

**IN THE COURT OF THE PRINCIPAL SUBORDINATE JUDGE,
CHEYYAR, THIRUVANNAMALAI DISTRICT.**

Present : N.Suresh, M.L.,
Principal Subordinate Judge,
Cheyyar.

Thursday the 5th day of March 2026

A.S.No.13/2019

TNTM04-000015-2019

1. Anbazhagan

2. Jayanthi,

....Appellants

//Versus //

1.Suresh,

2.Manikandan,

3.Sumathi,

4.Sundari,

5.Purusothaman (Died),

6.Pazhani,

7.Vijaya,

8.Madhan,

9.Muthu (Died).

.... Respondents

On Appeal Against the Decree and Judgment Dated 01.11.2018
passed in O.S.No.102 of 2014 by the Principal District Munsif Court,
Cheyyar.

Between, O.S.No.102 of 2014

1.Suresh,

2.Manikandan,

3.Sumathi,

4.Sundari,

....Plaintiffs

//Versus //

1. Purusothaman
 2. Pazhani,
 3. Anbazhagan,
 4. Sub-Registrar,
 5. Jayanthi, Defendants.
- (Amended as per Order in I.A.No.170/2017, dated 11.04.2017)

This appeal is coming on 16.02.2026 for final hearing before me in the presence of **Thiru.M.S.Sankarapandiyan** Advocate for the appellants and **Thiru.T.P.Saravanan** Advocate for the 1st to 4th respondents and **Thiru.U.Harikrishanan** Advocate for the 6th respondent and 9th respondent is died and 7th and 8th respondents called absent, set ex-parte heard the arguments and available records are perused and having stood over for consideration till this day, this court delivered the following :-

JUDGMENT

This appeal arises out of the Judgment and decree in O.S.No.102 of 2014 passed by the learned Principal District Munsif Court, Cheyyar, Dated: 01.11.2018.

The appellants filed a suit seeking a permanent injunction before the Trial Court. After a full trial, the Trial Court allowed the suit, holding that the plaintiff had failed to prove his title and possession of the suit property. Aggrieved by the said judgment and decree, the Defendants has preferred this appeal.

2. PLEADINGS BEFORE THE TRIAL COURT :-

GIST OF THE PLAINT IN O.S.No.O.S.No.102 of 2014

i). The suit properties originally belonged to Murthy Nayakkar, who is the grandfather of the plaintiffs and the father of defendants 1 to 3. The said Murthy Nayakkar had been enjoying the suit properties during his lifetime and passed away about ten years ago without making any arrangements regarding the said properties. His wife, Lakshmi Ammal, also passed away about five years ago.

ii). After the death of Murthy Nayakkar, the suit properties were inherited by his sons, namely defendants 1 to 3. Thereafter, defendants 1 to 3 executed a registered partition deed dated 06.03.2006 and divided the properties among themselves at a time when the plaintiffs were minors. According to the plaintiffs, the said partition deed was not a fair and proper division. It is alleged that the 3rd defendant, taking advantage of the fact that defendants 1 and 2 were addicted to alcohol and were not fully aware of the value of the properties, obtained their signatures in the said partition deed and got it registered. It is further alleged that the 3rd defendant reserved a larger portion of the properties for himself and did not allot a fair share to the 2nd defendant, who is the father of the plaintiffs.

iii). Under the said partition deed, the 'A' Schedule property was allotted to the 1st defendant, the 'B' Schedule property was allotted to the 2nd defendant, and the 'C' Schedule property was allotted to the 3rd defendant. The plaintiffs contend that the said partition deed was executed unfairly and that the shares allotted to the defendants were disproportionate. The plaintiffs

claim that the suit properties are ancestral properties and therefore they are also entitled to a share in the properties through their father, the 2nd defendant.

iv). The plaintiffs further contend that the 3rd defendant obtained the signatures of defendants 1 and 2 by misrepresentation and undue influence and thereby secured a larger share for himself. According to the plaintiffs, since the said partition deed was executed when they were minors and was obtained by fraud and misrepresentation, the same is not binding on them. The plaintiffs therefore claim that they are each entitled to a 1/15 share in the 5/15 share allotted to the 2nd defendant.

v). The sisters of defendants 1 to 3 have not been included as parties to the present suit, as they were already given jewellery, household articles and sufficient money at the time of their marriage. When the plaintiffs questioned the 3rd defendant on 16.04.2014 regarding their share in the property, the 3rd defendant denied their claim and stated that the plaintiffs had no right in the suit properties, while the 2nd defendant remained silent.

vi). Since the 4th defendant is a government servant, notice under Section 80 of the Code of Civil Procedure ought to have been issued before filing the suit. However, due to urgency, the plaintiffs filed a separate petition seeking exemption from issuing such notice.

vii). It is further stated that the 3rd defendant had also included the name of his wife, Jayanthi, in certain transactions relating to the property. Therefore, she has been impleaded as the 5th defendant in the present suit by filing an application in I.A. No. 788 of 2016, which was allowed by the court.

