

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI

PRESENT : Tmt.R.PREMI, B.A., L.L.B., (Hons).,

District Munsif, Devakottai

Thursday the 16th day of April, 2026

O.S.No.11/2019

CNR No: TNSV060000262019

Durairaj

...Plaintiff

-Vs-

1.Sornam Ammal

2. Anbuselvam

3. Gandhimathi

4. Tamilarasi

5. Kalavathi

6. Jeyaraj *(died)*

7. Revindhar

8. *Sureka

9. Minor Harsith

10. Minor Harsha*

...Defendants

** (Represented through 9, 10th defendants, Mother & Guardian as 8th defendant) **

Amended as per Order in I.A.No.05/2022 dated 22.03.2022

As per Order in I.A.No.06/2022 dated 31.03.2023

This suit came up on 27.03.2026 for a final hearing, before me in the presence of Thiru.V.Sundar learned advocate for the Plaintiff, Thiru.M.Periasamy learned advocate for the D1,D2, D7 to D10, whereas D3 to D5 was set ex-parte, D6 was died and having stood over till this day for consideration, this court delivered the following...

JUDGMENT

The suit has been filed seeking prayer of Partition and Declaration

1. The averments in the plaint in brief as follows:

(i). The plaintiff and the 1st defendant are mother and son respectively. The 2 to 5 defendants are the siblings of the plaintiff. The family genealogy of the plaintiff is produced as document number 1. The plaintiff states that the suit property along with several properties of the father of the plaintiff and the 2 to 5 defendants, Mr.A.Lakshmanan were ancestral properties and some of them were bought by him. The 1st defendant has bought the suit property through a registered sale deed dated 18-12-1997 from Veerappa Chettiyar and Chidambaram Chettiyar through document number 1828/1997. The certified copy of the sale deed is produced in document number 2. The plaintiff states that the 1st defendant is illiterate and is a housewife. She has never went to work. This is known to the entire village. This being so, the defendant having no source of income could not have purchased the suit property and the defendants cannot also prove the same. Also the husband of the 1st defendant and the father of the plaintiff, Mr. Lakshmanan has through the hard work of himself and of this plaintiff has established a brick kiln with them named SLP and through that income has purchased the suit property in the name of 1st defendant. Also the said brick kiln had the license in the plaintiff's name. Since there already arose a dispute with respect to the suit property in the year of 2007, the plaintiff has issued a paper publication regarding the suit property in the Tamil daily Thinathanthi on 21.06.2007. The said copy of the newspaper ad is produced as document number 3. In the said ad it has been stated that the suit properties should not be sold without consulting the plaintiff and his siblings and also should not encumber it in any way. It has been detailedly mentioned in the said advertisement that the property is of survey number 301 in patta number 920, and the survey number 301 in patta

number 400. Also, for the aforesaid advertisement, the 1st defendant or the siblings of the plaintiff did not state any objections. After that compromise was arrived at between the plaintiff and the defendant and they have been living together as a family. On 21.01.2019 the 1st defendant has sold the suit property to 6,7 defendants by a registered sale deed. The plaintiff came to know about this through his village people. The certified copy of the sale deed is produced as document number 4. The plaintiff states that the 1st defendant is of 87 years old and she is uneducated and the 2nd defendant, Mr. Anbuselvan has been suffering from stroke and he is physically and mentally ill. Also the 2nd defendant has a habit of signing in Tamil only. Also the 6th defendant Jayaraj and the 7th defendant Ravindar had created a forged document and has bought the suit property by a document dated 21.01.2019 and the plaintiff came to know that the 1st defendant has placed her finger impression on the same out of fear. Similarly, the 2nd defendant has signed in the said document in English. Also the signature of the 3 to 5 defendants were not obtained in the said sale deed. The plaintiff also says that he had been attempting to orally partition the suit property among himself and his siblings. But all those efforts went in vain. Hence the suit property has been fenced by the plaintiff and it is in joint possession and enjoyment. The plaintiff also states that all the properties of the late Lakshmanan were bought in the name of the 1st defendant for namesake only and they were not the self earned properties of the 1st defendant.

