

**IN THE COURT OF THE III ADDITIONAL DISTRICT JUDGE, SALEM.**

**PRESENT : Thiru. G.SRI RAMA JEYAM, B.L.,**

**III Additional District Judge,**

**Salem**

**Friday, the 1<sup>st</sup> day of March 2024**

**I.A.No.1/2022 in O.S.No.255/2016**

K.Muthu @ Muthusamy

..... Petitioner / Plaintiff

/ Versus /

1. K.Chinnu

2. Muniyan

3. R.Enbavalli

4. Balaji

5. Sandhiya

6. Tmt.Mani

..... Respondents / Defendants

This petition came up on 20.02.2024 for final hearing before me in the presence of Tr.V.Manigandan, Advocate for Petitioner / Plaintiff and Tr.P.Gopinath, Advocate for Respondent No.1/ Defendant No.1 and Tr.S.Rajaram, Advocate for Respondent No.3/ Defendant No.3 and Respondent Nos.2, 4 to 5/ Defendant Nos.2, 4 to 6 remained exparte and upon hearing the arguments of the Learned Counsel appearing for Petitioner and on the side of Respondents 1 and 3 and upon perusing the records and having stood over for consideration till this day, this Court delivers the following

### **ORDER**

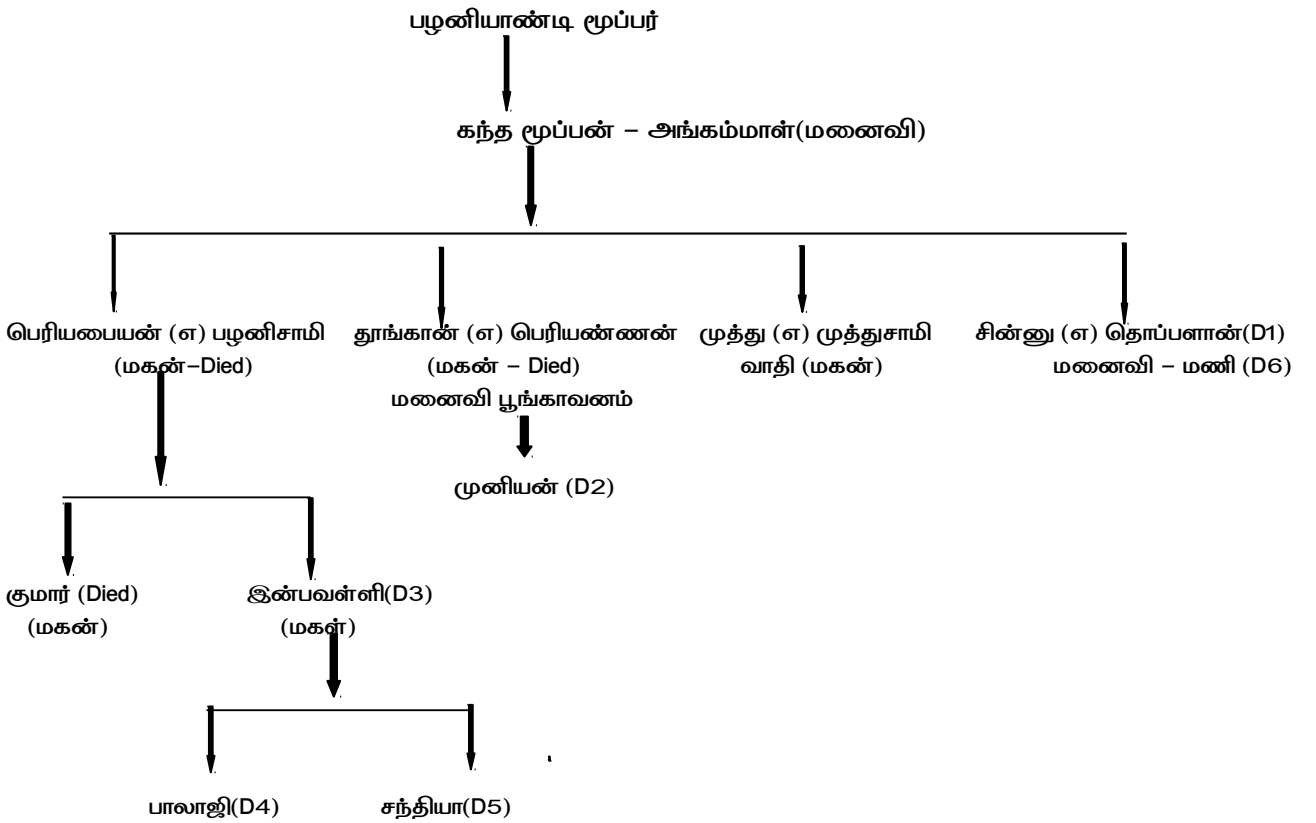
Plaintiffs in O.S.No.255/2016 is the Petitioner in the present Application, which is filed under Order 16 rule 1 and Sec.151 CPC, praying this Court to permit the Petitioner to summon the Tahsildar, Omalur Taluk as a witness with a direction to the witness to submit the documents relating to the Legal heirship Certificate dated 25.07.2014 in Ms.C.P.8099/2014(A) that was issued relating to one Late Muthusamy and to adduce evidence.

