

IN THE ADDITIONAL DISTRICT JUDGE, TIRUVANNAMALAI

PRESENT : Tr. B.C. GOPINATH, M.L.,

Additional District Judge,

Saturday, the 7th day of February 2026

I.A.No. 1/2022 in O.S.No . 241/2022

R. Balachandru

... Petitioner/plaintiff

/vs/

1. R. Pushpalatha
2. Thilokchandru,
3. Elumalai
4. E.Krishnan
5. A. Baskaran
6. Rafik
7. R. Shankar
8. Abdul Azees
9. S. Venkatesan
10. C. Murugan
11. Firozkhan
12. P. Dinesh
13. P. Elumalai
14. R. Suganthi

15. C. Venkatraman

16. K. Firos

17. M Hashen ... Respondents / Defendants

This petition coming before me for final hearing on 29/10/2025 in the presence of Tr. V. Murugan Advocate for the petitioner and Tr. R. Dhandpani, Advocate for the respondents 2 to 6, 8,11,16 and later respondents 1 to 17 called absent set exparte after hearing the arguments of both, upon perusing the records and having stood over for consideration, till this day, this court passed the following

ORDER

This is a petition under **Order 40 Rule 1 CPC** for appointment of a receiver to receive the rent and proceeds from the suit property pending disposal of the suit.

1) Petitioner's case :

Petitioner is the plaintiff in the suit filed for the relief of partition and separate possession of his 1/3rd share in the suit properties and reliefs connected thereto. The petitioner / plaintiff's case is that the suit "A,B,C"

and “D” schedule properties were subjected to oral partition on 30.09.2015. The 2nd respondent / defendant is bound to hand over to the petitioner the additional advance amount and rent that he received from the respondents 8 to 15 and 17 (tenants). He has also sought for a relief in the suit with regard to the profits received as the advance. The marriage hall mentioned in the “C” schedule property is used for commercial purpose and the respondent has to deposit the rent and additional advance received from it. Being a commercial property the marriage hall fetches a monthly rent of Rs.2,80,000/-. The respondents 1 and 2 are the petitioner’s mother and brother while the respondents 3 to 17 are the tenants. There is a motor vehicle show room in the “A” and “B” schedule property which also derives rent. Similarly there are other commercial portions and the tenants are paying rents. Further the petitioner has narrated how the properties devolved from Munusamy Naidu who died intestate on 12.12.1946.

2) The petitioner has further alleged that his father who was a LIC Agent was also doing business in paddy and rice and constructed 3 concrete shops in the petition mentioned property and also obtained electricity connection. His father also availed debts and loans to develop the business. All the petition mentioned properties were inherited by the petitioner’s grand

father Srinivasan by way of Settlement deed. Thus the petition mentioned properties are the ancestral joint family properties of the joint family consisting of petitioner's father and the respondents 1 and 2. As such the petitioner and respondents 1 and 3 are entitled to 1/3 rd share . It was the petitioner 's father who developed the marriage hall availing loan of Rs.20,00,000/- from the Indian Bank, Chengam. The petitioner was also managing the accounts of the marriage hall and the motor cycle dealer. In such circumstances, under an oral partition before the village elders on 30.09.2015, the "A" schedule property was allotted to the petitioner's father, "B" Schedule property to the 2nd respondent / brother and "C" schedule property was allotted to the petitioner Bala chandru. Since then, the petitioner and respondents 1 and 2 are in possession and enjoyment of their respective shares. The petitioner's father died on 10.12.2016 leaving behind "A" schedule property, a car and 2065 sovereigns of gold ornaments. The petitioner and respondents 1 and 2 are entitled to succeed to those properties. The petitioner and respondents 1 and 2 are in joint possession as co-sharers . The petitioner got married on 26.10.2020 and at that time the respondent 1 and 2 had received an additional advance to the tune of Rs.55,95,000/- from the respondents 3 to 17. Similarly they have received rents to the tune of Rs.25,34,000/- from the "C" schedule property. The said "C" schedule