(ii). The property was bought in the name of the 1st defendant for the purpose of luck only. The plaintiff states that the 1st defendant who has sold the property is of 87 years of age and the witness who is the 2nd defendant is an ill person. Also, the 6th defendant has cheated 1,2 defendants and have acquired the suit property which is not acceptable. Also, the suit property inclusive of several other properties are undivided Hindu family properties

and the same will not be binding on the plaintiffs share in any way. Hence, since the 3 to 5 defendants are the siblings of the plaintiffs they were also added as parties. The plaintiff has sent a legal notice to the 1 to 6 defendants 19.02.2019 which is produced as document number 5 and acknowledgment card of the same is produced as document number 6. For which the defendants have sent a false reply the copy of which is produced as document number 7. The plaintiff has also given a reply notice to the defendants which is produced as document number 8 and the returned cover of the 1st legal notice is produced as document number 9. Hence the plaintiff has filed a suit seeking for the prayer of partition and for declaration that the sale dated 21/01/2019 will not be binding on the plaintiffs' share and prays for the suit to be decreed.

2. Averments in the written statement filed by 1,2 defendants:

The defendants have denied the contentions of the plaintiff and have stated that the plaintiff is the son of the 1st defendant. The 2nd defendant is another son of the 1st defendant and 3 to 5 defendants are the daughters of the 1st defendant. The husband of the 1st defendant, Mr. Lakshmanan has deceased. The 1st defendant has through her own income bought the suit property by a registered sale deed dated 18/12/1997 from Veerappa Chettiar and Chidambaram Chettiar. The 1st defendant has bought the suit property through her own income and with the help of jewelry that were given to her by her parents. Since then the suit property has been in the possession and the enjoyment of the 1st defendant. After the husband of the 1st defendant has died, neither the plaintiff nor the other children of the 1st defendant have taken care of her. Hence the 1st defendant has sold the suit property to the 6,7 defendants on 21/01/2019 through a registered sale deed. Since the suit property is a self earned property of the 1st defendant she can sell it to whomsoever she likes and nobody has a right to object the same. Also when

the suit property was bought by the 1st defendant, the plaintiff was never in the house. The plaintiff was married in the year of 1987. On the next day of his marriage, he left for his wife's house and has never returned and he is not in good terms with the defendants nor his other siblings. In the meanwhile, the 1st defendant's husband has died on 16/11/2002. Before his death their daughters and their second son who is the 2nd defendant were married off properly. Also the plaintiff had never spent money to take care of the 1st defendant or the marriage of the other children. This being so his share in the ancestral property was partitioned and given to him. The plaintiff has sold the same by dividing it into flats. In the meanwhile, the 1st defendant has sold herself-earned property for maintenance and from the sale proceeds she's conducting her daily life. The plaintiff cannot file a suit claiming a share in a property over which he has no right, title or interest. The defendants also state that partial partition is not valid and that the plaintiff has paid an improper court fee and hence prays for the suit to be dismissed.

3. Averments in the written statement filed by 6,7 defendants:

The 6,7 defendants have denied the contentions of the plaintiff and has stated that the 6,7 defendants have bought the suit property from the 1st defendant through a registered sale deed dated 21-1-2019. Since then the 6,7 defendants have been in possession and enjoyment of the said property. The said property was bought by the 1st defendant through her own income by a registered sale deed dated 18-12-1997. She has bought the property from Veerappa Chitiyar and his brother Chidambaram Chitiyar with the help of her own income and the gold ornaments that were given by her parents. These details were known by the 6,7 defendants through encumbrance certificate and through legal advice obtained from various advocates. The 6,7 defendants have bought this suit property only after ensuring that there are no encumbrances over the same. Since this suit property is a self earned property

of the 1st defendant she has a right to sell it to whomsoever she may like and nobody has a right to question or object the same. They also state that partial partition is not valid and that the plaintiff has paid improper court fee. Hence they pray for the suit to be dismissed.

