

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE, [FTC]
THENI.**

**PRESENT : Tmt. G. SREE DEVI, B.A., L.L.M
Additional District Judge, [FTC], Theni,**

Wednesday, 08th day of April, 2026

O.S No. 232 of 2023

(CNR No.TNTH010047902023)

Brammadevan ... Plaintiff

/Vs/

1. Churchill
2. Vijayalakshmi
3. Selvaraj
4. Jaya ... Defendants

This suit posted on 24.03.2026 before me for final hearing in the presence of Thiru.R.N.S.Amarnath Babu, Advocate for the Plaintiff and sufficient opportunities are given for filing written statement, but the Defendants not utilized that opportunity and they set exparte and upon perusing the Plaint, Proof Affidavit and Documents and upon hearing the plaintiff side arguments and having stood over for consideration till this day, this Court delivered the following...

JUDGMENT

The suit is filed seeking the relief of to pass judgment and Preliminary decree for partition to divide the suit properties and allot 1/5th share to the Plaintiff.

2. The Concise Statement of the averments made in the Plaint is as follows:

(2.1) The plaintiff states that out of the 5 sons, 4 sons viz., Mr. Mokkiyathevar along with Gunasekaran @ Raja, Minor.Ravi, Minor.Lattu and Minor.Panner and his major son Manikandan as party No.1, Periyasamythevar and his major son P.Ramar, P.Lakshmanan as Party No.2, Periyamuthu karuppathevar's wife Otchammal as Party No.3, Chinnamuthu karuppathevar and his minor son Kumar, his major son Kannan and Rajendran as Party No.4 as parties to the Sale Deed dated 26.05.1995 vide Doc. No. 1880 of 1995 sold the Ayan Survey No. 726/3 measuring an extent of 2 Acre 84

cents in Koduvilarpatti Revenue Village, Theni to the 4th Defendant's husband viz., Chandran.

(2.2) The Plaintiff further states that out of 2 Acre 84 Cents in which the Plaintiff who is having undivided 1/5th share ie., 56.80 cents which belonged to father of the Plaintiff. After the death of the father of the Plaintiff the said property devolved to the Plaintiff, since he is the only son of his father. The Plaintiff further states that he has not executed any Sale Deed in respect of his share of the property to anybody and the said Sale Deed dated 26.05.1995 bearing Document No.1880 of 1995 SRO, Theni will not bind the Plaintiff, since he is not the signatory in it. Further the middle portion in the S.No. 726/3 of Koduvilarpatti village measuring an extent of 56.80 cents is belonged to the Plaintiff.

(2.3) The Plaintiff further states that now came to understand that Chandran, the 4th Defendant husband who executed the registered Power Deed to the 3rd Defendant on 14.12.2009 vide Doc.No. 1822 of 2009 at SRO, Theni. Based on this Power Deed the said 3rd Defendant who sold the property to the 2nd Defendant vide Document No.10306 of 2009 on 16.12.2009. The Plaintiff further states that the 4th Defendant husband Chandran who is close relative to this Plaintiff and he is one of the son of Mokkaiyathevar and he knew that the Plaintiff who did not sign in the Sale Deed dated 1995 and he is also aware that the Plaintiff is having the undivided 1/5th Share in the schedule mentioned properties, even then he has falsely created the Documents in the names of the No.1 to 3. Now the suit properties are maintained by the No.1 and 2 without having any right or title.

(2.4) When these fraudulent Sale Deed and other documents got the knowledge of the Plaintiff in the 1st Week of April 2023, when they enquired about the same with the 4th Defendant, the 4th Defendant did not answer it in a proper manner. The 4th Defendant Husband died, in order to get binding adjudication 4th Defendant added as party in the suit.

(2.5) The Plaintiff issued the legal notice to the Defendants 1 to 4 through his Advocate on 28.04.2023, the said Notice was received by 2nd and 4th Defendants and the 1st and 3rd Defendants wantonly returned the said legal notice. The 2nd Defendant who is the wife of the 1st Defendant. The Defendants have not issued any reply notice too, since they are aware that the contents of the Legal Notice dated 28.04.2023 are all true one. The 1st Defendant is the husband of the 2nd Defendant, the 1st Defendant acting as power agent to the 2nd Defendant hence he is the added one of the Defendant in this suit to get binding adjudication.

