

IN THE COURT OF THE DISTRICT MUNSIF, SANKARI

Present: Tmt. R. ELAMATHI, B.A., B.L.,
District Munsif Court, Sankari

Monday, the 08th day of December, 2025

திருவள்ளூர்வராண்டு 2056, விசுவாவசு வருடம், கார்த்திகை திங்கள் 22-ம் நாள் திங்கள்கிழமை

I.A. 1/2021 in O.S.225/2016

Ramasamy

... Petitioner / Plaintiff

//Versus//

1. S.K. Vaitheeswara Varma
2. N. Senthilkumar
3. R. Ramya
4. R. Natarajan
5. J. Geetha Mahesu
6. K. Ramakrishnan
7. T. Kavitha
8. N. Saravanabhavan
9. M. Anbalagan
10. S. Santhosam
11. S. Kalaiselvi
12. Saroja
13. R. Sudhakar
14. Duraisamy
15. G.Nagarajan
16. M. Devendiran
17. P. Govindan

18. S. Kandaperumal

19. A. Chinnannan

20. S. Parameswari

21. P.Natarajan

22. M. Mohanasundaram

23. K. Hariharasudhan

24. P. Sangeetha

25. P. Rajamanickam

26. S. Vasantha

... Respondents / Defendants

This Petition taken to file on 25.02.2021 and coming on this day 06.11.2025 for hearing before me in the presence of Thiru.A.Kailassanathan Advocate for the Petitioner and of R1, R3, R5, R11, R12, R14, R17, R20, R24 to R26 counter not filed inspite of several opportunites. Hence it is deemed, that, the above said Respondent have no counter for this petition on 14.07.2022 and other Respondents were remained exparte in main suit and after perusing the petitions, petitioner's side arguments, this Court passed the following,

ORDER

This Interlocutory Application has been filed by the Petitioner/Plaintiff Under Section 10 and Section 151 of CPC, 1908 seeking to stay the trial of suit in O.S.no. 225/2016 till the disposal of suit in O.S.No. 101/2011 pending on the file of the Hon'ble Subordinate Judge Court, Sankari.

2) The Gist of the Petition:-

2.1) The Petitioners submit that he is the plaintiff in the suit. The Petitioner filed the suit against the Resondents/Defendants for the relief of Permanent Injunction interdicting and restraining them from interfering with petitioner

possession and not to trespass into the suit property and put up construction in the same forcibly. The suit property in S.No. 86/1 of Sankari Village is petitioner's ancestral joint family property and there is no division of suit properties between petitioner and other co-shares by metes and bounds. In law and equity petitioner entitled to 161/2 /72 shares (i.e.) 1.92 acres in common in the suit S.No. 8/61 of Sankari Village. As early as 2011 in view of misunderstanding between petitioner and other co-shares in the suit property and purchasers from some co-shares he demanded Partition. Since they were not amenable for amicable partition he had filed suit in O.S.No. 101/2011 before the Hon'ble Sub Judge Court, Sankari for the relief or Partition, Separate Possession against all the co-shares and purchasers.

2.2) The Petitioner contends that the Defendants have purchased only a portion of the suit property in S.No. 86/1 from the same defendants while the said suit in O.S.No. 101/2011 pending on the file of Hon'ble Sub-Judge Court, Sankari with the notice and knowledge of the suit. In law and equity during the pendency of partition suit the respondents/defendants have no right to purchase a portion of suit property without the leave of the court of law that too within four specific boundaries and definite extent in their sale deeds. The sale deeds of the respondents being lispendens documents Under Section 52 of Transfer of Property Act subject to the result of the prior partition suit filed by pending in O.S.No. 101/2011 before Hon'ble Subordinate Judge Court, Sankari. Even along with Plaint the petitioner had filed the certified copy of the Plaint in O.S.No. 101/2011. In the said suit in O.S.No. 101/2011 the trial is yet to commence. The basic contention is that whether the suit property in S.No. 86/1 is partitioned by metes and bounds or not.

2.3) The Petitioner contends that likewise the bone contention in this suit is that in absence of partition by metes and bounds in suit S.No. 86/1 the respondents have no right or locusstandi to purchase specific property with boundaries and extent as

per their sale deeds or claim possession on the basis of their lispendens sale deeds. As such the issue to be decided in both suits are substantially one and the same and interrelated. The claim of partition, separate possession being major relief in the suit O.S.No. 101/2011 on the file of Sub-Judge Court, Sankari being earlier comprehensive suit for partition the result in that suit will certainly have binding nature in this subsequent suit for lesser relief of Permanent Injunction. In such circumstances, if the trial of this subsequent Permanent Injunction suit proceeded first the same will certainly create unnecessary complications, cause loss and injury to petitioner. As such in interest of justice the trial of this subsequent suit is to be stayed till the disposal of the earlier comprehensive suit for partition in O.S.No. 101/2011 pending on the file of the Hon'ble Sub-Judge Court, Sankari. Otherwise petitioner will be put to irreparable loss, injury and hardship. Therefore it is just and necessary that this court may stay the trial of this suit in O.S.No. 225/2016 till the disposal of the earlier comprehensive partition suit in O.S.No. 101/2011 pending on file of the Hon'ble Sub-Judge, Sankari and pass such other suitable orders in this regard and thus render justice.

