

IN THE COURT OF SUBORDINATE JUDGE OF PALLADAM

Present:- Thiru. K.Yuvaraj, B.A.,B.L.

Subordinate Judge,Palladam

Tuesday, the 24th day of March, 2026

O.S. No. 1/2025

Rathinambal

... Plaintiff

// vs //

1. Ammaniammal (Died)

2. Malathi

3. Chandramurali

4. Yogeshwaran

5. Thiruvarutselvi

(The 5th defendant has been impleaded as a party to the suit as per the order dated: 24.06.2026 passed by this court in IA.No. 2/2025)

... Defendants

This suit was initially numbered as OS.No.117/2017 on the file of Learned District Munsif Court, Palladam on 16.09.2017, due to Pecuniary Jurisdiction this case was transferred to this court on 07.12.2024 and renumbered as OS.No.1/2025 and this suit is coming on 18.03.2026 for final hearing before this court in the presence of **Selvi.R.krishnaveni,B.A.,B.L.**, Advocate for the Plaintiff and **Thiru.A.Nagarajan,B.A.,B.L.**, Advocate for the D2 to D4. **Thiru.P.Eswaramoorthy,B.A.,B.L.**, Advocate for D5 and Upon hearing

both side arguments and on perusal of all connected material records and having stood over till this day for consideration, this court delivered the following:

JUDGEMENT

The suit is filed for partition and the costs of suit.

1. The averments in Amended Plaintiff in Brief:

1.1 One P.Muthusamy Gounder had ancestral Joint family properties in Elavanthi village, Palladam Taluk. The said Muthusamy Gounder sold the same to some third parties and Item No.1 of the suit property was purchased out of the income derived from such Ancestral Nucleus by P.Muthusamy Gounder in the name of 1st Defendant by virtue of Sale Deed dated 07.07.1964. Item No.2 of the suit property was also purchased out of income derived from Ancestral nucleus by the said P.Muthusamy Gounder by virtue of Sale Deed dated 15.08.1966. So the suit properties scheduled as Item No.1 and Item No.2 are ancestral Joint family properties of P.Muthusamy Gounder and they were put into common Hotchpot and enjoyed by all the co-sharers.

1.2 While so the said P.Muthusamy Gounder died intestate in the year of 2003 leaving behind his Wife the 1st Defendant herein, his daughter plaintiff herein and one Ramalingam as his Legal Heirs to

succeed his estate in the suit properties. The said Ramalingam also died leaving behind Defendants 2 to 4 as his legal heirs to succeed his estate. The said Muthusamy Gounder, The plaintiff and Ramalingam constituted a undivided Hindu Joint Family. According to Hindu Succession Act everyone is entitled for 1/3rd share in the suit properties. The 1st defendant is not the absolute owner of the suit property. It is brought to the notice of plaintiff that defendants 1 to 4 had colluded together and trying to alienate the suit properties to third parties. While so, the defendants 3 and 4 purportedly executed an alleged sale deed on 11.03.2020 in the name of 5th Defendant over certain extent of the suit property. However the said alleged sale deed dated 11.03.2020 is subject to the principle of Les Pendens and it will not binding on the plaintiff. Hence this suit for Partition over Item No.1 and 2 of the suit properties.

II . Written statement of the 2nd to 4th defendant in brief:

2.1 All allegations were denied except admitted thereon. The relationship of parties were admitted. Item No.1 of the suit property was purchased by the 1st defendant out of her own income on 07.07.1964. From that date the 1st defendant was been in possession and enjoyment over the same. It is the self acquired property of the 1st defendant. Hence the plaintiff cannot claim partition over the Item

No.1 of the suit property. Hence the plaintiff is not entitled for any relief of partition.

III. Written statement of the 5th defendant in brief:

3.1 All allegations were denied except admitted there on. Item No.1 of the suit property was purchased by 1st defendant as a self acquired. This defendant is an bonafide purchaser. She has no knowledge of pendency of the suit, only out of notice from the court in IA.No.218/2022 for impleadment she came to know the case. She purchased the suit property from the lawful title holders i.e., 3rd and 4th defendants. Hence this plaintiff is not entitled for any relief from this court. Hence prayed for dismissal.

IV. Hence based upon the pleadings court had formulated the following issues for consideration on 11.01.2018 as follows:

1. Whether the suit is properly valued for the purpose of court fee and Jurisdiction?
2. Whether the suit properties are the ancestral/Joint family properties of plaintiff?
3. Whether the Plaintiff is entitled to the relief of partition and separate possession?

4. Whether the Plaintiff is entitled to 4/9th share in the suit properties?

5. To what other relief?

01. Issue No:2

Whether the suit properties are the ancestral/Joint family properties of plaintiff?

Heard Both sides. Records perused. For better appreciation this Issue taken foremost to decide and decided separately over Item No.1 and Item No.2 of suit properties.

