

**IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, CHEYYAR**

**TIRUVANNAMALAI DISTRICT**

Present :- **Tmt. K. Naleeni, M.L.,**  
Principal District Munsif,  
Additional District Munsif (FAC)  
Cheyyar, Thiruvannamalai.

**Friday, the 27<sup>th</sup> day of March, 2026**

**O.S.No.275/2013**

**CNR.No. TNTM08-000133-2013**

Jayaraman

..... Plaintiff

**V.**

1. Perumal
  2. Kannan
  3. Kasi
  4. Malliga
  5. Rajendiran (died)
  6. Kaaturaja
  7. Nagarani
  8. Appu
  9. Bhavani
  10. Pavithra
  11. Abilash
  12. Somasekhar
  13. Ramesh
  14. Thiyagarajan
  15. Amaravathi
  16. Jeyaseelan
  17. Kannrayan
  18. Manikandan
  19. Iyyappan
- (Amended as per Order in IA 2/2022  
dated 27.10.2022 as D10,11 attained  
majority)

..... Defendants

This suit came up for final hearing before me on 16.03.2026 in the presence of Mr.J.Ramakrishnan, Learned Advocate for the Plaintiff and Mr. M.S. Sankarapandian, Learned Advocate for the Defendants 15 to 19 and Defendants 1 to 6, 7, 8 9,12,13,14 having been set exparte for non-appearance and Defendants 10 and 11 having been Minor and appointed Court Guardian and later attained Majority and amended as per IA. IA 2/2022 dated 27.10.2022 and having been set exparte thereafter and upon hearing both the sides and after careful perusal of the entire case records and having stood over for consideration till this day, this Court delivered the following:

### **JUDGMENT**

This suit has been filed by the Plaintiff seeking to pass a preliminary decree for partition of the suit 'A' Schedule property into seven equal shares, taking into consideration quality, value, convenient enjoyment and equities, and to allot one such 1/7<sup>th</sup> share to the plaintiff; or in the alternative, in respect of the B Schedule property, in the event the allotment already made in favour of the third defendant is not accepted by the Court, to pass a preliminary decree for partition of both 'A' and 'B' Schedule properties into eight equal shares, considering quality, value, convenient enjoyment and equities, and to allot one such share (1/8<sup>th</sup>) to the plaintiff; and in the event the defendants fail to come forward to effect division and allotment of the plaintiff's share, to appoint an Advocate Commissioner and pass a final decree directing division of the properties and allotment of the plaintiff's share in accordance with the preliminary decree; and to direct Defendants 15 to 19 to pay the costs of the suit.

### **II. BRIEF AVERMENTS OF THE AMENDED PLAINT:**

- i) The plaintiff submits that Raghavan, son of Singaram and Karappayi Ammal had eight sons, namely Padavettan, Perumal (1<sup>st</sup> defendant), Ramu, Annasamy, Adhikesavan, Kannan (2<sup>nd</sup> defendant), the plaintiff

Jayaraman, and Kasi (3<sup>rd</sup> defendant) and among them, except the plaintiff and defendants 1 to 3, all the other four sons have been deceased. The plaintiff states that the eldest son Padavettan died about three years ago, leaving behind defendants 4 to 7 as his legal heirs, being his sons and daughters and that his wife had predeceased him.

