

TNTI040016222022



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**IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE,  
TIRUPPUR**

**Present :-** Thiru.K.R.Kannan, B.A.,B.L.,  
(JO.Code TN1220)  
Additional Subordinate Judge,  
Tiruppur.

**Tuesday, the 10<sup>th</sup> day of March 2026**

**O.S.No. 6/2023**  
**(TNTI040016222022)**

1. Rajathi (died)
  2. Thirumoorthi
  3. Kamalam
  4. Gnana Sakunthala
- (Amended as per order in I.A.No. 6/2025 dated 24.01.2025)**

...Plaintiffs

//vs//

1. M. Shanmugam
2. Arumugam
3. Jeevakarunyen
4. Dhayanithi

**(Amended as per order in I.A.No. 6/2025 dated 24.01.2025)**

....Defendants

This suit came before me for the final hearing on 09.02.2026 in the presence of Thiru. V. Anandhan, B.A., B.L., learned counsel for the



Plaintiff. After, receiving the summons the defendants failed to appear before this court. So, they were set exparte. After hearing the plaintiff side arguments, available records and having stood over till this day, for consideration, this court delivered the following :

**// JUDGMENT //**

As per the amended copy of the plaint the plaintiff filed the suit to divide the suit property into five equal shares by meters and bounds with reference to good and bad portion and to allot 1/5 share to each to plaintiffs No. 2 to 4 and the first defendant and to allot 1/5 share to defendants 2 to 4 in common and put the plaintiffs into separate possession of their respective shares and to pay the cost of the suit.

**2. The brief averments stated in the Plaint are as follows :-**

2.1) The suit properties originally belonged to one Mallika Arjunan by way of a registered sale deed bearing document no. 981/1963 dated 26.04.1963 duly registered at Tiruppur Joint I Sub Registrar Office. From the date of purchase, the said Mallika Arjunan was in possession and enjoyment of the suit property.

2.2) Mallika Arjunan is the father of the plaintiffs and defendant, The Mallika Arjunan died intestate in 2009 leaving behind the plaintiffs and defendants is the only legal representatives and legal heirs as per law.

2.3) The plaintiffs and defendants were in joint possession and enjoyment of the suit property without any dispute. The plaintiffs and the defendants were in common possession and enjoyment of the suit property. Each plaintiff is entitled to 1/5 share in the suit property.



2.4) In the meantime, the plaintiffs found it difficult to be in common possession and enjoyment of the suit property and hence asked for partition of their 4/5 shares from the defendant. But, the defendant always dragged and postponed the partition of the suit property without any valid reason.

2.5) On 22.06.2022, the plaintiffs approached the defendant and asked for amicable partition. But the defendant refused for the same and also the plaintiff's came to know that the defendants trying to alienate and encumber the suit properties to some other third parties. The plaintiffs were very much shocked and put to great mental agony when they came to know this. The defendant acts are highly unlawful and against natural justice. The defendant has no right to sale the properties to third parties including the plaintiff's undivided share. If, the defendant sells the suit property including the plaintiff's undivided share in the suit property, the plaintiffs will be put to great loss and sufferings.

2.6) The plaintiffs sent a legal notice dated 14.07.2022 to the defendants to divide the suit property into five equal shares by metes and bounds with reference to good and bad qualities and allots one such share to each plaintiffs and put the plaintiffs in separate possession of such share. The defendant knowing the averments of the legal notice returned the postal cover on 20.07.2022.

2.7) The defendant's illegal acts may be curbed by the order of this court or otherwise the plaintiffs will be put to much loss and sufferings. Hence without any other alternatives, the plaintiffs have approached this court for partition of the suit property into five equal shares by metes and bounds with respect to good



and bad qualities and for separate possession of each plaintiffs 1/5 share respectively in the suit property.

3) After service of summons the defendants failed to appear before this court and so, they were set exparte.

4) The first plaintiff Tmt. Rajathi W/o. Arumugam was examined as P.W.1 and Ex.A.1 to A9 were marked through PW.1 and the 4<sup>th</sup> plaintiff Tmt. Gnana Sakunthala was examined as P.W.2 and Ex.A10 and Ex.A11 were marked and the 2<sup>nd</sup> plaintiff Thiru. Thirumoorthi was examined as P.W.3 and Ex.A12 and Ex.A13 were marked through P.W.3.

