

CNR Number : TNSA120006962025

IN THE COURT OF THE SUBORDINATE JUDGE, ATTUR
SALEM DISTRICT.

PRESENT: **Thiru S.Ganesan, B.Sc.,M.A.,B.L.,**
Subordinate Judge, Attur.

Tuesday, this the 17th day of March 2026

O.S.No.355/2025

Shantha Sheela	...	Plaintiff
/Versus/		
1.K.Azhagendiran		
2.Monika		
3.Gunaseelan	...	Defendants

This Suit having been heard on 10.03.2026 in the presence of Tmt.R.Saritha, Learned Advocate for the Plaintiff and the Defendants service held sufficient called absent and they were set exparte and considering that upon perusing the records and arguments and having stood over for consideration this Court delivered the following

JUDGMENT

1. This suit is filed for the plaintiff direct the defendants to divide the suit schedule mentioned property by metes and bounds and allot $\frac{1}{4}$ share to the plaintiffs and permanent injunction restraining the defendants from alienating or encumbering the suit Schedule Mentioned Property in favour of third party.

2. **The Averments of the plaint:-**

3. The 1st defendant K.Azhagendiran got married with one

Pappa and they were blessed with 2 daughters and one Son namely (i) Shantha Sheela the plaintiff herein (ii) Monika the 2nd defendant and (iii) Gunaseelan the 3rd defendant herein. The plaintiff's maternal grandfather and grandmother only take care of the plaintiff from her childhood to till her Education. In the year 2008, the 1 defendant along with her maternal grandparents performed her Marriage with one Mr.Sankar who is working in the Private concern. Out of wedlock, the plaintiff begotten two Children namely S.S.Prathiksha (daughter) 12 year and S.S.Danus Menon (Son) 10 years now under Care and custody of the Plaintiff. The plaintiff further states that her husband Sankar died on 02.10.2018 due to ill health leaving behind his surviving legal heirs of Plaintiff and his children.

4. The entire house and land property situate at Kaspaa Aathur Town and Taluk comes within the SRO Aathur, Registration District of Salem bearing Survey No.707/1E, Punja land in an extent of 0.93 cents; Survey No.707/1F, Punja land in an extent of 0.06 cents; Survey No.710/1E, Punja land in an extent of 0.71; Survey No.710/2C, Punja land in an extent of 0.66 cents; Survey No.710/2K, Punja land in an extent of 0.11 cents; Survey No.710/2D a Well and 5HP Motor and Pump Set, Electrical Fittings, morefully described in the schedule and hereinafter mentioned as Schedule of property was originally owned by the plaintiff's grandfather Mr.Kulanthai by way of family partition. On 12.09.2017, he died leaving behind his surviving legal heirs of 1.K.Azhagendiran 2.Rajamani 3.Lakshmi and 4. Mageshwari.

5. On 02.01.2023, the 1st defendant's Sisters Rajamani, Lakshmi and Mageshwari have executed a Release deed to and in favour of 1st

defendant with valid Consideration and the same has been registered as Document No.8 of 2023 in the office of the Sub Registrar Office, Athur, Salem District. After that the 1st defendant along with other defendants enjoying the suit Schedule Mentioned property without any hindrance.

6. The plaintiff's husband died on 02.10.2018 after that the plaintiff stayed along with her in laws but they were III-treated the plaintiff and her children. Hence the plaintiff left the matrimonial house and stayed with her parents house. Since she is not able to lead her life peacefully and she always depend on her parents or 3d defendant and she is not meat out her day to day expenses. After some period the defendants failed to maintain the plaintiff and her children on the other hand they tried to dispossess the suit Schedule Mentioned property since the Plaintiff having 1/4 Share in the Suit Schedule Mentioned property.

7. The plaintiff's father/1st defendant performed the plaintiff's Marriage and when the plaintiff's husband was died. The 1st defendant assured that the above said suit property absolutely belonged to his Legal heirs equally. The plaintiff's grandfather Kuzhanthai was alive he had mortgaged the above said property earlier in favour of Attur Primary Co-Operative Society availed loan of Rs.46,000/- (Rupees Forty Six Thousand Only) by way of Mortgage Deed bearing document No.2715 of 2001 dated 18.12.2001 in which Santha Sheela herein the plaintiff had also signed and executed a Mortgage deed in favour of Attur Primary Co-Operative Society along with the defendants 1 to 3.

8. On 10.06.2022 the Attur Primary Co-operative Society executed a receipt bearing document No.3779 of 2022 and cancelled the above

said mortgage deed executed on 18.12.2001 bearing document No.2715 of 2021. In which, the plaintiff name was also mentioned. The plaintiff is having 1/4th share in the above said property by way of inheritance.

9. The plaintiff is not maintaining herself and her children without any source of income. Hence, the plaintiff requested the defendants to divide the suit Schedule Mentioned property equally in amicable manner. Immediately, the 3rd defendant made quarrel with the plaintiff and refused to divide the suit property. Hence, the plaintiff temporarily shifted her residence from the suit Schedule Mentioned property to Present Chennai address and now she doing work and maintain her children.

10. The defendants have not heeded to the request of the plaintiffs in respect of the aforesaid proposal of the plaintiff to divide the property by metes and bounds. Subsequently, the Plaintiff had proposed in the year 2023 itself. The defendants had not accepted to the request of the Plaintiff and had not responded to the Plaintiff positively and had been dragging the proposal of the Plaintiff endlessly to suit their convenience much against the interest of the Plaintiff who got equal share in respect of the said property along with the defendants.

