

**IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
UTHUKULI**

Present : Thiru. B. Dharaneether, B.A., LL.M.,
District Munsif cum Judicial Magistrate,
Uthukuli.

Dated : Monday, the 30th day of March 2026

O.S. No. 21 of 2021
(CNR No. TNTI23-000088-2021)

Aravind Karthik

... Plaintiff

/ Vs /

1. Tr. P.N. Subramaniam
2. Tr. P.S. Sivakumar
3. Tr. P.S. Selvaraj
4. Tr. K.C. Subramaniam
5. Tr. Prithiv
6. Tr. M. Srinivasan
7. Tr. R. Venkadasalam
8. Tr. V. Jeevanprasath

... Defendants

This suit having come up for final hearing before me in the presence of Tr.V S Subiramanian, the learned counsel for the plaintiff and Tr. N.Vijay, the learned counsel appearing for the 6th defendant, while the defendants 1 to 5, 7 and 8 having been set ex parte, and upon perusing the plaint, written statement, oral and documentary evidence and the materials available on record, and having stood over for consideration till this day, this Court delivers the following:

J U D G M E N T

This is a suit filed by the plaintiff seeking partition and separate possession of his alleged share in the suit properties and for declaration that the sale deeds executed in favour of the 6th defendant and subsequently in favour of defendants 7 and 8 are null and void insofar as his share is concerned.

CASE OF THE PLAINTIFF IN BRIEF:

2. The plaintiff has filed the present suit for partition and separate possession of his share in the suit properties and for declaration that the alienations made in favour of the 6th defendant and subsequently in favour of defendants 7 and 8 are not binding on his share.

3. It is the case of the plaintiff that the suit properties originally belonged to one Nachimuthu Gounder and his wife Komarakkal, who constituted a Hindu joint family. The said Nachimuthu Gounder and Komarakkal had ancestral properties, and in respect of such ancestral properties, a partition was effected on 05.04.1959 under a registered partition deed, whereby certain properties were allotted to their share.

4. According to the plaintiff, the said Nachimuthu Gounder, out of the income derived from the ancestral properties allotted under the said partition, acquired additional properties by way of a registered sale deed dated 01.12.1980. It is contended that the said properties also partake the character of joint family properties.

5. It is further stated that the said Nachimuthu Gounder died on 06.11.1999 and his wife Komarakkal predeceased him on 15.01.1986. After their demise, their legal

heirs, namely P.N. Subramaniam (1st defendant) and P.N. Chinniyappan, succeeded to the properties. The said Chinniyappan also died subsequently, leaving behind the 4th defendant as his legal heir, and the 5th defendant being the son of the 4th defendant.

6. The plaintiff would further state that defendants 2 and 3 are the sons of the 1st defendant. The 2nd defendant Sivakumar is the father of the plaintiff, and the plaintiff, being his son, is entitled to a share in the suit properties by birth under the Hindu Succession Act. Thus, according to the plaintiff, the suit properties continued to remain as joint family properties in which he has a coparcenary right.

7. It is the further case of the plaintiff that while he and the defendants were in joint possession and enjoyment of the suit properties, disputes arose between the plaintiff's father and other family members. Taking advantage of the minority of the plaintiff and suppressing his share, defendants 1 to 5 are alleged to have executed a sale deed dated 25.11.2019 in favour of the 6th defendant, conveying the suit properties.

8. The plaintiff specifically contends that he was not a party to the said sale deed and that his share in the suit properties has been fraudulently concealed. It is therefore his case that the said sale deed is not binding on his share and is liable to be declared as null and void to that extent.

9. It is further stated that the 6th defendant, based on the said sale deed, had executed another sale deed dated 19.02.2020 in favour of defendants 7 and 8. According to the plaintiff, since the 6th defendant himself did not acquire valid title

insofar as the plaintiff's share is concerned, the subsequent purchasers also do not acquire any valid right over his share.