(2.6) The plaintiff further states that the defendants acting against the interest of the plaintiff and they are trying to alienate the suit properties to third parties hence the plaintiff is having no other option except to approach to this court for the relief of Partition and for consequential reliefs. The Plaintiff is having each 1/5th share in the suit properties, hence the Plaintiff coming forward with this suit for partition and for other reliefs.

3. Sufficient opportunities are given for filing written statement, but the Defendants not utilized that opportunity and they set exparte.

4. The issue to be decided in this original suit is,

Whether the Plaintiff is entitled to the relief of Partition as claimed in the Plaint from the Defendants or not?

5. Trial :-

On behalf of the Plaintiff, the Plaintiff Brammadevan was examined as PW1 and documents Ex.A1 to Ex.A10 were marked through him. No witnesses have been examined on behalf of the Defendants and no documents have been marked.

6. Submissions on the Plaintiffs side:-

(6.1) Heard and records perused. The case of the plaintiff is that out of the 5 sons, 4 sons viz., Mokkaiyathevar along with Gunasekaran @ Raja, Minor.Ravi,

Minor.Lattu and Minor.Panner and his major son Manikandan as party No.1, Periyasamythevar and his major son P.Ramar, P.Lakshmanan as Party No.2, Periyamuthu karuppathevar's wife Otchammal as Party No.3, Chinnamuthu karuppathevar and his minor son Kumar, his major son Kannan and Rajendran as Party No.4 as parties to the Sale Deed dated 26.05.1995 vide Doc. No. 1880 of 1995 sold the Ayan Survey No. 726/3 measuring an extent of 2 Acre 84 cents in Koduvilarpatti Revenue Village, Theni to the 4th Defendant's husband viz., Chandran.

(6.2) The Plaintiff further states that out of 2 Acre 84 Cents in which the Plaintiff who is having undivided 1/5th share ie., 56.80 cents which belonged to father of the Plaintiff. After the death of the father of the Plaintiff the said property devolved to the Plaintiff, since he is the only son of his father. The Plaintiff further states that he has not executed any Sale Deed in respect of his share of the property to anybody and the said Sale Deed dated 26.05.1995 bearing Document No.1880 of 1995 SRO, Theni will not bind the Plaintiff, since he is not the signatory in it. Further the middle portion in the S.No. 726/3 of Koduvilarpatti village measuring an extent of 56.80 cents is belonged to the Plaintiff.

(6.3) The Plaintiff further states that now came to understand that Chandran, the 4th Defendant husband who executed the registered Power Deed to the 3rd Defendant on 14.12.2009 vide Doc.No. 1822 of 2009 at SRO, Theni. Based on this Power Deed the said 3rd Defendant who sold the property to the 2nd Defendant vide Document No.10306 of 2009 on 16.12.2009. The Plaintiff further states that the 4th Defendant husband Chandran who is close relative to this Plaintiff and he is one of the son of Mokkaiyathevar and he knew that the Plaintiff who did not sign in the Sale Deed dated 1995 and he is also aware that the Plaintiff is having the undivided 1/5th Share in the schedule mentioned properties, even then he has falsely created the Documents in the names of the No.1 to 3. Now the suit properties are maintained by the No.1 and 2 without having any right or title.

(6.4) When these fraudulent Sale Deed and other documents got the knowledge of the Plaintiff in the 1st Week of April 2023, when they enquired about the same with the 4th Defendant, the 4th Defendant did not answer it in a proper manner. The 4th Defendant Husband died, in order to get binding adjudication 4th Defendant added as party in the suit.

(6.5) The Plaintiff issued the legal notice to the Defendants 1 to 4 through his Advocate on 28.04.2023, the said Notice was received by 2nd and 4th Defendants and the 1st and 3rd Defendants wantonly returned the said legal notice. The 2nd Defendant who is the wife of the 1st Defendant. The Defendants have not issued any reply notice too, since they are aware that the contents of the Legal Notice dated 28.04.2023 are all true one. The 1st Defendant is the husband of the 2nd Defendant, the 1st Defendant acting as power agent to the 2nd Defendant hence he is the added one of the Defendant in this suit to get binding adjudication.