4. Averments in the written statement filed by 8 to 10 defendants:

The 8 to 10 defendants have adopted the written statement filed by the 1,2 defendants and 6,7 defendants.

5. Issues framed:

1. Whether the suit property is the self acquired property of the 1st defendant?

2. Whether the suit property is purchased by the father of plaintiff in the name of the 1st defendant only on the basis of name lender?

3. Whether the plaintiff and his siblings are entitled to share in the suit property?

4. Whether the plaintiff is entitled for the relief of declaration that doc.No.123/19, dated 21.01.2019, to be declared as not binding on the plaintiff's shares?

5. Whether the plaintiff is entitled for the relief of partition as prayed for?

6. To what other relief?

6. The evidence adduced by the Plaintiffs:-

a. **Oral Evidence**

The plaintiff in order to prove his case has examined himself as PW1 and has marked the exhibits A1 to A9. He has also examined one Mr. Chellaiya as PW2 and no exhibits were marked through him.

b. **Documentary Evidence**

To substantiate his case the plaintiff has marked the following:-

(I) Exhibit A1 is the family genealogy of the plaintiff,

(II) Exhibit A2 is the certified copy of the sale deed by which the 1st defendant has bought the suit property dated 18-12-1997,

(III) Exhibit A3 is the paper advertisement,

(IV) Exhibit A4 is the certified copy of the sale deed through which the 1st defendant has sold the property to the 6,7 defendants dated 20.01.2019,

(V) Exhibit A5 is the legal notice sent by the plaintiff to the defendants dated 19-2-2019,

(VI) Exhibit A6 are the acknowledgment cards,

(VII) Exhibit A7 is the reply notice given by the 6,7 defendants,

(VIII) Exhibit A8 is the reply notice given by the plaintiffs,

(IX) Exhibit A9 is the returned cover along with the legal notice served to the 3 to 6 defendants.

7. The evidence adduced by the Defendants:-

a. Oral Evidence :

The defendants in order to prove their case has examined 2 witnesses and has marked the exhibits B1 to B5. The defendants in order to prove their case has examined the 1st defendant as DW1 and no exhibits were marked through him. They have also examined the 7th defendant as DW2 and exhibits B2 to B5 were marked marked through him. Exhibit B1 was marked with the cross examination of PW1.

b. Documentary Evidence:

To substantiate their case the defendants have marked the following;-

(I) Exhibit B1 is the sale deed dated 18-12-1997 through which the 1st defendant has bought the suit property from Veerappa Chettiar and Chedambaram Chettiar,

(II) Exhibit B2 is the sale deed dated 21-01-2019 through which the 6,7 defendants have bought the suit property from the 1st defendant.

(III) Exhibit B3 is the patta transfer order of the suit property dated 09-02-2019.

(IV) Exhibit B4 is the encumbrance certificate of the suit property.

(V) Exhibit B5 is the 10(1) of the suit property in patta number 2313.

8. Discussion:-

a) Issues Nos 1,2:

1. Whether the suit property is the self acquired property of the 1st defendant?

2. Whether the suit property is purchased by the father of plaintiff in the name of the 1st defendant only on the basis of name lender?

(i) It is the case of a plaintiff that the suit property was bought in the name of his mother that is the 1st defendant through the income of the plaintiff and his late father and the same was bought in her name for the namesake only and that it is not the self earned property of the 1st defendant. Hence the burden of proving the same is on the plaintiff. The plaintiff in order to prove his case has examined 2 witnesses and has marked 9 documents. The PW1 in his examination in chief has deposed as to how the defendants are related to him and how the suit property was bought in the name of the 1st defendant by himself and his father their hard earned money. He has also deposed that the 1st defendant is illiterate and she has never went to work. So she did not have any income and she could not have bought the suit property out of her own income. He has also deposed that the suit property was bought in the name of 1st defendant for the purpose of luck only and it was bought out of the income of the plaintiff and his late father. He has also deposed that the 2nd defendant is mentally ill and he has a habit of signing in tamil only. He has also stated that the 6,7 defendants have forged the sale deed and has obtained the finger impression of the 1st defendant and also has cheated the 1st defendant and the 2nd defendant and have obtained their signatures in the