02. Item No.1:

1. The learned counsel for the Plaintiff argued that Item No.1 of the suit property was purchased by the 1st defendant on 07.07.1964 in Doc.No.1233/1964. According to her the said property was purchased out of the income derived from the ancestral nucleus of her husband Muthusamy Gounder and the said Muthusamy Gounder had purchased Item No.2 of the suit property on 15.08.1966 in Doc.No.1145/1966. Hence according to the learned counsel for the plaintiff since the Item No.1 and Item No.2 has been purchased out of Joint family nucleus and treated as a common Hotchpot the plaintiff is entitled for the relief of Partition over the Item. No.1 and Item. No.2 of the suit properties.

2. On other hand the learned counsel for the 5th defendant placed his arguments that Item No.1 was the self acquired property of 1st defendant, So during her life time She executed a Settlement deed in favour of 3rd and 4th defendants under Ex.B1 and in turn they executed a Sale deed in favour of 5th defendant under Ex.B2. So plaintiff is not entitled for Partition over Item No.1 of the suit property.

3. It is well settled law that If a party pleads that a property was purchased in name of any individual other than a Kartha in the joint family with the aid of joint family nucleus then it is duty cast upon him/her to prove the following ingredients as such that what are all the joint family properties available, who are all the joint family members, what is the joint family nucleus thereon, which joint family properties were sold out or how the joint family income derived, How such amount was utilized by the joint family and why property was purchased in the name of other joint family member than Kartha. So to such fact it should be specifically pleaded and evidences should let out over the same.

4. Here on careful perusal of records it is the specific case of the plaintiff that even though Item.No.1 of the suit property was

purchased in the name of 1st defendant namely Ammaniammal W/o Muthusamy Gounder. According to the learned counsel for the plaintiff the said property was purchased from an ancestral nucleus and out of income derived from joint family properties. But on careful perusal of entire pleadings advanced by the plaintiff there is no specific pleading to the effect that how such income from ancestral nucleus was derived to purchase the Item.No.1 of the suit property on 07.07.1964 in the name of 1st defendant. If plaintiff place her case that Item No.1 of the suit property was purchased by 1st defendant out of joint family nucleus then entire burden rests on the plaintiff to prove such ingredients stated Supra.

5. Further on careful perusal of evidence placed by the plaintiff it is her case that the said Muthusamy Gounder owned several lands in Elavandhi Village as ancestrally and he sold such lands and out of the income derived from such sale the Item.No.1 of the suit property was purchased in the name of 1st defendant on 07.07.1964. On careful reading of Ex.A1 Sale deed dated 07.07.1964 which stands in the name of 1st defendant, there is no specific recital to the effect that the said property was purchased out of the income derived from an ancestral nucleus as averted by the plaintiff. Further the plaintiff not produced any single piece of document to show that the said Muthusamy

Gounder had sold certain lands on the relevant period pertaining to Ex.A1 Sale Deed dated 07.07.1964.

6. The learned counsel for the plaintiff vehemently argued that the defendants 2 to 4 were remained Exparte and there is defence on the side of defendants to deny the fact that Item No.1 of the suit property was purchased out of Joint family nucleus, hence according to her such fact was deemed to be proved since there was no defence on other side. Here to such point on careful reading of judgment of **our Hon'ble High Court in S.A.(MD) Nos.690 & 691 of 2020 in Devaki and Other Vs Gopalakrishnan and Another** dated 20.10.2023 at **Para 18** as follows:

“18. Therefore, the ratio enunciated in those rulings would be, when a party claims that particular items of the property is joint family property, then the burden of proving such property is a joint family property is rest upon the party, who affirms it. Only after establishing such factum, and after establishing the availability of some form of nucleus and its relative value, which would become the probable nucleus to purchase such property, then only the presumption would arise to consider those properties are the joint family property, and the burden would shift to the party alleging self

acquisition to establish affirmatively that the property was acquired without the aid of the joint family.”

7. On careful reading of above judgment it is clear that it is duty case upon the plaintiff to prove the fact first that Item No.1 of the suit property was purchased in the name of 1st defendant out of an joint family nucleus. If she proves the same then the burden shifts to the defendants to prove their defence that Item No.1 of the suit property was a self acquired property of 1st defendant. Here as discussed Supra the Plaintiff not pleaded any specific averment that how Item No.1 of suit property was purchased out of an joint family nucleus and not placed any single piece of convincing documentary evidence to show that Item No.1 of suit property under Ex.A1 sale Deed dated 07.07.1964 was purchased in the name of 1st defendant out of an joint family nucleus. Hence this court is of the considered view that Item.No.1 of the suit property was not out of joint family nucleus as averted by the plaintiff.