- ii) The plaintiff further states that the third son Ramu died intestate about eleven years ago and that his wife Maithili also died about ten years ago and they had two sons, Siva and Appu (8<sup>th</sup> defendant). Siva died about twenty years ago, leaving behind his wife Bhavani (9<sup>th</sup> defendant), daughter Pavithra (10<sup>th</sup> defendant), and son Abhilash (11<sup>th</sup> defendant) as his legal heirs. The plaintiff further states that the 4<sup>th</sup> son Annasamy died intestate about fifteen years ago and his wife Saroja predeceased him about seventeen years ago. The plaintiff states that Defendants 12 to 14 are his legal heirs. The fifth son Adhikesavan died in the year 2007, leaving behind his wife Amaravathi (15<sup>th</sup> defendant) and his sons, defendants 16 to 19, as his legal heirs.
- iii) The plaintiff states that the suit A Schedule and B Schedule properties are joint family properties belonging to the plaintiff and defendants.
- iv) The plaintiff states that the 'A' Schedule property was purchased on 16.10.1978 by Karuppaiy Ammal, the mother of defendants 1 to 3, under Document No. 2150/1978 registered before the Joint Sub Registrar-II, Tiruvathipuram, from six persons including T.K. Subramanian, the plaintiff's father Raghavan, Gopal, Raji, Duraisamy, and C. Ekambaram, for valid consideration. The plaintiff states that their mother enjoyed the property till her death in 2004, without executing any Will or document of transfer.
- v) The Plaintiff states that 'B' Schedule property, along with the house plot property lying adjacent, originally belonged to the plaintiff's father Raghavan and his brothers Arumugam, Krishnan, and Parasuraman as

ancestral property. About 25 years ago, they orally partitioned the properties into four shares, and the B Schedule property fell to the share of Raghavan, who constructed a hut and enjoyed the same along with his sons. The plaintiff further states that in the suit properties, the plaintiff and defendants 1 to 3 are each entitled to 1/8<sup>th</sup> undivided share. Defendants 4 to 7 jointly hold 1/8<sup>th</sup> share; defendants 8 to 11 jointly hold 1/8<sup>th</sup> share; and defendants 15 to 19 jointly hold 1/8<sup>th</sup> share.

- vi) The plaintiff further states that in the year 2006, an *oral family partition* was effected among eight sharers, including Padavettan, defendants 1 to 3, Adhikesavan (his legal heirs are 15<sup>th</sup> to 19<sup>th</sup> defendants), and defendants 8 and 9. The plaintiff further states that under the said arrangement, the 'B' Schedule property was allotted to the 3<sup>rd</sup> defendant Kasi.
- vii) The plaintiff further states the A Schedule property was divided into seven portions with a 4-foot north-south pathway reserved in common and that as per local custom, the eldest son was allotted the westernmost portion, and the others were allotted portions eastward in order of seniority. The plaintiff further states that since Kasi was allotted 'B' Schedule property separately, the remaining seven sharers were allotted portions in '**A' Schedule property** and that the plaintiff being the 7<sup>th</sup> person was allotted the north portion adjacent to Arignar Anna Nagar Street. The plaintiff further states that immediately above the plaintiff's share, a portion was allotted to the 2<sup>nd</sup> defendant and above that, *a portion was allotted to Adhikesavan, the husband of the 15<sup>th</sup> defendant* and further above, one share was allotted jointly to defendants 12, 13, and 14 and above that, one share was allotted jointly to defendants 8, 9, 10, and 11 and above that, a portion was allotted to the 1<sup>st</sup> defendant and above all, the topmost portion was allotted to the eldest, Padavettan.

- viii) The plaintiff further states that pursuant to the said arrangement, defendants 1, 8, and 9 constructed houses and that the Defendants 2, 8, 12, 13, and 14 are residing in Bangalore for a long time and that the 3<sup>rd</sup> defendant is residing in the B Schedule property. The plaintiff further states that 15<sup>th</sup> defendant is temporarily residing in the portion allotted to the plaintiff with consent and that they have modified the hut situated therein.
- ix) The plaintiff further states that taking advantage of the plaintiff's absence in Cheyyar and his wife's employment in Kanchipuram, the 15<sup>th</sup> defendant filed O.S. No. 72 of 2010 seeking declaration that the property belonged to her husband and also for permanent injunction against the plaintiff herein. The plaintiff states that the Court, by judgment dated 11.10.2012, held that as the properties are joint family properties, the plaintiffs namely the 15<sup>th</sup> defendant was permitted enjoyment in the property until proper partition. The plaintiff further states that in the above suit, the plaintiff/15<sup>th</sup> defendant herein has wrongly stated the survey number of the schedule properties. It is further submitted by the plaintiff herein that on the said judgment no appeal has been preferred either by the plaintiff herein or the 15<sup>th</sup> defendant.
- x) The plaintiff further submits that while the B Schedule property has already been allotted to the 3<sup>rd</sup> defendant under the 2006 oral partition, the A Schedule property has not been properly divided. Hence, the plaintiff seeks partition of his 1/7<sup>th</sup> share in the A Schedule property. Alternatively, if the Court deems fit, both A and B Schedule properties may be partitioned, in which case the plaintiff claims 1/8<sup>th</sup> share. The plaintiff states that however, the Defendants 1,2 and 4 to 19 ***admits that B Schedule property has been allotted to the 3<sup>rd</sup> defendant.***

