> defendants will have right to succeed the properties of their mother and father. But through Ex.A5 and Ex.A6 it is seen that 1<sup>st</sup> and 2<sup>nd</sup> defendant have partitioned the suit properties among them without including plaintiffs. It is well settled position of law that even daughters are having equal rights in property of their parents as that of the sons. Thus, the plaintiffs are also entitled to equal share in the properties left by their mother and father.



5.5. The contention of the defendant is that the suit property is ancestral and is purchased from Hindu joint family income. The burden is on the defendants to establish that the suit properties were purchased from the income of Hindu joint family income. But the defendant failed to adduce any document to prove the same. Only Ex.B1 to Ex.B3 were marked. Ex.B1 and Ex.B2 are xerox copies which cannot be relied. This court here also refers to the cross examination extract of Dw1 in which he has deposed that "எனது முதன்மை சாட்சியத்தின் ஏ அட்டவணை வழக்கு சொத்துக்களை எனது தந்தை பெயரில் கூட்டு குடும்பமாக கிரயம் பெற்றதாக தெரிவித்துள்ளேன் என்றால் நான் அது போல் தெரிவிக்கவில்லை"

5.6. Further has deposed that "வழக்கு சொத்துக்கள் அனைத்தும் எனது பெற்றோர் தான் அவர்களது வருமானத்தில் கிரயம் பெற்றார்கள் என்றால் எனது தந்தையின் வருமானத்தில் அவரது பெயரில் கிரயம் பெறப்பட்டது". In the light of reading the above extract it is evident that the suit properties were not purchased through Hindu joint family income.

5.7. The another contention of the defendant was that court fee was not valued properly. This court is of considered view to refer to section 37 of TNCF and SV Act. 1955.

*37. Partition suits (1) In a suit for partition and separate possession of a share of joint family property or of property owned, jointly or in common, by a plaintiff who has been excluded from possession of such property, fee shall be computed on the market value of the plaintiff's share.*

*7. Determination of market value (1) Save as otherwise provided, where the fee payable under this Act depends on the market value of any property, such value shall be determined as on the date of presentation of the plaint. (2) The market value of land in suits falling under sections 25(a), 25(b), 27(a), 29, 30, 37 (1), 37*



*(3), 38,45 or 48 shall be deemed to be -- (a) where the land is ryotwari land-thirty times the survey assessment on the land: Provided that, where the landforms part of a survey field and is not separately assessed to revenue, the value of such part shall be deemed to be thirty times such proportion of the survey assessment as the part bears to the entire survey field.*

5.8. From reading the above section it is clear that the plaintiff has valued the suit property as contemplated under section 7 of TNCF&SV Act and paid Rs.325 which is 30 times of the Kist value. Hence, the contention of the defendant is not maintainable.

5.9. Furthermore, the defendant contented that the suit properties were divided into house sites and sold in lots. It the burden on the defendant to prove the same but the defendant failed to adduce documents to prove his contention. At the outset, the defendants failed to prove his contention whereas, on the other hand, the plaintiff has proved their case with tenable documents. Hence, Issue No.1 and Issue No.2 are decided in favour of plaintiff.

**Issue No.3 :**

Considering that the above issues are decided in favor of plaintiff, any alienation made with respect to the 7/9 share of plaintiffs in suit properties are null and void.

In result this suit is decreed as follows:

- (i) The plaintiffs are entitled to the 7/9 share of partition in the suit properties.
- (ii) Permanent injunction is granted against the Defendants 1 to 3 restraining them, their men, agents and servants from in any way alienating the plaintiffs 7/9 share in suit properties.
- (iii) Any alienation made respect to the 7/9<sup>th</sup> share of plaintiffs in suit properties are null and void.



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(iv) Considering the relationship between the parties there shall be no orders as to cost

Given under my hand for signature and the seal of this court this the 25<sup>th</sup> day of March 2026.

District Munsif,  
Arakkonam.

**Plaintiff side Evidence:-**

PW1- Vadivel

PW2- Nageswari

**Plaintiff side Exhibits :-**

Ex.A1	19.03.1975	Sale deed in the name of plaintiff father.
Ex.A2	19.03.1975	Sale deed in the name of plaintiff father.
Ex.A3	26.09.1979	Sale deed in the name of plaintiff mother.
Ex.A4	05.12.1978	Sale deed in the name of plaintiff mother.
Ex.A5	23.02.2007	Regd. Partition deed in the name of defendants 1 and 2
Ex.A6	21.03.2011	Regd. Partition deed in the name of defendants 1 and 2
Ex.A7	-	Death certificate of plaintiffs mother
Ex.A8	08.04.2023	Legal heir certificate in favour of plaintiffs.
Ex.A9	04.10.2012	Encumbrance certificate in the name of plaintiff
Ex.A10	08.10.2012	Patta in the name of plaintiff's mother
Ex.A11	-	Patta in the name of plaintiff's mother
Ex.A12	10.10.2007	Sale deed in the name of 3 <sup>rd</sup> plaintiff.

**Defendant side Evidence:-**

DW1- Kumaresan

DW2 - Sumathi



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**Defendant side Exhibits :-**

Ex.B1	21.03.2011	Partition deed
Ex.B2	13.08.2007	Partition deed
Ex.B3	-	Registered Power of Attorney executed by defendants 1 and 2

District Munsif,  
Arakkonam.