same document out of co-ercion. He has also deposed that the plaintiff along with the other defendants has share in the suit property and the 1st defendant could not have sold it without consulting her children and has also stated that the sale by the 1st defendant to the 6,7 defendants is not binding on anyone.

(ii). Similarly the PW2 in his examination in chief has also deposed as to how the suit property was bought in the name of the 1st defendant, but was bought out of the hard work of the plaintiff and his deceased father Mr.Lakshmanan. He has also deposed that the plaintiff has attempted several times to orally partition the suit properties which have failed. He has also deposed that the plaintiff has fenced the suit property and is in possession and enjoyment of the same. On perusal of exhibit A1, the family genealogy of the plaintiff and defendant becomes clear. On perusal of exhibit A2 which is the certified copy of the sale deed dated 18.12.1997, it becomes clear that the suit property was bought by the 1st defendant Swarnam Ammal from Veerappan Chettiar and Chidambaram Chettiar and the suit property has been mentioned as survey number 301 in patta number 920 to an extent of 3 acres and 36 cents. On perusal of exhibit A3 which is the paper advertisement given by the plaintiff it becomes clear that his father A.Lakshmanan has died leaving behind suit properties and that nobody should sell or encumber the suit property without consulting the legal heirs of the deceased Lakshmanan and has stated several properties in the property details including the survey number 301 which is the suit property.

(iii). On perusal of exhibit A4 which is the certified copy of the sale deed dated 21-01-2019 it becomes clear that the 6,7 defendants who are A.Jayaraj and A.Ravinder has bought the suit property from L.Swarnam Ammal by a registered sale deed and the suit property has been stated as survey number 301 in patta number 920 to an extent of 3 acres and 36 cents. Moreover in the said document the source of the property has been mentioned

as the self earned property of the said Swarnam Ammal who has bought it from Veerappan Chettiar and Chidambaram Chettiar by the registered sale deed dated 18-12-1997 through her own income. On perusal of exhibit A5 to A9 it becomes clear that the plaintiff has sent a legal notice to the defendants and the defendants have received the same and has given a reply notice and it also becomes clear that the legal notice sent by the plaintiff was not served to 3 to 5 defendants. On perusal of all these evidences and documents, it becomes clear that the suit property was initially bought by Sornam Ammal by a registered sale deed who has subsequently sold it to the 6,7 defendants by another registered sale deed.

(iv). On the other hand, the defendants in order to prove their case has examined 2 witnesses and has marked 5 documents. The DW1 in her examination in chief has deposed as to how the suit property was bought out of her own income and how after the death of her husband the plaintiff and her other children refused to take care of her. She has also deposed as to how her husband has changed the patta for the suit property in her name and has also stated as to how her husband asked her to keep the income out of the property with herself. She has also deposed that since the plaintiff and her other children did not take care of her after her husband's death she has sold the suit property to the 6,7 defendants through a registered sale deed and has been taking care of herself out of the sale proceeds. She has also deposed that the plaintiff after getting married in the year of 1987 has left for his wife's house and has never returned. She has also deposed that plaintiff never visited her and has never helped her in marrying off his sisters. She has also deposed that the plaintiff has been constantly troubling her for partition of properties and hence she has partitioned the ancestral properties in the year of 2010 and has given the plaintiff his share in the same. Meanwhile, since the defendant

was about to sell her own self earned property the plaintiff has been causing troubles.

