

IN THE COURT OF SUBORDINATE JUDGE OF PALLADAM

**PRESENT: Thiru.K. Yuvaraj, B.A.,B.L.,
Subordinate Judge, Palladam**

Thursday of 06th November, 2025

**IA No.5/2024
in
OS No.225/2022**

1. Balakrishnan
2. Divya

... Petitioners / Defendants 1 & 6

/Vs/

1. Saranya
Rep by her power agent and her father Venugopal
2. Sasikalamani
3. Gurusamy
4. Shanthi
5. Bakiyam Devaraj
6. Aswathkumar
7. Kanagaraj (Died)

... Respondents No.2 to7 / Defendants 2 to 5 & 7,8

This petition is coming on 26.09.2025 for final hearing before me in the presence of Thiru.V.Raveendran,B.Sc,B.L., Advocate for the Petitioner and Thiru.S.Murali Mohan,B.A,LLB, Advocate for the Respondents. 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..

ORDER

This application was filed by the Petitioner / 1st and 6th Defendant to reject the Plaint under Order VII Rule 11 of CPC.

2. The Learned Counsel for the Petitioner argued that the 1st Respondent / Plaintiff filed this suit for Partition and for Separate Possession against the Petitioner and other defendants by suppressing other material facts. Initially the suit property was a ancestral property of one Govindha Nayakkar, who was allotted to the suit property under B Schedule by virtue of a Partition Deed Dated 30.07.1900 and he was enjoying the same till his life time. After the demise of said Govinda Nayakkar his only son of Gurusamy Nayakkar had succeeded the estate and enjoyed the same till his life time. After his demise his sons namely Thirumalaisamy Nayakkar, Purosathamam Nayakkar, Varatharaja Nayakkar and daughter namely Sornammal have succeeded and enjoyed the suit property jointly without partition for a period of few years. Meanwhile the said Purusothaman Nayakkar died intestate on 30.04.2008 leaving behind his sons Balakrishnan, Gurusamy and daughters Sasikalamani, Shanthi as his legal heirs.

3. Thereafter the said legal heirs of Gurusamy Nayakkar and Purosathamam Nayakkar were partitioned the suit property by virtue of the Partition Deed dated 16.05.2012 in which “B” Schedule was allotted to the 4th defendant namely Shanthi. After few months the 4th defendant Shanthi settled her share in favour of her brother namely Gurusamy the 3rd defendant herein by virtue of Settlement deed dated 25.04.2019. The 1st Respondent / Plaintiff is none other than the daughter of the Shanthi. Since the said Shanthi had executed a Settlement deed to in favour of 3rd defendant on 25.04.2019 out of own volition, this suit is not maintainable and prayed for rejection of the Plaint.

4. Per contra, the Learned counsel for the 1st respondent/ Plaintiff argued that said 3rd defendant had obtained signatures from her mother Shanthi in Settlement by manipulating that document was created for bank

loan, hence she filed the suit for declaration of the said settlement Deed as Null and Void along with claim of Partition, further some legal heirs were not take part in partition deed dated 16.05.2012. Hence the said partition deed is not in accordance with law. Further learned counsel argued that all issues were triable and prayed for dismissal.

II. Now point for consideration is whether this application is allowed?

5. Heard Both sides. Perused entire records. On Careful perusal of records admittedly it is case of the 1st Respondent / Plaintiff that she filed the suit for the relief of Partition along with the declaration of Settlement Deed dated 25.04.2019 as Null and Void. Further on careful perusal of Counter the 1st Respondent / Plaintiff had specifically averted that during the Partition Deed dated 16.05.2012 some legal heirs are not take part in the Partition Deed and according to the Learned Counsel for the 1st Respondent / Plaintiff the Partition Deed dated 16.05.2012 itself is not in accordance with Hindu Succession Act and prayed for ordeal of trial.

6. In a suit for Partition the rights of the Parties will be determine only after the examination of evidences on either sides, without ordeal of trial this court cannot ascertain that the 1st Respondent / Plaintiff had no right or Title over the Suit property. Since the relationship of the Parties were admitted this court is of the considered view that the ordeal of trial is essential to decide the issues involved in the suit. So there is a clear of cause of action in this suit which yet to be tried. Hence this application stands dismissed.

In fine, This application is dismissed. No Costs.

Dictated to the stenographer, transcribed and typed out by her,

corrected and pronounced by me in open court this 06th November 2025.

Subordinate Judge,
Palladam.

Fair / Final Order

IA. 5/2024 in OS 225/2022

Date: 06.11.2025