- xi) Hence, the suit has been filed by the plaintiff seeking to pass a preliminary decree for partition of the suit 'A' Schedule property into seven equal shares, taking into consideration quality, value, convenient enjoyment and equities, and to allot one such  $1/7^{\text{th}}$  share to the plaintiff; or in the alternative, in respect of the B Schedule property, in the event the allotment already made in favour of the third defendant is not accepted by the Court, to pass a preliminary decree for partition of both 'A' and 'B' Schedule properties into eight equal shares, considering quality, value, convenient enjoyment and equities, and to allot one such share ( $1/8^{\text{th}}$ ) to the plaintiff; and in the event the defendants fail to come forward to effect division and allotment of the plaintiff's share, to appoint an Advocate Commissioner and pass a final decree directing division of the properties and allotment of the plaintiff's share in accordance with the preliminary decree; and to direct Defendants 15 to 19 to pay the costs of the suit.

**III. BRIEF AVERMENTS OF THE WRITTEN STATEMENT & ADDITIONAL WRITTEN STATEMENT FILED BY THE 15<sup>th</sup> DEFENDANT AND ADOPTED BY DEFENDANTS 16 to 19 AS FOLLOWS:**

- i) The defendant denies that the suit properties are joint family properties and denies the averments in the plaint.
- ii) The defendants while admitting the relationship, the defendant specifically denies that the suit properties are joint family properties or that any oral partition took place 26 years ago or that the plaintiff permitted the defendants to reside in the property.
- iii) The defendant states that the property situated at Tiruvathipuram Town, Cheyyar Taluk, comprised in Survey Nos. 39/7 and 39/8, has been in the exclusive possession and enjoyment of the defendant's husband

Adhikesavan for over 42 years. He constructed a house and enjoyed the same with absolute right, and after his death, the defendants continue to enjoy the property.

- iv) The defendants further state that during these 42 years, the plaintiff or his brothers never objected or asserted any right and that the property was allotted to Adhikesavan in an earlier partition and ever since, he and thereafter his legal heirs have been in uninterrupted possession. The defendant further states that permanent constructions have been put up, electricity service connections obtained, and house tax paid, all evidencing exclusive ownership. The defendant contends that the plaintiff is fully aware of such long possession but has never objected and has now falsely filed the suit.
- v) The defendant further states that by continuous, uninterrupted possession for over 42 years, the defendants have perfected title by adverse possession. The defendant further submits that several parties have constructed houses in the suit property and the plaintiff never objected, which disproves his claim.
- vi) The defendant also states that she had earlier filed O.S. No. 72 of 2010 and obtained a decree in her favour. The plaintiff has filed an appeal which is pending and that suppressing these facts, the present suit has been filed.
- vii) Hence, the defendant states that the suit is barred by res judicata, limitation and adverse possession and therefore, the suit is liable to be dismissed with costs.

#### **IV. ISSUES FOR DETERMINATION:**

On perusal of records, Plaint, Amended plaint, Written Statement, Additional written statement and after hearing both side counsels, this court

framed the Issues on 17.02.2015 and additional issues on 23.01.2024 which are as follows:-

- 1) Whether the Plaintiff is entitled to the relief of partition as prayed for?
- 2) Whether the suit 'A' schedule property and 'B' schedule property are the joint family properties of the plaintiff?
- 3) To what other reliefs, the plaintiff is entitled to?