3) On 14.07.2022, the respondents opportunity of filing the counter has been closed inspite of giving multiple opportunitites of filing Counter.

4) Point for consideration:-

Whether the Petitioner is entitled for the relief as prayed for?

5) On the side of Plaintiff Ex.P1 to Ex.P15 were marked. The Sale deed in favour of Varuthappagounder, Ramasamygounder, Muthugounder dated 17.04.1950 is marked as Ex.P1. The Sale deed in favour of Varuthappagounder, Ramasamygounder, Muthugounder dated 17.05.1950 is marked as Ex.P2. The Sale deed in favour of Varuthappagounder, Ramasamygounder, Muthugounder dated

24.10.1950 is marked as Ex.P3. The Sale deed in favour of Varuthappagounder, Ramasamygounder, Muthugounder dated 30.04.1951 is marked as Ex.P4. The Sale deed in favour of Varuthappagounder, Ramasamygounder, Muthugounder dated 29.12.1952 is marked as Ex.P5. The Sale deed in favour of Varuthappagounder, Ramasamygounder, Muthugounder dated 23.08.1954 is marked as Ex.P6. The Sale deed dated 08.02.1965 executed by Muthugounder in favour of Athayammal is marked as Ex.P7. The sale deed dated 08.02.1965 executed by Muthugounder in favour of Palaniammal is marked as Ex.P8. The sale deed dated 23.02.1972 executed by Athayee and others in favour of Varuthappagounder is marked as Ex.P9. Patta for suit property in S.No. 86/1 dated 22.06.2011 is marked as Ex.P10. Kist receipt paid by the plaintiff dated 07.05.2011 is marked as Ex.P11. The Certified copy of Plaint in O.S.No.101/2011 on the file of Hon'ble Subordinate Judge Court, Sankari is marked as Ex.P12. Kist receipt paid by the plaintiff dated 19.03.2014 is marked as Ex.P13. Encumbrance certificate for suit property in S.No. 86/1 dated 18.11.2016 is marked as Ex.P14. Genealogical tree filed by the plaintiff is marked as Ex.P15. No oral and documentary evidences were adduced on defendant side, since the opportunity of filing counter has been closed.

6) Heard both sides learned Counsels. Records perused. This Interlocutory Application has been filed by the Petitioner/Plaintiff Under Section 10 and of Section 151 of CPC, 1908 seeking to stay the trial of suit in O.S.No. 225/2016 till the disposal of suit in O.S.No. 101/2011 pending on the file of the Hon'ble Subordinate Judge Court, Sankari. The case of the petitioner in brief, is that the suit land in both suits is S.No.86/1 of Sankari Village. The said suit property originally belongs to petitioner's ancestors, which was purchased by them and held jointly by them and there is no division of suit properties by metes and bounds was effected between the co-sharers and the petitioner. The petitioner claims a specific

undivided share of 16 $\frac{1}{2}$ /72 i.e., 1.92 acres in common in the suit S.No. 86/1 Sankari Village. The petitioners submits that certain co-owners have executed a sale deed to the third parties in that regard the petitioner has instituted a suit in O.S.No. 101/2011 seeking a relief of partition and separate possession against a co-owner and the purchaser before the Hon'ble Subordinate Judge Court, Sankari. The petitioner has now filed the present suit in O.S.No. 225/2016 seeking a relief of Permanent Injunction to protect the petitioners possession against forcible interference by the persons who claim under sale deeds executed by the co-owners. The petitioner further submits that any of the sale deeds were executed during the pendency of the suit in O.S.No. 101/2011 are lispendens document and that the rights of the purchaser must be adjudicated subject to the result of partition suit. The petitioner contends that if the trial of the subsequent Permanent Injunction suit is proceeded first the same will certainly create unnecessary complication, loss and injury to the petitioner.

6.1) Upon careful consideration contention of the petitioner and perusing the material records, this court could seen that the subject matter in both suits i.e., the present suit in O.S.No. 225/2016 and the suit in O.S.No. 101/2011 pending before the Hon'ble Subordinate Judge Court, Sankari relates to the same S.No. 86/1 of Sankari Village and also arises out of the same route of the title. This court is bound to elucidate the scope of Section 10 of CPC and it operate to prevent multiplicity of litigation and conflicting decrees by staying a subsequent suit were the matter in issue substantially the same and the parties are litigating under the same title. The suit in O.S.No. 101/2011 is the comprehensive suit for partition and separate possession amongst co-sharers who claim title as joint owners. That suit seeks a declaration of a shares and decree of partition by metes and bounds and consequential relief and it is still pending for trial. The present suit in O.S.No.