viii). According to the plaintiffs, defendants 1 to 3 are financially powerful and influential persons. The plaintiffs apprehend that the defendants may attempt to alienate the suit properties or create false documents in respect of the same. Hence, the plaintiffs have filed the present suit seeking declaration that the partition deed dated 06.03.2006 is invalid and not binding on them, for partition and separate possession of their lawful shares, and for permanent injunction restraining defendants 1 to 3 from alienating or encumbering the suit properties. The plaintiffs side EXA1 document alone filed,

3. SUMMARY OF THE WRITTEN STATEMENT FILED BY THE 3rd DEFENDANT :-

i). The suit filed by the plaintiffs is not legally or equitably maintainable. The plaintiffs are not entitled to any share in the suit property as claimed. Their alleged entitlement to a 1/15 share in the suit property is wholly incorrect and unsustainable in law.

ii). The plaintiffs have also sought a permanent injunction restraining the defendants from alienating the suit property until a proper partition is effected. The third defendant submits that such a relief is not maintainable in the facts and circumstances of the case.

iii). The third defendant strongly denies the allegation made in the plaint that the suit properties are ancestral properties and that they were enjoyed by the father of the defendants, Murthy Nayakkar, as joint family properties. It is submitted that the father of the defendants had inherited the properties and, after his demise, his sons, namely the first three defendants,

came into possession and enjoyment of the properties. Subsequently, a lawful partition was effected among them on 06.03.2006, and a registered partition deed was executed. Therefore, the plaintiffs have no right, title, or interest in the suit properties.

iv). The allegations made by the plaintiffs that the 2nd defendant, who is their father, was living a life of luxury, addicted to drinking, and neglecting his family are false and baseless. The plaintiffs have also alleged that the first and second defendants were illiterate and that the third defendant, being knowledgeable about the affairs, took advantage of the situation and fraudulently created a partition deed. These allegations are categorically denied by the third defendant.

v). On the contrary, the 2nd defendant was always concerned about the welfare of the family. At the time when he required money for the marriage of his daughter Samathi, the first and second defendants called the third defendant and, in the presence of village Panchayatars, a family arrangement was discussed and a partition was amicably effected. Accordingly, a partition deed dated 06.03.2006 was executed and registered with the full consent of all three brothers. The said partition was effected voluntarily without any coercion, fraud, or misrepresentation. The said partition deed is binding on the parties, including the 2nd defendant and the plaintiffs who claim through him.

vi). It is further submitted that the father of the defendants, Murthy Nayakkar, during his lifetime had arranged the marriages of the first and second defendants. As the third son (the third defendant) remained unmarried at that time, Murthy Nayakkar executed an unregistered Will dated

09.08.1986, wherein he stated that 101 acres of land should be allotted to the third defendant for the purpose of his marriage and that the remaining properties should be equally divided among the three sons after setting apart the said portion. In the said Will, the father had clearly specified the properties to be allotted to each of them.

vii). Since the third defendant was a minor at that time, the Will also stated that the mother of the defendants should act as guardian of the third defendant and manage the said properties until he attained majority, after which the properties should be handed over to him. Thus, the father of the defendants had made arrangements regarding the properties inherited by him through the said Will.

viii). Subsequently, the mother of the defendants, Vatsamiammal, who had been managing the properties, executed a registered settlement deed dated 22.10.1999 in favour of the third defendant with respect to the properties that had fallen to his share under the said Will. As per the said Will and settlement deed, 101 acres out of a total extent of 209 acres in Survey No.52, along with 1/3 share in the well, pump set, and electric motor, became the absolute property of the third defendant.

ix). However, the first and second defendants did not accept the arrangement under the Will and settlement deed and insisted upon a fresh family partition. Therefore, in order to maintain family harmony, the third defendant agreed to a fresh partition in the presence of Panchayatars, and the said partition deed was registered on 06.03.2006. The said partition was executed voluntarily and without any undue influence. Pursuant to the said partition, the first, second, and third defendants have been separately enjoying

the 'A', 'B', and 'C' Schedule properties with absolute rights since the date of partition.

x). The plaintiffs have no right, title, or share in the properties allotted to the third defendant under the said partition.

xi). It is further submitted that the 2nd defendant has already obtained his share in the partition and has been dealing with the property that fell to his share as his absolute property, including mortgaging it for the purpose of performing the marriage of his daughter.

xii). The present suit has been filed by the plaintiffs at the instigation of the 2nd defendant, along with his sons and daughters, with an ulterior motive. Hence, the suit is not maintainable either in law or on facts.

xiii). The third defendant has also mutated the revenue records (patta) in his name in respect of the properties allotted to him in the partition and has subsequently executed a registered settlement deed in favour of his wife, Jayanthi, transferring the property to her. Thereafter, the said Jayanthi has also transferred the patta in her name and has been in possession and of the property by paying government taxes.