property was allotted to the petitioner through the oral partition held on 30.09.2015. The respondents 1 and 2 are duty bound to return the proceeds from the "C" schedule and 1/3 rd share in the "A" schedule property. The respondents 1 and 2 continued to collect rents from respondents 8 to 15 and 17 who are tenants in "C" schedule properties. Thus the "C" schedule was allotted to the petitioner by way of oral partition and the petitioner is entitled to a share in the "A" schedule property that was allotted to his deceased father. But the respondents are not prepared to hand over vacant possession of the "C" schedule property and 1/3rd share in the "A" schedule property. Therefore the petitioner issued a legal notice to the respondents. The respondents evaded the notice. The petitioner filed this suit with an application to direct the respondents 8 to 15 and 17 to pay rents to the petitioner. He has sought for appointment of a receiver to take possession of the "C" schedule property and collect rents and addition advance amounts received by respondents 1 and 2.

3) All the respondents absent. They were set exparte. This court has heard the petitioner's counsel and perused the materials.

4) **Now the point for consideration is whether a receiver can be appointed for the purpose mentioned in the petition ?**

5) From the submissions of the petitioner and materials placed on records, it is seen that the petitioner Bala chandru has laid the above suit for the relief of partition and separate possession, Mandatory Injunction, Permanent Injunction, possession and for his share of rent from the "C" schedule property. Thereby the petitioner/ plaintiff has valued the suit u/ s. 37(2), 27(c), and 22 of Tamil Nadu court fees and suit valuation Act. As mentioned supra, the alleged oral partition dated 30.09.2015 is the bedrock on which the edifice of the petitioner's case rests. According to the petitioner, through that oral partition, the "A" schedule property which comprises of a immovable property, a car and 265 sovereigns of gold ornaments was allotted the share of the petitioner's father. The "C" schedule property which contains 3 items including a marriage hall was allotted to the share of the petitioner. The "B" schedule property was allotted to his brother Thilokchandru / 2nd respondent. The 1st respondent is the mother of the petitioner and 2nd respondent. The petitioner alleges that after his marriage, the respondents took complete control over all the properties and are enjoying the benefits, like rents, and additional advance from the said properties. Thereby they deprived the petitioner his 1/3rd share in the "A" schedule property (after the death of his father) and the entire "C" schedule property which was allotted to him. This is the crux of the issue. Therefore he seeks possession and profits of the

” C ” schedule property and 1/3rd share in the monetary profits accrued from the ”A” schedule property. The petitioner has also sought for permanent Injunction against the respondents 1 and 2 from alienating the properties and also for permanent injunction against 18th respondent to without hold the over take account. The 18th respondent is a Nationalized Bank.

6) The circumstances in which a receiver can be appointed has been clearly spelt out by the Hon’ble Apex court and also the Hon’ble Madras High court in a catena of precedents. It is trite in law that the power to appoint a receiver is purely discretionary and the court should take into consideration all the circumstances and the plaintiff must show a case adverse and conflicting claims to property and also to show some emergency or danger or loss demanding immediate action and appointing receiver should not caused any prejudice to the party who is in enjoyment.

7) With these principles and guidelines in mind if we have a look at the circumstances set out by the petitioner, it is apparent that the petitioner has not highlighted any imminent threat waste loss or mismanagement by the respondents 1 and 2. The petitioner only concern is that the respondents 1 and 2 are enjoying the benefits from the ”C ” schedule that was allotted to

him through the said oral partition and they have also deprived the petitioner of his 1/3rd share of monetary benefits from "A" schedule property. I am afraid, these are not sufficient circumstances to appoint a receiver at this point of time. It is needless to say that the petitioner has a long way to go in the suit, prove the early alleged oral partition and establish his right. Pertinently, he has also valued the suit u/s.22 of the Tamil Nadu Court Fees and Suit Valuation Act for recovery of Rs.45,64,000/- allegedly received as rent. He has also valued the 1/3 rd share in the "A" schedule. If he is bound to succeed in the suit he will be entitled to those reliefs. Hence this court is of the considered view that it is not appropriate to appoint a receiver at this point of time and the petition is liable to be dismissed. The point is answered accordingly.

In the result, the petition is dismissed.

Dictated to the Steno-Typist of this Court, transcribed by her in computer, corrected and pronounced by me in open court, this the 7th day of February, 2026.

Additional District Judge,
Tiruvannamalai.