### **RE-CAST OF ISSUES:**

This Court in exercise of its powers under Order XIV Rule 5, **recasts the issues** in the above suit as follows:

- 1) Whether the suit 'A' schedule property and 'B' schedule property are the joint family properties of the plaintiff?
- 2) Whether the Plaintiff is entitled to the relief of partition as prayed for?
- 3) To what other reliefs, the plaintiff is entitled to?

### **V. ORAL AND DOCUMENTARY EVIDENCE:**

On the side of the Plaintiff, Plaintiff was examined as PW1 and through him Exhibits A1 to Exhibits A8 namely, Exhibit A1 – Certified copy of the Sale deed dated 16.10.1978, Exhibit A2 –Copy of the Plaint filed by the Defendants 15 to 19 in OS 72 of 2010, Exhibit A3- Copy of the Written statement filed by the Plaintiff herein in OS 72 of 2010, Exhibit A4 –Certified copy of the Judgment in OS 72 of 2019 dated 11.10.2012, Exhibit A5 – Certified copy of the TSLR for the B schedule property, Exhibit A6 –Certified copy of TSLR Abstract, Exhibit A7 – Certified copy of the TSLR for B schedule property , Exhibit A8- Certified copy of TSLR Abstract is marked through PW 1. No other witnesses were examined on the Plaintiff side. Hence, the plaintiff side evidence was closed.

On the side of the Defendants, the 15<sup>th</sup> Defendant, Ms. Amaravathy was examined as DW1 and through her, Exhibit B1 to B4 namely Exhibit B1 – Original Notice u/s 9 of the Tamil Nadu Survey and boundaries Act, 1923 issued by the Assistant Surveyor, Head Town Survey to the Defendant's husband and 14 others, Exhibit B2 – Original EB Bill Receipt dated 19.05.2015 issued in the name of the Defendant's husband, Exhibit B3- Original EB bill receipt 21.11.2016 in the name of the Defendant, Exhibit B4- Original EB card in the name of the Defendant's husband, were marked through her. Further, one Mr. Natesan, was examined as the DW2 and no exhibits were marked through him. Thereafter the defendant side evidence was closed. The Advocate Commissioner Report and Plan is marked as Exhibits C1 and C2.

**ADMITTED FACTS ON BOTH SIDES:**

From the careful perusal of the pleadings, the following are the facts that have been admitted by both the parties to the suit.

- i) Raghavan, son of Singaram and Karappayi Ammal had eight sons, namely Padavettan, Perumal (1<sup>st</sup> defendant), Ramu, Annasamy, Adhikesavan, Kannan (2<sup>nd</sup> defendant), the plaintiff Jayaraman, and Kasi (3<sup>rd</sup> defendant) and among them, except the plaintiff and defendants 1 to 3, all the other four sons have been deceased.
- ii) The eldest son Padavettan died about three years ago, leaving behind defendants 4 to 7 as his legal heirs, being his sons and daughters and that his wife had predeceased him.
- iii) The third son Ramu died intestate about eleven years ago and that his wife Maithili also died about ten years ago and they had two sons, Siva and Appu (8<sup>th</sup> defendant). Siva died about twenty years ago, leaving behind his wife Bhavani (9<sup>th</sup> defendant), daughter Pavithra (10<sup>th</sup> defendant), and son Abhilash (11<sup>th</sup> defendant) as his legal heirs.

- iv) The 4<sup>th</sup> son Annasamy died intestate about fifteen years ago and his wife Saroja predeceased him about seventeen years ago and Defendants 12 to 14 are his legal heirs.
- v) The fifth son Adhikesavan died in the year 2007, leaving behind his wife Amaravathi (15<sup>th</sup> defendant) and his sons, defendants 16 to 19, as his legal heirs.

## **VI. DETERMINATION OF ISSUES:**

- 1) ISSUE NO. 1:** Whether the suit 'A' schedule property and 'B' schedule property are the joint family properties of the plaintiff?
- 2) ISSUE NO. 2:** Whether the Plaintiff is entitled to the relief of partition as prayed for?