xiv). The said Jayanthi is a necessary and proper party to the suit, and the failure of the plaintiffs to implead her as a party to the proceedings renders the suit bad for non-joinder of necessary parties.

xv). The plaintiffs and their father, the 2nd defendant, were fully aware that the third defendant was in possession of the property, had constructed a house, and was enjoying the same as his absolute property. Despite such

knowledge, neither the plaintiffs nor the second defendant raised any objection at the relevant time. If the plaintiffs truly had any share in the property, they would have objected when the construction was made.

xvi). Having remained silent for several years, the plaintiffs have now filed the present suit belatedly without any valid cause of action. Therefore, the suit is frivolous, vexatious, and liable to be dismissed.dj

xvii). The defendants have produced various documents marked as **Ex-B1 to Ex-B7** in support of their case to establish that the defendant. Original will dated 09.08.1986 **Ex-B1**, The Final Settlement Document dated 22.10.1999 **Ex-B2**, The Deed of partition dated 06.03.2006 **Ex-B3**, Computer download copy of the Patta No.635 **Ex-B4**, Original Settlement document dated 14.12.2007 **Ex-B5**, Computer download copy of the Patta No.1001 **Ex-B6**, House tax receipt dated 13.08.2018 **Ex-B7**.

4. SUMMARY OF THE WRITTEN STATEMENT FILED BY THE 2nd DEFENDANT AND ADOPTED BY THE 1st DEFENDANT :-

i). It is submitted that the claim made by the plaintiffs is false and unsustainable. It is true that the suit properties are ancestral properties which were inherited by the defendants' father, Mr. Moorthi Nayakkal. It is further stated that Mr. Moorthi Nayakkal and the defendants' mother, Mrs. Vatchamiyammal, had been in possession and enjoyment of the properties for several years without making any formal partition or arrangement. Both of them passed away about five years ago.

ii). It is further true that after the death of the defendants' father, Mr. Moorthi Nayakkal, the defendants jointly enjoyed the properties and subsequently effected a partition among themselves on 16.03.2006.

iii). It is further stated that, in respect of the property belonging to the 2nd respondent in Nanjai Survey No., the same was equally divided between the respondent and the 1st and 3rd respondents. However, the property belonging to the 1st respondent in Punjai Survey No. was not allotted to the respondent and the 3rd respondent. This fact was not known to the respondent at the time when the partition deed was executed.

iv). At the time of executing the partition deed, the 3rd respondent represented that a share in the property belonging to the 1st respondent had been allotted to the respondent and the 3rd respondent. Believing the representation made by the 3rd respondent and acting in good faith and trust, the respondent signed the partition deed and continued to enjoy the property accordingly.

v). Only a few months prior to the filing of the present case did the respondent come to know about the true state of affairs. When the respondent questioned the 3rd respondent regarding the same, the 3rd respondent asserted that he was entitled to a share in the property. Relying on this representation, the respondent remained silent. Subsequently, the plaintiffs filed the present suit before this Hon'ble Court. Thereafter, the 3rd respondent has also filed a separate suit against the respondent and the 1st respondent.

vi). The respondent has categorically stated that he has no share in the said property and that no share can be allotted to him in respect of the said

property. The respondent further contends that the claim put forward by the 3rd respondent is a conspiracy intended to defraud this respondent and the 1st respondent.

vii). Therefore, the respondent has filed the present reply seeking that this Hon'ble Court accept the above submissions and pass appropriate orders in accordance with law.

5. SUMMARY OF THE ADDITIONAL WRITTEN STATEMENT FILED BY THE 5th DEFENDANT AND ADOPTED BY THE 3rd DEFENDANT :-

i). The defendant strongly denies the allegations and averments set out in the amended plaint filed by the plaintiffs. The 5th defendant has already filed a detailed counter-claim in this regard.

ii). It is submitted that the family properties were partitioned through a registered partition deed dated 06.03.2006, and since then the parties have been in possession and enjoyment of the properties allotted to them as their respective shares.

iii). It is further stated that the husband of the 5th defendant, Mr. Anbazhagan, had acquired and enjoyed the property that fell to his share in the said partition. He had also transferred the patta in respect of the said property to his name. Thereafter, out of the property that fell to his share, he executed a registered settlement deed dated 14.12.2007 in favour of the 5th defendant, settling 101 acres of land in Survey No. 52.

iv). Accordingly, the said 101 acres of land in Survey No. 52 became the absolute property of the 5th defendant, and she has been in lawful possession and enjoyment of the same with full rights.

vi). The plaintiffs, despite being aware that the properties had already been partitioned and that the parties have been enjoying their respective shares, have filed the present suit without any valid cause of action. The property that forms the subject matter of the suit has already been settled in favour of the 5th defendant through the aforesaid registered settlement deed, and she has been enjoying the same with full rights.