**5. Based upon the above pleadings and on available records the following issues were framed :**

1. Whether the plaintiff is entitled to the relief of preliminary decree for partition as prayed for in the amended copy of plaint?

2. To what further relief the parties are entitled?

**6. Issue No.1 :-**

**i) Whether the plaintiff is entitled to the relief of preliminary decree for partition as prayed for in the plaint ?**

6.1) As, per the averments pleaded in the amended copy of plaint the suit property is absolutely belonged to one Malika Arjunan as per Ex A1. The said Malika Arjunan died on 12.09.2009. As, per Ex A3 legal heirship certificate the plaintiffs and defendant are the legal heirs to the deceased Malika Arjunan. During the pendency of the suit the first plaintiff Rajathi died. The legal heirs of the first plaintiff were added as defendant 2 to 4 in the suit.

6.2) The said Malika Arjunan on the basis of ExA1 during his lifetime on 13.12.2007 executed a sale deed in favour of one Karunambikai and sold 1230



sq.ft of land as per ExA8. Then the said Karunambikai sold the same to one M. Chinnaponnu on 15.12.2010 as per Ex A9. On, perusal of Ex A8 the deceased Malika Arjunan derived the title to the said property as per Ex A1 sale deed. Now, the plaintiff filed the suit to divide the suit property for the remaining land available after the execution of Ex A8 sale deed. The plaintiffs and first defendant are the legal heirs of the deceased Malika Arjunan who are equally entitled to the suit property as clause I heir as per sec8(a) of Hindu Succession Act, 1956. During the pendency of trial the first plaintiff died. So, the legal heirs of the first plaintiff who are the defendants 2 to 4 are equally entitled to the share of the first plaintiff in the suit property. To defend all the above facts the first defendant was set exparte in the suit.

6.3) Hence as per the discussion's made above the plaintiffs 1 to 4 and first defendant are having each 1/5 share in the suit property accordingly a preliminary decree is hereby passed. The 1/5 share of the plaintiff will devole upon defendants 2 to 4. This issue is answered in favour of the plaintiff.

## **7. Issue No. 2 :-**

2. To what further relief the parties are entitled?

7.1) As, per issue No.1 this court has granted the relief of preliminary decree for partition as prayed for in the suit. So, the parties are not entitled to any other reliefs, this issue is answered accordingly.

In the result, this suit is decreed as follows, the suit property is hereby divided into 5 equal shares and the plaintiffs 2 to 4 are entitled to 1/5 share each and the first defendant is entitled to 1/5 share and the defendants 2 to 4 are equally entitled to 1/5 share in the suit property accordingly a preliminary decree is hereby passed. Since, the parties are blood relatives there is no order for cost.



Both parties are directed to appear before this court on 10.04.2026 for final decree proceedings.

Dictated to Steno typist and typed by him directly in computer, corrected and pronounced by me in open court, this the **10<sup>th</sup> day of March 2026**.

Additional Subordinate Judge,  
Tiruppur.

**I. List of witness examined on the side of the Plaintiff :-**

P.W.1	Tmt. Rajathi	W/o. Arumugam
P.W.2	Tmt. Yanasakunthala	W/o.Arjunan
P.W.3	Tr. Thirumoorthi	S/o. Malika Arjunan

**II. Documents marked on the side of the Plaintiff :-**

Ex.A1	22.05.1963	Sale deed bearing Doc. No. 981/1963
Ex.A2		Malika Arjunan Death certificate
Ex.A3	24.03.2016	Malika Arjunan Legal heir certificate
Ex.A4		Genology Tree
Ex.A5		first plaintiff Aadhar card
Ex.A6	14.07.2022	Legal notice
Ex.A7		Returned postal cover
Ex.A8	13.12.2007	Sale deed bearing Doc. No.11192/2007

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Ex.A9	15.12.2010	Sale deed bearing Doc. No.11588/2010
Ex.A10		4 <sup>th</sup> plaintiff Aadhar card
Ex.A11		3 <sup>rd</sup> plaintiff Aadhar card
Ex.A12		2 <sup>nd</sup> plaintiff Aadhar card
Ex.A13	08.07.2023	Encumbrance certificate

Additional Subordinate Judge,  
Tiruppur.

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**Fair/Draft Judgment in  
O.S. No. 06/2023  
Dated : 10.03.2026.  
ASJ Court, Tiruppur.**

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