8. The learned counsel for the plaintiff further argued that 3rd and 4th defendants had obtained Ex.B1 Settlement deed on 05.09.2017 from 1st defendant by using her advanced age and sold certain portion of Item No.1 to 5th defendant under Ex.B2 on 11.03.2020. Hence such Settlement deed and Sale deed are Lis Pendens documents and it will

not bind her to claim partition. Here as discussed Supra the plaintiff must prove the fact that Item No.1 of the suit property was purchased out of an joint family nucleus, then alone scrutiny and validity of such Settlement deed and Sale deed would warrant. Here there is no convincing evidence on the side of plaintiff to prove such fact, so it is clear that Item No.1 of the suit property was a self acquired one of 1st defendant and she can alienate to anyone. Here Ex.B1 is an registered instrument and there is no evidence on the side of plaintiff to show that 3rd and 4th defendants used undue advantage of her age to obtain such Settlement deed under Ex.B1, so the said fact was not proved by the plaintiff. So Ex.B1 Settlement deed and Ex.B2 Sale deed are lawful documents in this case.

3. Item No.2:

With respect to the Item.No.2 of the suit property even it is admitted on the side of 2 to 4 defendants in their Written Statement that the Item No.2 of the suit property was purchased by Muthusamy Gounder by virtue of an Sale Deed dated 15.08.1966 under Ex.A2. Further it is seen from the records that the said Muthusamy Gounder died intestate in the year of 2003. Hence on the death of the said Muthusamy Gounder, the succession opens and it is admitted fact that the plaintiff is the daughter of the said Muthusamy Gounder, So she is entitled for her share over the same as per Section 8 of Hindu

Succession Act. Hence this court is of the considered view that Item.No.1 of the suit property is not an ancestral joint family property of the plaintiff. Item No.2 of the suit property is the joint family property of the plaintiff. This Issue answered accordingly.

4. Issue No.1:

Whether the suit is properly valued for the purpose of court fee and Jurisdiction?

1. On careful perusal of records the plaintiff had paid necessary Court Fees for the valuation made in her plaint and there is no convincing evidence on the side of defendants to place that Market value of the suit property was higher than details furnished by the plaintiff in her plaint. Hence this court is of considered view that this suit was properly valued and Court Fees was paid accordingly. This Issue answered accordingly.

5. Issue No.3:

Whether the Plaintiff is entitled to the relief of partition and separate possession?

As per the answers derived under Issue No.2 it is clear that plaintiff is entitled for the relief of Partition with respect to Item No.2 of the suit property alone as per Section 8 of Hindu Succession Act. This issue answered accordingly.

6. Issue No.4:

Whether the Plaintiff is entitled to 4/9th share in the suit properties?

On careful perusal of records it is seen that pending the suit mother of the plaintiff 1st defendant herein died and her death was duly recorded in this case. It is well settled law that relief of Partition has continuous cause of action. Since Item No.2 of the suit property was purchased by said Muthusamy Gounder and said Muthusamy Gounder died as Intestate then the said Item No.2 of the suit property would devolve to plaintiff, 1st defendant and one Ramalingam, who is the husband of 2nd defendant and father of 3rd and 4th defendants as per Section 8 of Hindu Succession Act. So upon the death of 1st defendant pending the suit her share would devolve to plaintiff and 2 to 4 defendants as per Section 15 of Hindu Succession Act. So accordingly plaintiff is entitled for 1/2 share in Item No.2 of the suit property herein. This Issue answered accordingly.

7. Issue No.5:

To what other relief?

Considering the facts and circumstances of the case there will be no relief on either sides.

In the result, this suit is Partly Decreed by granting an Preliminary Decree for Partition by dividing the Item No.2 of the suit property into Two equal shares and by allotting One such share to plaintiff and it is further clarified that with respect to Item No.1 of the suit property the plaintiff's claim for Partition is dismissed with No Costs for the suit. Upon considering the principle laid down by the Hon'ble Supreme Court of India Reported in AIR 2022 SC 2841 in Kattukandi Edathil Krishnan and Another Vs Kattukandi Edathil Valsan and Others and having circulated by Our Hon'ble High Court in ROC.NO. 67430-A/2022/S.Ct Dated 30.09.2022, the suit is posted to take steps U/O. XX Rule 28 of CPC for drawing up of Final Decree Call on 02.06.2026.

Dictated to the stenographer, transcribed and typed out by her, corrected and pronounced by me in open court this 24th March, 2026

Subordinate Judge,
Palladam.

List of witness examined on the side of the Plaintiff :

PW1. Rathinambal

Documents marked on the side of the Plaintiff :

Ex.A1	07.07.1964	Registration copy of the sale deed in the name of
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		the 1 st defendant
Ex.A2	15.08.1966	Registration copy of the sale deed in the name of P.Muthusamy Gounder

List of witness examined on the side of the Defendant's :

DW1. Thiruvarutselvi

DW2. Balasubramaniam

Documents marked on the side of the Defendant :

Ex.B1	05.09.2017	Settlement deed
Ex.B2	11.03.2020	Sale deed
Ex.B3	--	Computerized Chitta

Subordinate Judge,
Palladam.

DRAFT /FAIR OF JUDGMENT
OS No. 1/2025
Dated : 24.03.2026
Sub Court, Palladam