Therefore, the suit filed by the plaintiffs is not maintainable in law and is liable to be dismissed.

6. UPON CONSIDERING THE PLAINT AND WRITTEN STATEMENT, THE TRIAL COURT FRAMED THE FOLLOWING ISSUES :-

1. Whether the Plaintiffs are entitled to the relief of Partition as prayed for?
2. Whether the Plaintiffs are entitled to the relief of declaration and injunction as prayed for?
3. To What relief, the plaintiff are entitled?
7. Whether the plaintiff is entitled to a mandatory injunction restraining the defendants from alienating or otherwise disposing of the suit property, as prayed for in the plaintiff?

8. TRIAL AND FINDINGS OF THE TRIAL COURT :-

i). The Trial Court held that the plaintiffs are each entitled to 1/15 share in the suit properties and accordingly passed a preliminary decree for partition. The Court further declared that the partition deed dated 06.03.2006 executed between the 1st to 3rd defendants is invalid and not binding on the plaintiffs. The Trial Court also granted a permanent injunction against the 4th

defendant as prayed for by the plaintiffs. Considering that the parties are close relatives, the Court directed that each party shall bear their own costs and passed the decree without costs.

9. THE GROUNDS OF APPEAL :-

i). The judgment and decree passed by the Hon'ble Principal District Court, Cheyyar, in O.S. No. 102 of 2014 dated 01.11.2018 are contrary to law, facts and evidence on record and are therefore liable to be set aside.

ii). The learned trial court failed to properly appreciate the nature of the case, the pleadings of the parties, and the documentary and oral evidence placed on record, and has erroneously decreed the suit in part. Hence the judgment is unsustainable in law and liable to be set aside.

iii). The learned trial court failed to consider the material documents and evidence produced by the parties and passed the impugned judgment without proper appreciation of the facts of the case, which is neither legal nor just.

iv). The plaintiffs, who are the cross-appellants in the lower court, failed to prove their case in accordance with law. However, the learned trial court, without properly appreciating the evidence, has partly decreed the suit, which is erroneous and liable to be set aside.

v). The appellants had produced sufficient oral and documentary evidence before the trial court to substantiate their case. However, the learned trial court failed to properly consider the said evidence and has erroneously allowed the suit in part.

vi). Even though the evidence on record supports the case of the appellants, the trial court failed to appreciate the same in its proper perspective and has passed a judgment which is not sustainable either in law or on facts.

vii). The appellants (defendants 3 and 5) have clearly proved before the trial court that the suit properties had already been partitioned among defendants 1 to 3 through a duly executed and registered partition deed. However, the trial court failed to consider the same and wrongly decreed the suit in part.

viii). The trial court failed to appreciate that the properties of the deceased Murthy Naikkar were already partitioned among his sons on 06.03.2000 and that the appellants were allotted their respective shares under the said partition. Each party has been enjoying their respective shares since then. The trial court, without considering the said fact, has erroneously passed the impugned judgment.

ix). The plaintiffs themselves have admitted in their evidence that the earlier partition had taken place. However, they have alleged that the said partition was not properly made and that lesser property was allotted to their father, namely the second defendant Palani. Even though the appellants proved that the suit was subsequently filed by the heirs of the second defendant, the trial court failed to properly consider the same.

x). The second defendant, who is the father of the plaintiffs, was allotted a share in Schedule 'B' property under the earlier partition and has been

enjoying the same. However, he has never taken any legal steps to challenge the said partition during his lifetime. The trial court failed to consider this material aspect and erroneously decreed the suit in part.

xi). The trial court failed to properly consider the true nature of the case and the evidence available on record while passing the impugned judgment.

xii). When the Schedule 'B' property had already been allotted to the second defendant in the earlier partition and he had been enjoying the same, only the parties to the said partition could question its validity. The plaintiffs, being only the heirs of the second defendant, have no independent right to challenge the said partition. However, the trial court failed to consider this legal position.

xiii). The plaintiffs themselves admitted that the suit properties originally belonged to the deceased Murthy Naikkar. However, during the lifetime of their father (the second defendant), the plaintiffs had no right or interest in the suit property. The trial court failed to consider this vital legal aspect and erroneously decreed the suit in part.

xiv). 13A. During the pendency of this appeal, the 5th respondent/cross-appellant Purushothaman died leaving behind respondents 7 to 9 as his legal heirs. Accordingly, a petition was filed to implead them as legal representatives in this appeal, and the same was allowed by the Hon'ble Court by order dated 30.08.2024.

Prayer,

xv).Therefore, it is humbly prayed that this Hon'ble Court may be pleased to set aside the judgment and decree passed by the Hon'ble Principal District Court, Cheyyar, in O.S. No. 12 of 2014 dated 01.11.2018 and allow the appeal with costs, and thus render justice.