Since both the issues are linked, in order to avoid repetition of evidence and for the sake of convenience, both the issues are determined together

i) This suit has been filed by the plaintiff seeking partition in the suit properties. According to Section 101 of the Indian Evidence Act, 1872, (Section 104 of the Bharatiya Sakshya Adhiniyam, 2023), the burden of proving the case rests solely upon the plaintiff. The plaintiff states that the suit A Schedule and B Schedule properties are joint family properties belonging to the plaintiff and defendants. On the other hands, the defendants deny that the suit properties are joint family properties and that they are in possession of the property situated at Tiruvathipuram Town, Cheyyar Taluk, comprised in Survey Nos. 39/7 and 39/8.

ii) Since, the identity of suit A and B schedule properties is itself in dispute, it shall be determined first. The suit A schedule property as mentioned in the plaint is in Survey no. 41/12 with 21 cents. The suit B schedule property is mentioned in Survey no. 39/7 and 39/8 with new T.S. no. 61, Ward A, Block -20 with 1238 sq. feet including the thatched house and common property.

iii) It is the case of the plaintiff that the suit **A schedule property** has been bought by the Mother namely Karappayi ammal. The plaintiff in order to prove the same has marked Ex. A1 namely, the Certified copy of the Sale deed dated 16.10.1978. On perusal of the Exhibit A1, it reveals that the suit property in S.no. 41/12 with 0.9 cents and 0.12 cents with total of 0.21 cents have been purchased by the Karappayi Ammal from T.K Subramanian and five others. Hence, the plaintiff has proved that the A schedule property is the property which has been obtained by his mother Karappayi Ammal through the Sale deed.

iv) On the other hand, the defendants state that suit B schedule property in S. no. 39/7 and 39/8 belongs to them and that they have been in adverse possession. However, on careful perusal of the examination of DW1, it could be seen that though the defendant state that she is in possession of the property in Survey no. 39/7 and 39/8 but she herself has admitted that the property in which she is possession has been obtained by the Karappayi Ammal, who is her mother-in-law through the Sale deed. She has in her cross-examination has admitted that the property which she is in possession was given to her husband and his brothers by her mother-in law, Karappayi Ammal. The relevant portion is extracted as follows: “நான் தற்போது வீடு கட்டி உள்ள இடம் என் கணவரும் அவரது சகோதரர்களும் பாகம் பிரித்ததன் அடிப்படையில் கொடுத்ததா அல்லது என் மாமியார் கொடுத்ததா என்றால் என் மாமியார் தான் கொடுத்தார்.”

v) Further, with regard to suit B schedule property, the plaintiff state that the same has been obtained by the Plaintiff's father Raghavan and the same was allotted to the 3<sup>rd</sup> Defendant, Kasi by the Plaintiffs and the Defendants including the Defendants 15 to 19 by way of oral partition in the year 2006. The Defendant admits in her chief examination that the property which has been obtained by his father-in law has been allotted to Kasi, who is the 3<sup>rd</sup> defendant herein and that the said Kasi is a person who can neither speak nor hear. The

relevant portion is extracted as follows: “ என்னுடைய மாமனார் அனுபவித்து வந்த சொத்து என்னுடைய மைத்துனர் காசி ஊமை என்பதாலும் காது கேளாதவர் என்பதாலும் அவருக்கு அதனை ஒப்படைத்து விட்டனர். அந்த இடத்தில் அவரும் அவருடைய மனைவியும் மற்றும் மக்களும் அனுபவித்து வருகின்றனர். “

vi) She further states that she has no objection for Kasi to stay in the property which has been allotted to him. The same is extracted here as follows: “காசி அவருக்கு ஒதுக்கப்பட்ட இடத்தில் தொடர்ந்து இருந்து வர எனக்கு எந்த ஆட்சேபனையும் இல்லை. மற்றவர்களும் காசி அனுபவித்து வருவதில் ஆட்சேபனை எதுவும் தெரிவிக்கவில்லை.”.