2) The Respondents oppose.

3) Heard both sides and perused the records.

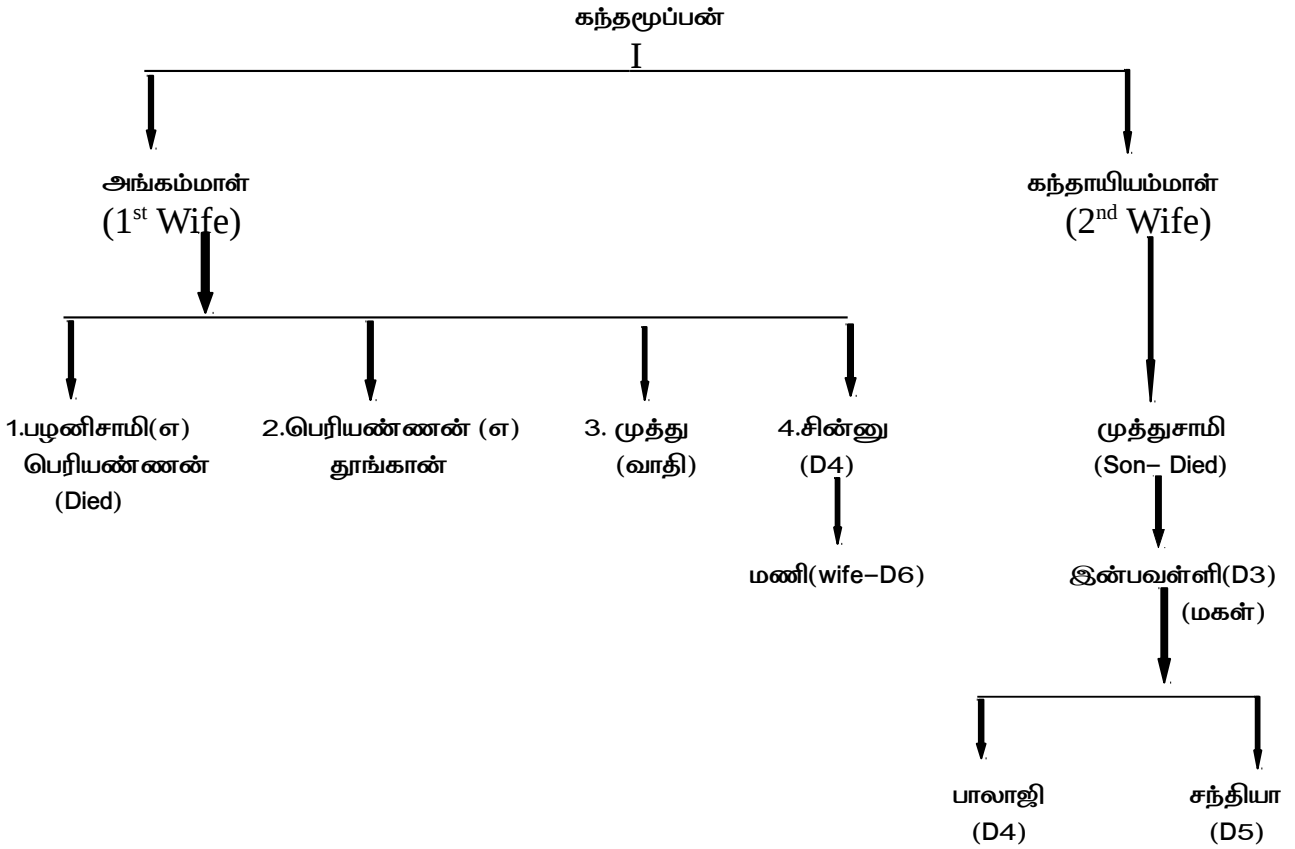
4) Perusal of records would show that the Petitioner has filed the above Suit seeking the relief of Partition and to declare several Sale Deeds as null and void and for Perpetual Injunction to restrain the 4<sup>th</sup> Respondent from in anyway creating further encumbrances over the Suit properties.