10. POINTS FOR CONSIDERATION :-

1. Whether the suit property is the ancestral property of the plaintiffs?
2. Whether the plaintiffs have any right to challenge the registered partition deed of the year 2004?
3. Whether a family property that has already been partitioned can be sought to be re-partitioned after several years?
4. Whether the Plaintiff/appellant is entitled to the relief of a permanent injunction against the respondents / Defendants?
5. Whether the decree and judgment of the Trial Court in O.S.No.102 of 2014, dated 01.11.2018, are liable to be set aside in this appeal?

11. ANSWER TO POINTS 1 :-**1. Improper Appreciation of Evidence by Trial Court**

The appellants contend that the trial court failed to properly evaluate the pleadings, evidence, and circumstances of the case and wrongly decreed the suit in part. The suit properties originally belonged to Murthy Naikkar and were already divided among his sons through a **family partition dated 06.03.2000**. Each sharer was allotted a specific portion and has been enjoying it separately. The appellants proved the existence

and validity of this partition through both documentary and oral evidence.

2. Plaintiffs Have No Independent Right

The second defendant, who is the father of the plaintiffs, received a definite share in the said partition and enjoyed it without any objection during his lifetime. Therefore, the plaintiffs, being only his legal heirs, do not have an independent right to challenge the partition. Their claim that their father received a lesser share is unsupported by reliable evidence and cannot invalidate a partition that has already been acted upon for several years.

3. Trial Court's Findings Are Erroneous

The appellants argue that the trial court failed to consider the material facts and evidence placed on record and wrongly granted relief to the plaintiffs. As a result, the judgment and decree are contrary to law and evidence and are therefore unsustainable.

12.CONCLUSION:-

The appellants pray that the Honorable Court **set aside the judgment and decree passed by the trial court.**

13. ARGUMENTS ON BEHALF OF RESPONDENTS 1 TO 4 :-

i). The respondents submit that the suit property is the ancestral property of Murthy Naikkar. According to them, at the time of partition of Murthy Naikkar's properties, the properties were not divided equally among the sharers. On that ground, the legal heirs of Palani have sought a proper and

equitable partition of the suit properties. The respondents further contend that the alleged Will dated 09.08.1986 said to have been executed by Murthy Naikkar in favour of the third defendant is false and fabricated. They state that the said Will has not been proved before the Court in the manner required by law and therefore it cannot be relied upon.

ii). The respondents further submit that the judgment and decree passed by the trial court were rendered after properly appreciating the pleadings, oral and documentary evidence on record. According to them, the findings of the trial court are correct and legally sustainable. Hence, the decree granted by the trial court deserves to be confirmed by this Hon'ble Court, and the appeal filed by the appellants is liable to be dismissed.

iii). Similarly, Purushothaman died during the pendency of the trial. Palani did not appear before the trial Court and did not take any steps to cross-examine the witnesses. Respondents 7 and 8 were set ex parte, and Respondent 9 died during the pendency of the proceedings. Furthermore, before this Appellate Court, the learned counsel for the said Palani advanced arguments in support of respondents 1 to 4.

14. MAIN POINTS :-

i). After hearing the arguments advanced on both sides and upon perusal of the documents available on record, this Court proceeds to examine the first point for determination. In the present case, it is admitted that the suit properties originally belonged to Murthy Nayakkar, the father of the first to third defendants in the original suit. The said properties were subsequently divided among his three sons, namely the first to third defendants, through a registered partition deed marked as Ex-A1.

ii). It is a settled principle of Hindu Law that a property can be treated as ancestral property only when it has descended through three generations of male lineage without partition. In such a case, the sons acquire a right by birth in the said property. However, when a son receives property from his father through partition or by way of inheritance, the said property becomes his separate or self-acquired property, and his children cannot claim a birthright in the same unless it retains the character of joint family property. This principle is recognized under Section 6 of the Hindu Succession Act, 1956, relating to coparcenary property.

iii). In this regard, the Hon'ble Supreme Court in *Commissioner of Wealth Tax v. Chander Sen*, (1986) 3 SCC 567 : AIR 1986 SC 1753 held that property inherited by a son from his father after the commencement of the Hindu Succession Act, 1956 becomes his separate property and not ancestral property in which his children acquire a birthright. The same principle has been reiterated by the Hon'ble Supreme Court in *Yudhishter v. Ashok Kumar*, wherein it was held that property inherited by a son from his father is his individual property unless it is shown that the property continued to remain joint family property.

iv). In the present case, the respondents have not produced any document to establish that the suit properties were ancestral properties of Murthy Nayakkar for three generations prior to him. On the contrary, the only document produced before the Trial Court by the first to fourth respondents is the partition deed marked as Ex.A1. No documentary evidence has been produced to prove that the properties existed as ancestral properties prior to the said partition.

v). Further, it is also pertinent to note that the father of the first to fourth respondents, namely Palani, who was the second defendant in the original suit, has not raised any dispute or challenge with respect to the said partition deed Ex.A1. From the available records, it is clear that Palani had obtained his share in the properties through the said partition from his father Murthy Nayakkar, and therefore the property so obtained by him becomes his separate property.

vi). In the absence of any documentary evidence, genealogy records, revenue documents, or other materials to establish that the properties had descended through three generations without partition, the contention of the first to fourth respondents that the suit properties are ancestral properties cannot be accepted.