vii) She further admits that the *suit B schedule property was allotted to said Kasi because of his inability to speak and hear*. The same is extracted as follows: “என் கணவருடன்பிறந்த கடைசி சகோதரரான காசிக்கு காது கேட்காது என்றும் வாய் பேசாது என்றும் சொன்னால் உண்மைதான். செவிடு என்பதால் வழக்கு பி ஷெட்யூல் சொத்தை தனியாக ஒதுக்கி விட்டார்கள் என்று சொன்னால் சரிதான்.”

viii) Thus, when DW1 has herself admitted that the B schedule property has been allotted to the 3<sup>rd</sup> defendant and that she has no objection to the same, it is clear that the property which she is in possession as alleged by her in the written statement is false and that she is in possession in the A schedule property only. Hence, in the light of the aforesaid discussions, it is held that the suit ‘B’ schedule property has been allotted to the 3<sup>rd</sup> defendant and that the plaintiffs and the defendants have no objection with regard to 3<sup>rd</sup> defendant being in possession and

enjoyment of it and that the suit property which the Defendants 15 to 19 state is in the A Schedule property only and from the admission of the Defendant in her cross-examination and also from Exhibit A1, the Sale deed dated 16.10.1978 it is proved that A schedule property has been bought by her mother in law.

ix) As it has now been determined that the dispute is with regard to A schedule property, the Court shall proceed to the next issue as to whether the suit A schedule property is a joint family property.

x) The plaintiff alleges that the suit A schedule property is a joint family property and that in the year 2006 itself an oral partition has been made with regard to the Suit A schedule property. Thus, it could be seen that the plaintiff himself *admits* that the oral partition of A schedule property has taken place. Further, DW1, also admitted in the cross-examination that the suit properties have been partitioned by her husband and his brothers in the year 2006 when her husband was alive. The relevant portion is extracted hereunder: “வழக்கு சொத்துக்களை என் கணவரும் அவருடன் பிறந்த சகோதரர்களும் சேர்த்து 2006 ஆம் ஆண்டு வாய்மொழியாக பாகப்பிரிவினை செய்து கொண்டார்கள் என்று சொன்னால் என் கணவர் இறந்து 12 வருடங்கள் ஆகிறது அவர் உயிருடன் இருக்கும்போதே வாய்மொழியாக பாகப்பிரிவினை ஏற்பட்டுவிட்டது.”.

xi) She further admits that she is objecting to the property that has been allotted to the plaintiff in the A schedule property as the same was allotted to her husband and not to the plaintiff. The same is extracted here as follows: “ என் கணவருடன் பிறந்த சகோதரர்கள் காலி மனையாகவும் வீடு கட்டி வருவதையும் நான் ஆட்சேபனை எதுவும் செய்யவில்லை என்று சொன்னால் சரிதான். வாதி ஜெயராமனுக்கு ஒதுக்கப்பட்ட இடத்தை தான் நான் ஆட்சேபனை

செய்கிறேன். ஏனெனில் அந்த இடம் எங்களுக்கு ஒதுக்கப்பட்டது.”. Thus, the Defendant admits that the plaintiff has been allotted share in the suit schedule property and which is being disputed by her for the reason that the same was allotted to her. Thus, the contention of the defendant that she is objecting to the property that has been allotted to the plaintiff in the A schedule property can be worked out in the final decree proceedings where the shares of property would be divided by metes and bounds.

xii) The DW1 in her cross examination admits that already partition has taken place in the A schedule property and has not denied that the plaintiff has 1/7<sup>th</sup> share in the property. As already stated, the defendants admit that there was oral partition among the brothers, thus based on the admission itself, it is proved that each of the brothers have 1/7<sup>th</sup> share in the suit A schedule property. Merely because the plaintiff was not in possession of his share and the plea of adverse possession, it would not usurp his right/share in the property.

xiii) Thus, it is proved ipso facto that the suit properties were joint family properties and that the plaintiff has 1/7<sup>th</sup> share in the A schedule property. ***Hence, in the light of the aforesaid discussions, it is proved that the plaintiff has 1/7<sup>th</sup> share in the ‘A’ schedule property.***

xiv) As already decided supra, the plaintiff and the defendants have 1/7<sup>th</sup> share in the suit A schedule property. The defendants contend and has taken plea that they have been in exclusive possession of the portion of the property and that they are in possession of the same over the period of more than 42 years and hence, they are entitled to the same by way of **adverse possession**. On the other hand, the plaintiff claims that they have only been in permissive possession.

