

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
TIRUVANNAMALAI

PRESENT : **Mr.P. Mathusuthanan**, B.A., B.L.,
Principal District Judge,
Tiruvannamalai.

Thursday, the 05th day of March- 2026.

Original Suit No.212/2021
CNR NO.TNTM01004998-2021

Sathiya		... Plaintiff
	Vs	
1. Selvi 2. Dhananjayan 3.Venkatesh		..Defendants

This suit is coming before me on 05.02.2026 for final hearing in the presence of **Tr.V.Balasubramaniyan**, learned Advocate appearing for the Plaintiff and **Tr.M.Seenuvasan**, learned Advocate on record for the 2nd Defendant and did not turn for defendant side evidence, 2nd defendant called absent, hence he set at exparte, and **Tr.V.Srinivasan** learned Advocate appearing for 1st and 3rd Defendants and upon hearing the argument of both sides and perusing entire case records and having stood over for consideration till this date, this court delivered the following ...

JUDGEMENT

This Original Suit is filed by the plaintiff under Order VII Rule 1 of CPC for partition that directing the division of schedule of properties into 4 equal shares and allot 1/4 such shares taking into consideration of the good and bad qualities of the properties and deliver the plaintiff's due share to her and for cost , by appointing an Advocate commissioner to divide the schedule properties into 4 equal shares and allot 1/4 such shares to her, and directing the defendants to pay the cost of the suit to plaintiff.

2. Plaint averments in brief:-

The 1st defendant is mother of plaintiff and 2nd and 3rd defendants are brothers of plaintiff. The plaintiff and 2nd and 3rd defendants are born to 1st defendant and late Krishnamurthy. The schedule properties were purchased by plaintiff's father and he took possession and enjoyed the same as absolute owner. The plaintiff got marriage on 10.09.2000 in the presence of late Krishnamurthy and subsequently 2nd and 3rd defendants are got married and marriage expenses were spent by the plaintiff's father and mother.

The 1st item of the schedule mentioned property was originally belongs to her father late Krishnaamurthyl. He purchased the schedule property from Sakunthal Ammal under registered sale deed dated 18.03.1994 document No.298/1994. After purchased the schedule property he took possession and

enjoyed the same as absolute owner. Patta stance in the name of my father late Krishnamurthy.

The schedule 2nd item of property was originally belongs to her father late Krishnamurthy. He purchased the schedule property from Krishnan. Rajendran and Narayanasamy under registered sale deed dated 25.10.1995 document NO.1514/1995 . After registered sale deed dated 25.10.1995 is filed hear with.

The the schedule 3rd item of property was originally belongs to her father Krishnamurthy. He purchased the RCC roof Building property from Kandaswamy under registered sale deed dated 20.05.1993. After purchased the schedule property he took possession and enjoyed the same as absolute owner.

The said Krishnamurthy died interstate on 11.09.2016 living behind his wife 1st defendant and two sons 2nd and 3rd defendants and one daughter I.e.plaintiff. Death certificate of Krishnamurthy is filed here with the plaintiff stated that the plaintiff is settled in Sanarapalayam along with her husband for away from the schedule properties. The said late Krishnamurthy left the schedule mentioned properties to be inherited by his sons and wife and daughter. At the time of purchased the schedule properties 2nd and 3rd defendants are minors.

She is residing in distant from the schedule properties and taking advantage of plaintiff absence. All the defendants are colluded together and refused to give any share to the plaintiff and the 1 to 3 defendant are alienate the

schedule mentioned properties to the third party. Hence the plaintiff is not willing to make encumbered in the schedule mentioned properties so this plaintiff is demanding partition and separate possession of 1/4 th share and all the defendants are evading th partition.

The 2nd defendant try to change patta in his name for the schedule mentioned properties and he can carry his illegal activities at any point of time if she not prevented by an order of injunction. Under the above circumstances it is not possible for him to be in jointly with the defendants herein. Hence the plaintiff is file the suit for partition of their 1/4 share over the suit properties and possession thereof. The plaintiff craves the leaver of their Hon'ble court to add or delete any other joint family property which came to their knowledge in due course.

Further there are no charitable endowments over the schedule of properties and there is also no maintenance holder in regard to the suit properties and there is no attachment to any charitable endowment. There are no debts payables by the joint family to any third parties. They are in joint @ constructive possession and enjoyment of the suit properties along with the defendants. Hence the plaintiff file the suit for partition and separate possession of the suit properties into 4 equal shares and allotment of 1/4 such shares to them, for cost and other incidental relievers. Hence the suit.

3. Written Statement filed by the 2nd defendant in brief :-

The 2nd defendant is the elder son of Late Krishnamurthy and Smt. Selvi [1st defendant] . The 2nd defendant as an elder son of the family was and is taking care of his mother Smt. Selvi [1st defendant], brother Mr. Venkatesh [3rd defendant] and his sister Smt. Sathiya [plaintiff].