225/2016 pending before this court seeking Permanent Injunction restraining trespass into the suit property arbitrarily and not to put up construction by the persons who claim under sale deeds executed in respect of portions of S.No. 86/1. Several of those sale deeds were executed by co-sharers whose title and enjoyment are directly in issue in suit in O.S.No.101/2011. In this present Interlocutory Application the respondents are the person who claim through the same route of the title and whose rights are interconnected with the subject matter of the earlier suit which falls within the purview of this section. While looking into the present case in hand both suits concern the same property in S.No. 86/1, the core question to be decided is that the existence or otherwise of partition by metes and bounds and the entitlement of several sharers to specific portion. The validity of alienations executed by the co-sharers and the effect of such alienations upon the rights of petitioner are central to both proceedings.

6.2) The defendants in O.S.No.225/2016 are the persons who claim under vendors / co-sharers who are parties in O.S.No. 101/2011. In such circumstances the defendants are to be treated as a person litigating in respect of the same title and are connected to the parties to the earlier suit for the purpose of Section 10 of CPC. The validity of transfers by the co-sharers, extent of shares, right to possession and the effect of pending partition proceedings are substantially overlap in both suits. A decision in suit O.S.No. 225/2016 without the final determination of suit in O.S.No. 101/2011 would possibly result in inconsistent or conflicting findings and multiplicity of proceedings. Based upon the discussion made above this court is of considered opinion as the subject matter in suit O.S.No. 101/2011 and O.S.No. 225/2016 is substantially the same. The defendants in O.S.No. 225/2016 are the person who claim through the vendors / co-owners who are parties in the earlier suit and are therefore sufficiently connected and to be treated as litigating under the

same title for the purpose of Section 10 of CPC. Therefore in the interest of justice and to avoid multiplicity of litigations and inconsistent decrees, the trial in O.S.No. 225/2016 ought to be stayed till the final disposal of suit O.S.No. 101/2011.

7. In the result, this Interlocutory Application is allowed. The trial in O.S.No. 225/2016 ought to be stayed till the final disposal of suit O.S.No. 101/2011 pending before the Hon'ble Subordinate Judge Court, Sankari. No cost.

This order directly dictated to the Typist and typed by her and corrected by me, and Pronounced in the Open Court in the 08th day of December 2025.

**District Munsif,
Sankari.**

Encl:

Petitioner side Witnesses :- NIL

Petitioner side Exhibits:-

Ex.P1	17.04.1950	Sale deed in favour of Varudappa Gounder, Ramasamy Gounder, Muthu Gounder	Regn. Copy
Ex.P2	17.05.1950	Sale deed in favour of Varudappa Gounder, Ramasamy Gounder, Muthu Gounder	Regn. Copy
Ex.P3	24.10.1950	Sale deed in favour of Varudappa Gounder, Ramasamy Gounder, Muthu Gounder	Certified Copy
Ex.P4	30.04.1951	Sale deed in favour of Varudappa Gounder, Ramasamy Gounder, Muthu Gounder	Certified Copy
Ex.P5	29.12.1952	Sale deed in favour of Varudappa Gounder, Ramasamy Gounder, Muthu Gounder	Certified Copy

Ex.P6	23.08.1954	Sale deed in favour of Varudappa Gounder, Ramasamy Gounder, Muthu Gounder	Certified Copy
Ex.P7	08.02.1965	Sale deed in executed by Muthu Gounder in favour of Athayammal	Regn.Copy
Ex.P8	08.02.1965	Sale deed in executed by Muthu Gounder in favour of Palaniammal	Regn.Copy
Ex.P9	23.02.1972	Sale deed in executed by Athayee and other in favour of Varudhappa Gounder	Certified Copy
Ex.P10	22.06.2011	Computer Patta for suit property S.No. 86/1 of Sankari Village	Certified Copy
Ex.P11	07.05.2011	Kist Receipt paid by the Plaintiff	Certified Copy
Ex.P12	--	Plaint in O.S.No. 101/2011 on the file of Sub-Judge Court, Sankari	Certified Copy
Ex.P13	19.03.2014	Kist Receipt paid by the Plaintiff	Original
Ex.P14	18.11.2016	Encumbrance Certificate	Download Copy
Ex.P15	--	Genealogical Tree filed by the Plaintiff	Original

Respondents side Witnesses & Exhibits:- NIL

**District Munsif,
Sankari**

District Munsif Court, Sankari.
Draft / Fair Order
I.A.1/2021 in
O.S.No.225/2016
Date: 08.12.2025