10. The plaintiff would further contend that he is entitled to 1/12th share in the suit properties along with other sharers, and that despite demands made by him on 20.12.2020 to effect partition and allot his share, the defendants refused to do so, thereby giving rise to the cause of action for filing the present suit.

11. Hence, the plaintiff has come forward with the present suit seeking partition of the suit properties into 12 equal shares and allotment of one such share to him, for declaration that the sale deed dated 25.11.2019 executed in favour of the 6th defendant is null and void insofar as his share is concerned, and for consequential reliefs.

CASE OF DEFENDANTS IN BRIEF

12. The defendants 1 to 5, 7 and 8, though served with summons, remained absent and were set ex parte. The 6th defendant alone has filed a detailed written statement contesting the suit.

13. The 6th defendant, in his written statement, has denied the allegations contained in the plaint, except those specifically admitted. He contends that the suit is false, frivolous and not maintainable either in law or on facts, and that the plaintiff is put to strict proof of all the allegations.

14. The 6th defendant admits the relationship between the parties and the fact that Nachimuthu Gounder had purchased the suit property under a registered sale deed dated 01.12.1980. However, he specifically denies the plaintiff's contention that

the said property was acquired out of income derived from ancestral properties. According to him, the plaintiff has not established that the suit property has the character of joint family property.

15. The 6th defendant further denies the allegation that the sale deed dated 25.11.2019 executed in his favour by defendants 1 to 5 is fraudulent or not binding on the plaintiff. It is his specific case that the said defendants, claiming to be the legal heirs, approached him and offered to sell the property, and after verifying the title deeds, encumbrance certificate and revenue records, he purchased the property for valid consideration.

16. The 6th defendant would further contend that he is a bona fide purchaser for value without notice of any alleged claim of the plaintiff. He asserts that at the time of purchase, all the vendors represented that they had valid title and authority to sell the property, and accordingly, the sale deed was executed and possession was delivered to him.

17. It is also the case of the 6th defendant that on 19.02.2020, he, in turn, sold the suit property to defendants 7 and 8 for valid consideration and handed over possession to them, and since then, they are in possession and enjoyment of the property.

18. The 6th defendant further denies the plaintiff's claim of joint possession and enjoyment of the suit property and contends that the plaintiff has no right, title or share in the property as alleged. He would also contend that the plaintiff is not entitled to any relief of partition or declaration.

19. It is also contended that the suit is not properly valued and that there is no cause of action for filing the suit. According to the 6th defendant, the plaintiff has filed the suit with an ulterior motive and without any legal basis. On the above grounds, the 6th defendant prays for dismissal of the suit.

ISSUES

20. Based on the pleadings, materials available on record and the issues already framed by this Court, the following issues arise for determination:

- (1) Was the suit property purchased by Nachimuthu Gounder out of income accrued from 'B' schedule property in partition deed No.1035/1980 as alleged by plaintiff?
- (2) Whether the plaintiffs are in joint possession and enjoyment of suit property?
- (3) Whether the plaintiffs are entitled to preliminary decree of partition in respect of 1/12th share over suit property?
- (4) Whether the plaintiffs are entitled to relief of declaration to the effect that the sale deed No.5437/2019 executed by 1 to 5 defendants in favour of 6th defendant is null and void?
- (5) To what other reliefs are the parties entitled?

DISCUSSION AND FINDINGS

21. This Court has carefully considered the pleadings of the parties, the oral and documentary evidence available on record, and the submissions made. Since all the issues framed in this case are interlinked and arise out of the same set of facts

relating to the nature of the suit property, the entitlement of the plaintiff, and the validity of the impugned sale deeds, they are taken up together for common discussion to avoid repetition.