5) On the side of the Petitioner, the following Genealogy has been pleaded;



6) Therefore, it is the Case of the Plaintiff that his name is Muthu @ Muthusamy and he is one of the Son born to Kandha Moopan and his Wife Angammal.

7) The said Case of the Plaintiff seems to have been denied and disputed by the contesting Defendants. The Genealogy proposed by them is as follows;



8) According to the contesting Defendants, as referred to above, Kandha Moopan had two Wives namely Angammal (Senior Wife) and Kandhayammal (Junior Wife); that four Sons were born to Kandha Moopan and Angammal namely Palanisamy @ Periyapaiyan, Periyannan @ Thoongan, Muthu (Plaintiff) and Chinnu (D1); that one Mthusamy alone is the Son born to Kandha Moopan and Kandhayammal and the said Mthusamy had a Daughter by name Inbavalli and D4 Balaji and D5 Sandhiya are the Children born to Inbavalli; that the aforesaid Mthusamy Son of Kandhayammal is no more.

9) Therefore, the controversies between the parties is that Whether the Petitioner/ Plaintiff was born to Angammal or Kandhayammal? It seems that the Tahsildar, Omalur Taluk has issued a Legal heirship Certificate stating that the Son of Kandha Moopan by name Mthusamy died on 10.03.1985 and his Daughter Inbavalli alone is his Legal heir. The said document is found enclosed with Ex.A10 Sale Deed.

10) Therefore, it seems that the Petitioner would like to challenge the aforesaid Legal heirship Certificate issued by the Tahsildar as a manipulated document and for

the said purpose, he seems to have come up with the prayer to summon the Tahsildar, Omalur Taluk, who had issued the aforesaid Legal heirship Certificate.

11) After hearing both sides, this Court do not find any reason to reject the request made by the Petitioner to summon and examine the Tahsildar, Omalur Taluk as a witness. All those objections that are raised by the contesting Defendants would be considered at the appropriate stage and at this juncture, the Petitioner cannot be refused permission to examine the aforesaid witness.

12) It is settled proposition of Law that both the parties to the Suit should be permitted to adduce evidence relating to the fact in issue and relevant facts. In such view of the matter, this Court is inclined to allow the above Application.

**In result**, the above Application is allowed as prayed for.

Dictated to the Steno-Typist, transcribed by her, corrected and pronounced by me in open court, this the 1<sup>st</sup> day of March 2024.

III Additional District Judge,  
Salem.

**APPENDIX:**

Petitioner's Side Witnesses and documents : NIL

Respondents' Side Witnesses and documents : NIL

III Additional District Judge,  
Salem.