(v). Similarly, the DW2 in his examination in chief has deposed as to how the suit property was a self earned property of the 1st defendant and how she has bought the same out of her own earnings from one Mr. Veerappa Chettiar and one Mr. Chidambaram Chettiar and how she has sold the property to 6,7 defendants through a registered sale deed. He has also deposed that he had bought the property after verifying the same and has stated that since this is a self earned property of the 1st defendant nobody can object to the same. Exhibit B1 is the original sale deed dated 18.12.1997 through which the 1st defendant Sornam Ammal has bought the suit property of survey number 301 to an extent of 3 acres and 36 cent from Veerappa Chettiar and Chedambaram Chettiar. Exhibit B2 is the original sale deed dated 21.01.2019. On perusal of which it becomes clear that the 1st defendant has sold the property to the 6,7 defendants through the said sale deed and the source of the property has been mentioned as the self earned property of the 1st defendant through sale deed dated 18.12.1997. Exhibit B3 is a Patta transfer order on perusal of which it becomes clear that the Patta for survey number 301 which existed in the name of Sornam Ammal wife of Lakshman Ambalam was ordered to be transferred to the name of Jayaraj son of Karuppaiya and Ravinder son of Karuppaiya in Patta number 2313. Exhibit B4 is the encumbrance certificate of the suit property on perusal of which it becomes clear that the transactions by which the Sornam Ammal has bought the suit property from Veerappa Chettiyar and Chedambaram Chettiar has been reflected in the said encumbrance certificate. On perusal of exhibit B5 which is the 10(1) for the suit property, it exists in the name of Jayaraj and Ravinder in Patta number 2313.

(vi). On perusal of all these evidences and documents it becomes clear that the suit property was in fact the self earned property of the 1st defendant and she has sold the property to the 6,7 defendants. It is the case of the plaintiff that the suit property is not the self earned property of the 1st defendant and the same was bought out of the earnings of the plaintiff and his father. Having stated this the plaintiff did not produce any evidence or documents to prove the same. Moreover, the plaintiff having stated in the plaint that the license for the brick kiln is in the name has went on to admit in the cross examination that the license for the brick kiln exists in the name of his father. Moreover the plaintiff has stated in his plaint that the document was forged by the 6,7 defendants and that they have obtained the signatures of the 1st and 2nd defendant through coercion. He has also stated that the 2nd defendant has a habit of signing in Tamil but in the said sale deed he has signed in English. Since it is the claim of the plaintiff that the signature of the 2nd defendant is not that of the 2nd defendant himself it is the duty of the plaintiff to prove the same. Having stated so the plaintiff did not produce any evidence to prove the fact that the signature of the 2nd defendant in the said sale deed is not his own. However the PW2 who is the third party to this suit having deposed in favour of the plaintiff has went on to admit in his cross examination that the details for his proof affidavit were stated by the plaintiff, based on which he has state and the same. He has also went on to state in his chief examination that the plaintiff is in possession and enjoyment of the suit property and has went on to admit in his cross examination that this property is in the possession and enjoyment of the 6,7 defendants who have bought this property subsequently. He is also admitted the fact that he does not know about the sale of suit property and has only heard it through the plaintiff. Hence much reliance cannot be placed upon the evidence of PW2.

(vii). On a combined reading of all the evidences and documents, it becomes clear that the plaintiff has failed to prove his claim that the suit property was bought out of the earnings of the plaintiff and his father and that it is not the self earned property of the defendant. He has also disputed the signature of the 2nd defendant in the sale deed and has stated that 6,7 defendants have forged the document and has obtained signatures of the 1,2 defendants out of coercion. But he has also not produced any evidence or documents to prove the same. It is a well established principle that mere statement would not amount to proof. Having stated in his plaint that he is in possession and enjoyment of the suit property and that the document through which the 6,7 defendants has bought the suit property is a forged one, has failed to prove the same. Moreover, it was admitted by the PW2 in his cross examination that the suit property is in possession and enjoyment of the 6,7 defendants which is contradictory to what the PW2 has stated in his examination in chief and also contradictory to what the plaintiffs has stated in this plaint. Though the DW1 has stated in her cross examination that property was bought by her husband and all his children have share in the property, has again went on to state in her cross examination itself that the property is her own property and that nobody has the right to question the sale. This contradiction in statement of DW1 need not be paid attention to as it lacks evidentiary support from the plaintiff. The plaintiff cannot rely upon the weakness of the defendants evidence, but he should prove his own case with facts and evidences. Hence, the court hereby concludes that the plaintiff has failed to discharge the burden of proof imposed on him and has failed to prove the fact that the suit property is not the self earned property of the 1st defendant and was bought through the earnings of the plaintiff and his father. Hence, these issues are answered accordingly.