22. It is seen from the records that earlier, when the plaintiff was a minor represented by his mother, evidence had been recorded on the side of the plaintiff. Subsequently, the plaintiff attained majority and the matter was proceeded with afresh. In the said circumstances, fresh evidence was let in on the side of the plaintiff, wherein the plaintiff was examined as P.W.1 and one Murugesan was examined as P.W.2. On the side of the plaintiff, eight documents were marked as Exs.A1 to A8. No oral or documentary evidence was adduced on the side of the defendants. Hence, this Court has taken into consideration only the said evidence for the purpose of deciding this case.

23. The entire case of the plaintiff rests upon the assertion that the suit property, though standing in the name of Nachimuthu Gounder under the Ext.A2 sale deed dated 01.12.1980, is not his self-acquired property but a joint family property, having been purchased out of the income derived from ancestral properties allotted under the Ext.A1 partition deed dated 05.04.1959. It is only on the strength of this contention that the plaintiff claims a coparcenary right by birth and seeks partition and declaration.

24. At the outset, it is to be stated that when a property stands in the name of an individual, the law presumes it to be his self-acquired property, unless the contrary is proved. The burden lies heavily upon the person who asserts that such property is

joint family property to establish not only the existence of ancestral nucleus but also that such nucleus was sufficient and was in fact utilised for acquiring the property in question. Mere existence of ancestral property is not sufficient to draw such presumption.

25. In the present case, though the plaintiff has produced the Ex. A1 Partition deed of the year 1959 and the Ex.A2 sale deed of the year 1980, there is absolutely no evidence to show that the ancestral properties yielded any surplus income or that such income was utilised for the purchase of the suit property. On the contrary, the evidence of P.W.1, when tested in cross-examination, completely demolishes the plaintiff's case.

26. A careful reading of the deposition of P.W.1 shows that he has categorically admitted that he does not know the extent of properties allotted under the partition deed, that he has not even read the said document, and that he is unaware of the circumstances under which it was executed. He has further admitted that he does not know the nature of the said property or the income derived therefrom, nor does he know whether there was any surplus income available from such property.

27. Further, P.W.1 has also admitted that at the time of purchase of the suit property in the year 1980, his father and other defendants were minors and had no independent income. He has also expressed ignorance as to whether the suit property was treated as the self-acquired property of Nachimuthu Gounder during his lifetime and whether the revenue records stood in his name. These admissions clearly show

that the witness has no personal knowledge regarding the source of funds for the purchase or the nature of the property.

28. One P.W.2 Murugesan has been examined on the side of the plaintiff. However, a careful perusal of his evidence shows that he is not a direct witness to the alleged source of income or the purchase of the suit property. His evidence is only general in nature and does not establish the existence of any joint family nucleus or its utilisation for the purchase of the suit property. Therefore, the evidence of P.W.2 does not advance the case of the plaintiff in any manner.

29. When the plaintiff himself is not aware of the essential facts relating to the alleged joint family nucleus and its utilisation, the Court cannot presume the existence of such nucleus. In fact, the cross-examination of P.W.1 reveals that his evidence is not based on personal knowledge but only on assumptions. Therefore, the fundamental requirement to establish that the suit property is joint family property remains unproved.

30. It is also pertinent to note that the Ex.A2 sale deed dated 01.12.1980 stands exclusively in the name of Nachimuthu Gounder, and there is no material placed before this Court to show that the said purchase was made in a representative capacity or out of joint family funds. It is also relevant to note that the recitals in Ex.A2 sale deed do not disclose that the property was purchased out of joint family funds or on behalf of the joint family. In the absence of such evidence, the presumption that the property is self-acquired remains unrebutted. Accordingly, this

Court has no hesitation in holding that the suit property is the self-acquired property of Nachimuthu Gounder.

31. Once it is held that the suit property is the self-acquired property of Nachimuthu Gounder, the very basis of the plaintiff's claim of coparcenary right by birth falls to the ground. A coparcenary right arises only in respect of ancestral or joint family property, and not in respect of self-acquired property. Therefore, the plaintiff cannot claim any share in the suit property as a matter of birthright.