Furthermore ,the P.W.1 stated in his evidence that,

" 2-ஆம் பிரதிவாதி எங்களுடைய தகப்பனார் ஆகும். 1 முதல் 3 பிரதிவாதிகள் சகோதரர்கள். எங்களுடைய பாட்டனார் மூர்த்தி ஆகும் தாவா சொத்துக்கள் எங்களுடைய பாட்டனரான மூர்த்தி என்பவருக்கு சொந்தமானது என்றால் சரிதான். எங்களுடைய பாட்டனார் மூர்த்தி இறந்து சுமார் 10 வருடங்கள் ஆகிறது. நாங்களும் எங்களுடைய தகப்பனரான 2-ம் பிரதிவாதியும் ஒன்றாகத்தான் இருந்து வருகிறோம். எங்களுக்கும் எந்தவிதமான கருத்து வேறுபாடும் இல்லை. நான் எட்டாம் வகுப்பு வரை படித்துள்ளேன். எங்களுடைய தகப்பனர் தான் எங்கள் அனைவரையும் நல்ல முறையில் சவரட்சனை செய்து வளர்த்து வந்தார் என்றால் சரிதான். எங்களுடைய சகோதரிகளான 3, 4 வாதிகளுக்கும் திருமணம் ஆகிவிட்டது. எனக்கும் திருமணம் ஆகிவிட்டது. எங்கள் அனைவருக்கும் எங்கள்

தகப்பனார் தான் திருமணம் செய்து வைத்தார் என்றால் சரிதான். எங்களுடைய சகோதரிகளுக்கும் எங்கள் தகப்பனார்தான் நகைககள் போட்டு சீர்வரிசை செய்து திருமணம் செய்து வைத்தார் என்றால் சரிதான். என்னுடைய தகப்பனார் இன்றையதினம் நீதிமன்றத்திற்கு வரவில்லை. எங்களுடைய தகப்பனாரும் 1, 3 பிரதிவாதிகளும் சேர்ந்து எங்களுடைய பட்டனார் மூரத்தி விட்டுசென்ற சொத்துக்கள் குறித்து பாகப்பிரிவினை ஏற்படுத்திக்கொண்டார்கள் என்றால் சரியல்ல. பாகப்பிரிவினை ஏற்படுத்தி கொள்ளவில்லை. மேற்படி 3 வரும் அவரவர்களுக்குள் தனித்தனியாக அனுபவித்து வருகிறார் என்று சொன்னால் சரிதான். எங்களுடைய தகப்பனார் 70 சென்ட் நிலத்தை அனுபவித்து வருகிறார்.

And

எங்களுடைய தகப்பனார் எங்களிடம் பாகப்பிரிவினை முறையாக ஏற்படவில்லை என்று சரிசமமாக பிரித்து கொடுக்கப்படவில்லை என்று அதனால் தன்னுடைய சகோதரர் மீது வழக்கு தொடரவேண்டும் என்று கூறிபதின்பேரில்தான் நாங்கள் அவர் சொல்ல இந்த தாவாவை தாக்கல் செய்துள்ளோம். இந்த வழக்கிற்கு ஒவ்வொரு வாய்தாவிிற்கும் என்னுடைய தகப்பனார் எங்களுடன்தான் வந்திருந்தார் இன்றைக்கும் மட்டும் அவர் வரவில்லை. "

Therefore, the first respondent himself has admitted in his evidence that the suit properties originally belonged to his grandfather, Murthy. He has further deposed that the partition deed marked as Ex.A1 was executed about ten years after the death of Murthy, and that thereafter the father of the first to fourth respondents conducted their marriages and made proper family arrangements.

vii). It is also evident from his testimony that their father used to attend Court regularly, but in the present proceedings he has not chosen to appear before the Court. The first respondent has further admitted in his cross-examination that all the family members are living together and that there is no enmity among them. He has also admitted that he is enjoying about 70 cents of land as per the partition arrangement.

viii). The first respondent has also clearly stated in his evidence that the present suit has been filed at the instance of his father. From the said admission, it is evident that the first to fourth respondents and their father have jointly initiated the present proceedings with an intention to challenge the earlier partition.

ix). Further, in the original suit, the first to fourth respondents have arrayed their own father as the second defendant, while they themselves have filed the suit as plaintiffs. Such conduct clearly indicates that the suit has been filed in a manner intended to create a dispute regarding the properties.

x). Moreover, if the suit properties were truly the ancestral properties belonging to their grandfather Murthy nayakkar, the respondents ought to have produced relevant documents such as the death certificate, legal heir certificate, genealogy, and other supporting documents to establish their claim of succession. However, no such documents have been produced before this Court.

xi). On the contrary, the evidence of the first respondent himself clearly shows that the suit has been filed at the instance of his father, and therefore the claim made by the first to fourth respondents cannot be accepted as genuine.

xii). Therefore, this Court holds that the first to fourth respondents have failed to prove that the suit properties are ancestral properties. On the contrary, the evidence on record clearly shows that the property obtained by their father Palani through partition from his father Murthy Nayakkar is his separate property.