b) Issues Nos 3,4,5:

3. Whether the plaintiff and his siblings are entitled share in the suit property?

4. Whether the plaintiff is entitled for the relief of declaration that doc.No.123/19, dated 21.01.2019, to be declared as not binding the plaintiff's shares?

5. Whether the plaintiff is entitled for the relief of partition as prayed for?

In view of the discussions made above it becomes clear that the plaintiff has failed to prove the fact that the suit property is not the self earned property of the 1st defendant and that the same was bought out of the income of the plaintiff and his father. Hence it has become very clear that the suit property is the self earned property of the 1st defendant and she has right to sell it to whomsoever she may like. Since the suit property is not an ancestral property the plaintiff and his siblings cannot be said to have a share in the said property and the sale executed by the 1st defendant with respect to her own self earned property is very much valid as she has sold the same out of her own free will and consent as stated by her during her examination-in-chief and cross examination. The same cannot be declared as null and void nor can it be stated as not binding on the shares of the plaintiff, as the plaintiff has been decided to have no share in the property. Hence, the court hereby concludes that the suit property is the self earned property of the 1st defendant and the sale by her to the 6,7 defendants is very well valid and plaintiff is not entitled to the relief of partition since this is not an ancestral property and he has no right over the same. Hence these issues are answered in negative.

(c) Issues No 6:

6. To what other relief?

Apart from the relief stated above the parties are not entitled to any other relief.

9. Decision:

In the end, the suit is dismissed. No order as to cost.

This judgment was dictated by me, typed by the Steno typist, corrected by me and pronounced by me in the open Court on 16th day of April 2026.

**District Munsif,
Devakottai.**

Plaintiffs side witness:

PW1 - Durairaj

PW2 - Chellaiya

Plaintiffs side witness:

(I) Exhibit A1 is the family genealogy of the plaintiff,

(II) Exhibit A2 is the certified copy of the sale deed by which the 1st defendant has bought the suit property dated 18-12-1997,

(III) Exhibit A3 is the paper advertisement,

(IV) Exhibit A4 is the certified copy of the sale deed through which the 1st defendant has sold the property to the 6,7 defendants dated 20.01.2019,

(V) Exhibit A5 is the legal notice sent by the plaintiff to the defendants dated 19-2-2019,

(VI) Exhibit A6 are the acknowledgment cards,

(VII) Exhibit A7 is the reply notice given by the 6,7 defendants,

(VIII) Exhibit A8 is the reply notice given by the plaintiffs,

(IX) Exhibit A9 is the returned cover along with the legal notice served to the 3 to 6 defendants.

Defendants side witness:

DW1 - Sornam Ammal

DW2 - Ravindhar

Defendants side documents:

(I) Exhibit B1 is the sale deed dated 18-12-1997 through which the 1st defendant has bought the suit property from Veerappa Chettiar and Chedambaram Chettiar,

(II) Exhibit B2 is the sale deed dated 21-01-2019 through which the 6,7 defendants have bought the suit property from the 1st defendant.

(III) Exhibit B3 is the patta transfer order of the suit property dated 09-02-2019.

(IV) Exhibit B4 is the encumbrance certificate of the suit property.

(V) Exhibit B5 is the 10(1) of the suit property in patta number 2313.

**District Munsif,
Devakottai.**