32. Even otherwise, once it is held that the suit property is the self-acquired property of Nachimuthu Gounder, the plaintiff cannot claim any right by birth. At best, the plaintiff can claim a share only through succession after the death of Nachimuthu Gounder. However, the plaintiff has neither pleaded nor established his entitlement on the basis of succession. Therefore, on this ground also, the claim of the plaintiff is liable to be rejected.

33. The plaintiff has also pleaded that he is in joint possession and enjoyment of the suit property. However, except making such a bald assertion, no evidence has been adduced to substantiate the same. On the contrary, P.W.1 has admitted that he has not produced any document to show his possession or enjoyment of the suit property and that he is not aware as to in whose name the revenue records stand. Such admissions clearly belie the plea of joint possession.

34. In the absence of any documentary evidence or reliable oral evidence to establish joint possession, this Court is unable to accept the contention of the plaintiff

that he is in joint possession and enjoyment of the suit property. The said plea appears to have been made only for the purpose of maintaining the suit.

35. The plaintiff has further sought a declaration that the Ex.A3 Sale deed dated 25.11.2019 executed by defendants 1 to 5 in favour of the 6th defendant is null and void insofar as his alleged share is concerned. However, as already discussed, the plaintiff has failed to establish that he has any right, title or interest in the suit property. When the plaintiff has no established share in the property, he cannot seek to invalidate a sale deed executed by the persons who are otherwise competent to deal with the property.

36. The subsequent Ex. A4 Sale deed dated 19.02.2020 executed by the 6th defendant in favour of defendants 7 and 8 also stands on the same footing. When the initial sale in favour of the 6th defendant is not liable to be interfered with, the subsequent sale also cannot be questioned by the plaintiff.

37. It is a well settled principle that the plaintiff must succeed on the strength of his own case and not on the weakness of the defence. In the present case, the plaintiff has failed to establish the essential ingredients required to claim partition, namely, the joint family character of the property and his entitlement to a share therein. The admissions of P.W.1 in cross-examination further weaken the plaintiff's case and clearly show that the claim is not supported by cogent evidence.

38. In view of the above discussion, this Court is of the considered opinion that the plaintiff has utterly failed to prove that the suit property is joint family property or that he is entitled to any share therein. Consequently, the relief of partition,

declaration and other consequential reliefs sought for by the plaintiff cannot be granted.

Accordingly, Issue Nos.1 to 4 are answered against the plaintiff.

In the result, this suit is dismissed.

Considering the relationship between the parties and the facts and circumstances of the case, there shall be no order as to costs.

Directly typed by me in my official laptop, corrected and pronounced by me in open court on this 30th day of March, 2026.

**District Munsif cum Judicial Magistrate
Uthukuli**

APPENDIX

Plaintiff's Side Witnesses:

Witness No.	Name of Witness
P.W.1	Aravind Karthik
P.W.2	Murugesan

Plaintiff's Side Exhibits:

S.No	Exhibit Mark	Description
1	Ex.A1	Certified copy of Partition Deed dated 05.04.1959 (Doc.No.670/1959)
2	Ex.A2	Certified copy of Sale Deed dated 01.12.1980 (Doc.No.1035/1980)
3	Ex.A3	Certified copy of Sale Deed dated 25.11.2019 (Doc.No.5437/2019)
4	Ex.A4	Certified copy of Sale Deed dated 19.02.2020 (Doc.No.702/2020)

S.No	Exhibit Mark	Description
5	Ex.A5	Certified copy of Death Certificate of Nachimuthu Gounder
6	Ex.A6	Certified copy of Death Certificate of Komarakkal
7	Ex.A7	A-Register Extract relating to Survey No.3/2
8	Ex.A8	A-Register Extract relating to Survey No.3/3

Defendants' Side Witnesses: Nil

Defendants' Side Exhibits: Nil

Court Side Exhibits: Nil

**District Munsif cum Judicial Magistrate
Uthukuli**