Accordingly, the first point for determination is answered to the effect that the suit properties are not the ancestral properties of the first to fourth respondents.

15. ANSWER TO POINT 2 :-

i). After hearing the submissions made on either side and upon careful perusal of the oral and documentary evidence available on record, this Court proceeds to examine the issue involved in the present appeal. It is not in dispute that the suit properties originally belonged to Murthy Nayakkar, and after his demise, his sons, namely the first to third defendants, succeeded to the said properties. The records further disclose that the said properties were divided among them through a registered partition deed dated 06.03.2006, marked as Ex.A1. Pursuant to the said partition, the respective parties have obtained separate pattas from the Revenue Department and have been in possession and enjoyment of the properties allotted to them. It is also seen

from the evidence that the second defendant has been cultivating the land that fell to his share and has been enjoying the same independently.

ii). In this context, it is relevant to refer to Section 17 of the Registration Act, 1908, which mandates compulsory registration of instruments of partition relating to immovable property. Once a partition deed is duly registered and acted upon by the parties, it carries a presumption of validity unless it is set aside by a competent court of law. In the present case, the partition deed Ex.A1 was executed and registered in the year 2006, and the parties have been enjoying their respective shares thereafter without raising any objection.

iii). Further, if any party to the partition had any grievance regarding fraud, misrepresentation, or illegality in the execution of the said document, the proper remedy would have been to challenge the same within the time prescribed under Article 59 of the Limitation Act, 1963, which provides that a suit to cancel or set aside an instrument must be filed within three years from the date on which the cause of action arises. However, in the present case, the partition deed was executed in the year 2006, whereas the present suit was instituted only in the year 2014, after a considerable lapse of time. Significantly, none of the original parties to the partition deed have chosen to challenge the same within the prescribed period.

iv). The Hon'ble Supreme Court in *Prem Singh v. Birbal*, (2006) 5 SCC 353 : AIR 2006 SC 3608 has held that a registered document is presumed to be valid and binding unless it is set aside by a competent court, and any challenge to such a document must be made within the period of limitation prescribed by law. Similarly, in *Ranganayakamma & Another v. K.S. Prakash (Dead) by LRs & Others*,

(2008) 15 SCC 673 : AIR 2008 SC 1138.held that a concluded partition cannot be reopened after a long lapse of time unless there is clear and convincing evidence of fraud, coercion, or misrepresentation.

v). Further,*Kale and Others v. Deputy Director of Consolidation and Others*, (1976) 3 SCC 119 : AIR 1976 SC 807.has observed that family arrangements and partitions which have been acted upon for a long period should not be disturbed by courts in the absence of strong and compelling reasons, as such arrangements are intended to bring peace and harmony within the family.

vi). In the present case, the first to fourth respondents have not produced any documentary evidence to establish that the suit properties are ancestral properties belonging to their family for three generations. On the contrary, even in their own evidence they have admitted that the properties originally belonged to Murthy Nayakkar. Except for producing the partition deed Ex.A1, no other document such as genealogy records, earlier title deeds, or revenue records has been produced to establish the ancestral nature of the properties.

vii). Moreover, the allegation that the father of the respondents was addicted to alcohol and executed the partition deed under such influence has not been substantiated by any reliable evidence. No independent witness or documentary proof has been produced to establish the said allegation. In the absence of such evidence, the said contention cannot be accepted.

viii). The Madras High Court has consistently held that once a partition has been effected through a registered instrument and the parties have acted

upon it, the same cannot be reopened by the heirs after a long lapse of time without establishing fraud or illegality.

ix). Therefore, in the absence of any proof of fraud, coercion, or illegality in the execution of the partition deed, and in view of the fact that the partition deed Ex.A1 has already been acted upon for several years, this Court is of the considered view that the respondents are not entitled to seek a second partition in respect of the same properties between the same parties.

x). Accordingly, it is held that once a valid partition has been effected and duly registered, a fresh or second partition cannot be sought in respect of the same properties without setting aside the earlier partition in accordance with law. Hence, the claim made by the respondents cannot be sustained, and this point is answered accordingly.