The 2nd the plaintiff got married on 10.09.2020. The 2nd defendant has spent the entire marriage expenses of the plaintiff out of his earnings derived from his business and also obtaining loan through friends and relatives. The father of 2nd defendant late Krishnamurthy has not spent any amount for the marriage expenses of the plaintiff. It is the 2nd defendant who has met the marriage expenses of the plaintiff and the 3rd defendant.

The Late Krishnamurthy had no money to purchase the suit schedule properties. The suit schedule-properties were purchased by the 2nd defendant in the name of his father Late Krishnamurthy out of his hard earnings in his business. Further it is the 2nd defendant who had developed the suit schedule properties out of his hard earnings. Further he has borrowed loans in development of the said properties.

The plaintiff after her marriage was not taking care of her father during his life time. Further the plaintiff does not come and visit her aged mother Smt. Selvi. It is the 2nd defendant who was and is taking care of his mother along with his wife and children.

At no point of time the plaintiff was in joint possession of the suit schedule properties. The 2nd defendant has not tried to alienate the suit schedule properties. The plaintiff at the instance of her husband Sri Venkatachalam had issued a notice demanding the 2nd defendant to effect partition. The said notice was issued only with an intention for harassing the 2nd defendant. The late Krishnamurthy had not acquired the suit schedule properties out of his self earnings. The plaintiff has not invested any rupee for developing the suit schedule properties. It is the 2nd defendant who has invested his hard earnings for purchasing, constructing and developing the suit-schedule-properties. The plaintiff is not entitled to any share in respect of the suit schedule properties since they are the self acquired properties of the 2nd defendant. Without prejudice to the above, the 2nd defendant begs to state as under:

The averments that the 1st defendant is mother of plaintiff and 2nd and 3rd defendants are brothers of plaintiff the plaintiff and 2nd and 3rd defendants are born to 1st defendant and late Krishnamurthy the plaintiff got marriage on 10.09.2000 in present of late Krishnamurthy and subsequently 2nd and 3rd defendants are got married are true and correct. Rest of the averments is denied being false and incorrect and the plaintiff is put to strict proof of the same.

The averments are denied being false and incorrect being false and Incorrect The Plaintiff is put to strict proof of the same. The averments are

denied being false and incorrect being false and incorrect. The Plaintiff is put to strict proof of the same.

The averments are denied being false and incorrect being false and incorrect. The Plaintiff is put to strict proof of the same. The averments that Krishnamurthy died on 11.09.2016 and the plaintiff is settled in Sanarapalayam along with her husband are true and correct. Rest of the averments is denied being false and incorrect. The Plaintiff is put to strict proof of the same.

The averments are denied being false and incorrect being false and incorrect. The Plaintiff is put to strict proof of the same. The averments are denied being false and incorrect being false and incorrect. The Plaintiff is put to strict proof of the same. The plaintiff is not in joint and constructive possession and enjoyment of the suit properties along with the defendants. No cause of action has arisen for the present suit and the one mentioned is not correct. The averments in the plaint which are not specifically admitted or traversed herein are hereby denied. For the foregoing the suit filed by the plaintiff is liable to be dismissed with costs.

4) On perusal of the plaint and written statements, it is noted from the written statement of the 2nd defendant that the suit properties were purchased in the name of his father out of the sale proceeds given by him, hence this court decided to call for the 2nd defendant to begin his case first to prove the fact that

the suit properties were purchased by him own money in the name of his father and also this court has framed the following issues on 06.03.2025.

1.	Whether the act of 2nd defendant purchasing the suit properties in the name of his father is hit by Binami Transaction Act?
2	Whether the plaintiff is entitled for the relief of partition as sought for ?
3	To what other relief the plaintiff is entitled to ?

5) However, since the 2nd defendant did not come forward to adduce evidence on his side as directed by this court, he was set at exparte. Thereafter on the side of the plaintiff, plaintiff filed her proof affidavit and examined herself as PW1 and marked Ex.A1 to A9. On the side of the 1 and 3rd Defendants, no witness was examined and no document was marked.

6) However, during the matter was pending for plaintiff side evidence, 1st and 3rd defendant filed a memo of submitting decree along with their respective court fees.

7) Point for consideration :-

Whether the court can pass the decree on the basis of memo of submitting to decree and the admission made by the 1 and 3rd defendants ?

8) Heard. Perused the records.