11. In spite of the aforesaid final proposal placed by the plaintiff, the defendants had turned a deaf ear to the request of the plaintiff. Further, all the defendants had threatened the plaintiff with dire consequences in the event of seeking for right in respect of the property. In spite of the plaintiff best efforts to resolve the matter amicably by various suggestion and modes the defendants are all not interested in resolving the aforesaid issue. Hence, the suit is filed ofor partition and permanent

injunction.

12. The defendants evaded service of summons hence substituted service ordered and Service held sufficient, the defendants called absent and they were set *ex-parte* on 07.01.2026.

13. Point for consideration:-

Whether the Plaintiff is entitled for the reliefs prayed for?

14. On the side of the Plaintiff, plaintiff examined as PW1 was and Ex.A1 to A8 are marked through PW.1.

15. In order to evince and substantiate the case of the Plaintiff, PW1 had deposed in her Proof Affidavit as stated in the Plaint. Ex.A1 is the Aadhar Card of the plaintiff, Ex.A2 is the Aadhar Card of the plaintiff's Daughter, Ex.A3 is the Aadhar Card of the plaintiff's Son, Ex.A4 is the Family Card of the plaintiff, Ex.A5 is the Plaintiff's husband (Sankar) Death certificate , Ex.A6 is the The plaintiff's Widow certificate, Ex.A7 is the Cancellation of Mortgage Deed receipt in document No.3779/2022 at SRO Aathur, Ex.A8 is the Release Deed in favour of the 1st defendant executed by his sisters bearing document No.8/2023 at SRO, Aathur were marked through PW1.

16. The 1st plaintiff examined herself as PW.1 and she deposed her evidence in the same averments made in the plaint. As per the Ex.A1 to Ex.A8, the case of the plaintiff categorically reveals that the suit property is belonged to the grandfather Kulanthai. Further after his demise the property devolved equally among the legal heirs of Kulanthai who are 1.K.Azhagendiran 2.Rajamani 3.Lakshmi and 4. Mageshwari.

17. As per the averments Kulanthai passed away on 12.09.2017, leaving behind his surviving legal heirs. Thereby by executing the release deed by the sisters Rajamani 3.Lakshmi and 4. Mageshwari to the 1st defendant On 02.01.2023. The plaintiff's husband has got equal share in the suit property. Since the marital ties of the plaintiff was not severed, the plaintiff is entitled to succeed the estate of the deceased husband Shankar. The Genealogy Ex.A2 categorically shows the successions.

18. Therefore, the defendants also failed to deny the contentions of the plaintiff and could not able to assert any other contention apart by the stand taken by the plaintiff.

19. Therefore, there is no other contra evidence available to discard the contention of the plaintiff and the suit properties are governed under Section 8 of the Hindu Succession Act and the plaintiff and her daughter Prathiksha and SS. Dhanushmenon are the rightful owners to succeed the estate of the deceased Kulanthai. Hence, they have got 1/4 shares in the suit proprieties.

20. The Plaintiff has proved her case ***under Section 104 of Bharatiya Sakshya Adhiniyam (Section 101 of the Evidence Act)*** and discharged the initial burden lies on her. On the other hand, the Defendants have deliberately failed to appear for contesting the suit. Therefore, this court wants to invoke and draw an adverse inference as against the Defendants ***under Section 119 (g) of Bharatiya Sakshya Adhiniyam (Section 114 (g) of Evidence Act)*** . Looking at any angle, the suit is needfully required to be decreed as prayed for.

21. Since the main relief of partition has been granted the

plaintiff has made out a prima facie case and the balance of convenience in her favour. If the 1st defendant alienate the suit proeprty, it will crreate multiplicity of proceedings. Further more at the time of taking possession during the final decree proceedings, it will create more choas at that time therefore to enjoy the fruits of the preliminary decree, if the relief of permanent injunction not to alienate the suit property till the allotment of shares to the plaintiff, will be just one in the facts and circumstance of this case. If the permanent injunction relief is got granted , the plaintiff will be put into heavy irreparable loss and hardship than that the of the defendants. Thereby this court is inclined to grant permanent injunction not to alienate the suit property till the allotment of shares to the plaintiff. Accordingly the point is answered.

22. In the result, the suit is decreed with cost by passing preliminary decree of partition of 1/4 share of the plaintiff in the suit properties, As per the Apex Court Judgment the parties are liberty to file final decree petitions.

Dictated by me to the Steno-Typist, computerized by her directly to my dictation, corrected and pronounced by me in the open Court, this the 17th day of March 2026.

Subordinate Judge,
Attur

Witness on the side of Plaintiffs:-

PW.1 – Tmt.Shantha Sheela - Plaintiff

Exhibits marked on the side of Plaintiff:-

Ex.A1	--	Aadhar Card of the plaintiff - Photocopy
Ex.A2	--	Aadhar Card of the plaintiff's Daughter - Photocopy
Ex.A3	--	Aadhar Card of the plaintiff's Son - Photocopy
Ex.A4	--	Family Card of the plaintiff - Photocopy
Ex.A5	02.10.2018	Plaintiff's husband (Sankar) Death certificate - Photocopy
Ex.A6	03.03.2021	The plaintiff's Widow certificate - Photocopy
Ex.A7	10.06.2022	Cancellation of Mortgage Deed receipt in document No.3779/2022 at SRO Aathur - Online copy
Ex.A8	02.01.2023	Release Deed in favour of the 1 st defendant executed by his sisters bearing document No.8/2023 at SRO, Aathur - Online copy

Witness and Exhibits on the side of Defendants:- NIL

Subordinate Judge,
Attur

*Draft/Fair judgment
O.S.No.355/2025
Sub-Court,Attur
Dated:17.03.2026*