16. ANSWER TO POINTS 3 and 4 :-

i). Since Points Nos. 3 and 4 are interconnected, it is appropriate to consider and answer them together. Accordingly, the findings on Points Nos. 3 and 4 are as follows:

ii). Both sides were heard and the documents on record were carefully perused. In the present case, the father of the first to fourth respondents, namely Palani, who was the second defendant in the original suit, did not appear before this Court, and the case was proceeded with in his absence.

iii). As already discussed while answering the first point for determination, the suit properties cannot be treated as ancestral properties. It is also seen that the properties had already been partitioned through a

registered partition deed marked as Ex.A1. The said document was duly registered in the year 2006, and none of the parties to the said document have raised any dispute regarding its validity.

iv). In such circumstances, the heirs of Palani, who were not parties to the said partition deed, cannot legally challenge the said document. Further, the present suit has also been filed after a considerable lapse of time, and therefore the challenge to the said document is clearly barred by limitation.

v). Moreover, the first to fourth respondents have not produced any independent witness or reliable evidence to substantiate their allegation that their father was addicted to alcohol or that the Ex.A1 partition deed was executed when he was under the influence of alcohol. In the absence of any such evidence, there is no valid or legal ground to cancel the said Ex.A1 document.

vi). Therefore, the claim made by the first to fourth respondents based on such allegations cannot be sustained, and the relief sought by them is liable to be dismissed. Consequently, the permanent injunction sought by the first to fourth respondents is not available to them.

Accordingly, these points are answered against the first to fourth respondents.

17. ANSWER TO POINT 5 :-

i). After hearing the arguments advanced on both sides and upon perusal of the records and documents available on file, this Court proceeds to consider

the point for determination. In the present appeal, the first to fourth respondents were the plaintiffs in the original suit.

ii). With regard to the first point for determination, it is evident that the suit properties cannot be treated as the ancestral properties of the first to fourth respondents, as claimed by them. The Ex.A1 document, namely the registered partition deed dated 06.03.2006, clearly establishes that the properties had already been divided among the parties. The properties originally belonging to Murthy Nayak were partitioned among his sons, namely the first to third defendants, and the said partition was duly reduced into writing and registered.

iii). It is also pertinent to note that the sixth respondent, who is the father of the first to fourth respondents and a party to the said partition, has not chosen to challenge the said partition before the Trial Court. Once the properties had already been divided through a registered partition deed, there cannot be a second partition among the same parties unless the earlier partition is set aside in accordance with law. As per Section 31 of the Specific Relief Act, 1963, only a person against whom an instrument is void or voidable can seek its cancellation. Further, under Article 59 of the Limitation Act, 1963, a suit to cancel or set aside a document must be filed within three years from the date when the right to sue first accrues.

iv). In this regard, the Hon'ble Supreme Court in *Prem Singh v. Birbal* (*Prem Singh v. Birbal*, (2006) 5 SCC 353 : AIR 2006 SC 3608.) has held that a registered document remains valid and binding unless it is set aside by a competent court, and any challenge to such a document must be brought

within the period prescribed under the Limitation Act. Similarly, the Hon'ble Supreme Court in Ranganayakamma v. K.S. Prakash has observed that a concluded partition cannot be reopened after a long lapse of time unless strong and convincing evidence of fraud or coercion is established.

v). Further, the respondents have failed to produce any reliable oral or documentary evidence to substantiate their allegation that Purushothaman and Palani were intoxicated or addicted to alcohol at the time of execution of Ex.A1 partition deed. In view of Sections 91 and 92 of the Indian Evidence Act, 1872, when the terms of a disposition of property have been reduced into writing, oral allegations contrary to the contents of the written document cannot be accepted in the absence of cogent evidence.

vi). The Madras High Court has also consistently held that once a partition has been effected and acted upon, the same cannot be lightly reopened by persons who were not parties to the document or who approach the Court after an inordinate delay.

vii). In such circumstances, this Court is of the considered view that the Trial Court, without properly appreciating the evidence and the settled principles of law, erroneously allowed the suit filed by the first to fourth respondents, who had no legal right to challenge the said partition deed, and declared the registered partition deed dated 06.03.2006 as invalid. Furthermore, this Appellate Court is of the view that, since the respondents 1 to 4 in this case have no locus standi to file the original suit, there is no necessity to discuss the other contentions raised in the original suit.

viii). Therefore, the judgment and decree passed by the Trial Court in O.S. No.102 of 2014 dated 11.2018 are liable to be set aside, and accordingly the same are set aside by this Appellate Court. Thus, the point for determination is answered accordingly.

Accordingly, the judgment and decree passed by the Trial Court in O.S. No.102 of 2014 dated 11.2018 are liable to be set aside, and the same are hereby set aside by this Appellate Court.

Thus, the point for determination is answered accordingly.

In the result,

The appeal is allowed, and the judgment and decree passed by the Trial Court dated 01.11.2018 in O.S.No.102 of 2014 are hereby set aside.

There shall be no order as to costs.

The judgment was typed by me on my laptop, corrected, and then pronounced in open court on this the 5th day of March -2026.

**Principal Subordinate Judge,
Cheyyar.**