(6.6) The plaintiff further states that the defendants acting against the interest of the plaintiff and they are trying to alienate the suit properties to third parties hence the plaintiff is having no other option except to approach to this court for the relief of Partition and for consequential reliefs. The Plaintiff is having each 1/5th share in the suit properties, hence the Plaintiff coming forward with this suit for partition and for other reliefs. The defendants remained exparte.

7. Discussions, Decisions with Reasons :-

(7.1) The plaintiff was examined as PW1 and filed Ex.A1 is the Sale deed dated 26.05.1995, Ex.A2 is the Sale deed dated 16.12.2009, Ex.A3 is the Sale agreement dated 21.08.2009 – Certified copy, Ex.A4 is the Genealogy Tree, Ex.A5 is the Legal notice dated 28.04.2023 with postal receipt, Ex.A6 is the Acknowledgment cards, Ex.A7 is the Postal returned covers, Ex.A8 is the Sketch, Ex.A9 is the Encumbrance certificate dated 21.02.2023 and Ex.A10 is the Guideline value to prove her case.

(7.2) Therefore, the plaintiffs have filed this suit seeking for Partition and separate possession of their 1/5th share in the suit properties. According to the plaintiffs, the defendants 1 to 4 suppressing the legal entitlement of the Plaintiffs 1/5th share in respect of the suit properties in survey no.726/3 and 726/19 of his share to an extent of 56.80 cents. By suppressing the Plaintiffs 1/5th share the Defendants are created document 822/2009 dated 14.12.2009 based on the Power Deed document no.10306/2009 dated 16.12.2009 in favour of the 2nd Defendant. The Defendant's husband Chandran who is the close relative of the Plaintiff and the son of Mokkaiaithevar knowing fully well that the Plaintiff is not a party to the sale deed executed 1995 has created encumbrance over the suit property by creating fraudulent sale deeds. The date of knowledge of the Plaintiffs of the execution of the sale deed with regard to the suit property is only during first week of April 2023 and the suit filed on 05.10.2023. The burden of proof in a suit, or proceeding lies on the person who would fail if no evidence at all were let in. The plaintiff has produced evidence by filing oral and documentary evidences Ex.A1 to Ex.A10 to establish his case. Whereas, the Defendants 1 to 4 remained exparte and no probable evidence both oral and documentary let in on the Defendants side to prove their defences. Hence, the Plaintiff is being the legal heir of late. Servarthevar @ Periyasamythevar is entitled for 1/5th shares.

(7.3) From the above narration of the facts and circumstances of this case, this court concludes, that the plaintiff is entitled for the 1/5th undivided share in the entire extent of the suit property.

8. In the result, this suit is decreed with costs.

- (i) Preliminary decree for partition to divide the undivided suit property and allot 1/5th share to the Plaintiff.
- (ii) As the judgment of the Hon'ble supreme court in the case of Kattukandi Edathil Krishnan Vs. Kattukandi Edathil Vasan, the final decree proceedings shall be taken in accordance with this Preliminary decree, call on 31.07.2026.

Dictated to the Steno-Typist and typed by her in computer directly and after correction, pronounced by me in open court on this 08th day of April 2026.

Additional District Judge,
Theni.

Plaintiff side witnesses :

PW1 ... Brammadevan (Plaintiff)

Plaintiff side Exhibits :

Ex.A1 ... Sale deed dated 26.05.1995 – Certified copy
Ex.A2 ... Sale deed dated 16.12.2009 – Certified copy
Ex.A3 ... Sale agreement dated 21.08.2009 – Certified copy
Ex.A4 ... Genealogy Tree
Ex.A5 ... Legal notice dated 28.04.2023 with postal receipt
Ex.A6 ... Acknowledgment cards - 2
Ex.A7 ... Postal returned cover – 4
Ex.A8 ... Sketch
Ex.A9 ... Encumbrance certificate dated 21.02.2023
Ex.A10 ... Guideline value

Defendants side witnesses and Exhibits : - Nil -

Additional District Judge,
Theni.