9) Point :- On perusal of the averments of the plaint as well as oral and documentary evidence adduced on the side of the plaintiff, it reveals that the 1st

defendant is mother, 2 and 3rd defendants are brother of plaintiff. The plaintiff got marriage on 10.09.2000. The 1st item of the property was originally belongs to plaintiff's father Krishnamurthy, he purchased the same from Sakunthala ammal under registered sale deed dated 18.03.1994 document No.298/1994 as evident from **Ex.A1 sale deed**. The patta for the 1st item of the schedule mentioned property was stands in the name of plaintiff's father Krishnamoorthy as evident from **Ex.A2 sale deed**. The 2nd item of the property was originally belongs to plaintiff's father Krishnamurthy, he purchased the same from Krishnan, Rajendran and Narayanasamy under registered sale deed dated 25.10.1995 document No.1514/1995 as evident from **Ex.A3 sale deed**. The 3rd item of the property was originally belongs to plaintiff's father Krishnamurthy, he purchased the same from Kandaswamy under registered sale deed dated 20.05.1993 as evident from **Ex.A4 sale deed**. Under the above said circumstances, all the suit properties were in possession and enjoyment of said Krishnamurthy as the absolute owner. The plaintiff's father Krishnamurthy died intestate on 11.09.2016 leaving behind his wife/1st defendant, two sons/ 2nd and 3rd defendants and one daughter/plaintiff as evident from **Ex.P. 5 Death certificate**. In such a circumstance, the plaintiff issued a Lawyer's notice dated 20.09.2021 to the defendants calling upon them to divide the suit properties into 4 equal shares and to allot her due 1/4 share over the suit properties as evidenced by **Ex.A7 legal notice**. In fact, the

defendants received the said notice as evident from **Ex.A8 acknowledgment card** and the 2nd defendant issued a reply notice dated 30.09.2021 as evidenced by **Ex.A9 Reply notice**.

10) The 1st and 3rd defendants admitted the relationship and also the nature of property and the extent of share. Though the 2nd defendant through his written statement admitted the relationship with plaintiff, he disputed the ownership of properties. However he did not come forward to prove his case and also remain exparte.

11) It is admitted fact that the suit properties are originally belonged to plaintiff and 2nd and 3rd defendants' father and 1st defendant's husband on Krishnamurthy. The plaintiff filed the Sale deeds and Patta for the suit properties as Ex.A1 and Ex.A.4 It is categorically reflects that the suit properties are stands in the name of Krishnamurthy. Thus, Krishnamurthy was absolute owner of the suit properties. The said Krishnamurthy died intestate on 11.09.2016 leaving behind the suit properties to be inherited by the plaintiff and 1 to 3 defendants herein who are his only Legal Heirs. Eventhough, the 2nd defendant filed his written statement disputing the claim of plaintiff, as already said, he did not comeforward to prove his case. On the other hand, he is remaining exparte. In such a circumstance, when the matter was pending for plaintiff side evidence, 1st and 3rd defendants herein filed a memo expressing their consent to grand a decree as sought for by the plaintiff by allotting due

share to the legal heirs of deceased Krishnamurthy. It is therefore, having considered the evidence of PW.1 given in the form of proof affidavit and the memo filed by the 1st and 3rd defendants submitting to the decree admitting the relationship of the plaintiff, defendants and their due share over the property that left behind by the deceased Krishnamurthy, this court deem appropriate to grant the decree on submitting to decree. Thus, the plaintiff and the defendants are entitled each 1/4 share over the suit properties.

12) Since, the 1 and 3rd defendants admitted the relationship and also expressed their inclination for partition and get due share in the suit properties, this court is inclined to pass decree on the basis of admission of the 1 and 3rd defendants and this point is answered accordingly.

In fine, a preliminary decree is passed that the suit schedule properties shall be divided into 4 equal shares and upon such share the plaintiff, 1st and 3rd defendants are allotted each one share. Considering the nature of the relationship there shall be no cost.

Dictated by me to steno-typist and typed by her directly in the computer, corrected and pronounced by me in open court this 05th day of March- 2026.

**Principal District Judge,
Tiruvannamalai.**

Witness examined on the side of the Plaintiffs:

P.W.1. Tmt. Sathya (plaintiff)

Documents marked on the side of the Plaintiffs:

Ex.A1	18.03.1994	Certified copy of Sale deed executed by Sakunthala ammal infavour of Krishnamurthy
Ex.A2	--	Patta Pass book stands in the name of Krishnamurthy for the suit property.
Ex.A3	25.10.1995	Original Sale deed executed by Krishnan and others infavour of Krishnamoorthy
Ex.A4	20.05.1993	Original alongwith absolute Sale deed(translated into English executed by Kandasamy infavour of Krishnamurthy
Ex.A5	11.09.2016	Xerox copy of Death Certificate of Krishnamurthy
Ex.A6	..	Xerox copy of Adhar card of plaintiff
Ex.A7	20.09.2021	Legal Notice issued by the plaintiff's counsel to defendants.
Ex.A8	..	Acknowledgement cards (3 counts)
Ex.A9	30.09.2021	Reply notice issued by the 2nd defendant's counsel to the plaintiff counsel

Witness examined on the side of the Defendants:- NoneDocuments marked on the side of the Defendants:- Nil**PDJ**

Draft / Fair Judgment

O.S. No.212/2021

Dated 05.03.2026.