xv) However, the above contention of the defendant that she is entitled to the share of the plaintiff by way of adverse possession is not sustainable. The concept of adverse possession is well settled. The Hon’ble Supreme Court in ***P. Lakshmi Reddy v. R. Lakshmi Reddy***, AIR 1957 SC 1789, has held that “***But it***

*is well-settled that in order to establish adverse possession of one co-heir as against another* it is not enough to show that one out of them is in sole possession and enjoyment of the profits of the properties. Ouster of the non-possessing coheir by the co-heir in possession who claims his possession to be adverse, should be made out. *The possession of one co-heir is considered, in law, as possession of all the co-heirs. When one co-heir is found to be in possession of the properties it is presumed to be on the basis of joint title. The co-heir in possession cannot render his possession adverse to the other coheir not in possession merely by any secret hostile animus on his own part in derogation of the other co-heir's title.*”

xvi) Thus, it is settled law that even if one co-owner is not in actual possession, the *Law presumes that he/she is in constructive possession of the Suit Properties along with the other co-owners, unless ouster or exclusion is proved.* The burden is heavily on the defendant to prove and establish ouster. In the present case, though the defendants rely upon long possession, construction of house, payment of electricity charges and house tax, through Exhibits B1 to B4, the same has not been proved by them. Further, the possession of the defendants does not amount to **hostile assertion of exclusive title**. It is well settled that the burden is heavily on the defendant as to when his possession became hostile. Thus, unless there is clear repudiation of title, the possession cannot become adverse. Further the defendants themselves admit that the plaintiff has derivative title in the suit A schedule property.

xvii) Further, on perusal of Exhibit A4, which is the certified copy of the Judgment in OS. 72 of 2010, it has been held that the plaintiffs and the defendants therein are joint owners in the suit property and until partition is effected, they are entitled to be in the possession of the suit property. Thus, the possession of the defendants herein/ the plaintiff in the above suit has been decided as not hostile but permissive and co-ownership until partition is effected. Hence, the plea of adverse possession cannot be taken by the defendant.

xviii) The defendant further pleads that the suit is barred by res-judicata and limitation. From the bare perusal of the Exhibit A2 – Xerox copy of the Plaint filed by the Defendants 15 to 19 in OS 72 of 2010, Exhibit A3- Copy of the Written statement filed by the Plaintiff herein in OS 72 of 2010, Exhibit A4 – Certified copy of the Judgment in OS 72 of 2019 dated 11.10.2012, itself reveals that the cause of action, the prayer and the issues involved in the suit are entirely different from the present case at hand. Hence, the plea of res-judicata is not maintainable. Further, when adverse possession has been held as not proved, the plea that the present partition suit is barred by limitation is not maintainable.

*Issue no. 1 and 2 are answered in the affirmative accordingly.*

**3) ISSUE NO. 3:** To what other reliefs, the plaintiff is entitled to?

No further reliefs.

## **VII. RESULT:**

In the result, the suit is **partly decreed** that the plaintiff is entitled for:

- i) A *preliminary decree for partition* in respect of the suit 'A' Schedule property and that he is entitled to 1/7<sup>th</sup> share in the property;
- ii) Insofar as the suit 'B' Schedule property is concerned, in view of the admitted oral partition and allotment in favour of the 3<sup>rd</sup> defendant, no further relief is granted, and the claim in respect of 'B' Schedule property stands rejected.
- iii) The parties are at liberty to *work out their rights in final decree proceedings*, wherein the property shall be divided by metes and bounds.
- iv) Considering the nature of the suit, there shall be no order as to costs.

Directly typed by me in my Laptop, corrected and pronounced by me in the open court, on this the 27<sup>th</sup> day of March, 2026.

**Principal District Munsif,  
Additional District Munsif (FAC),  
Cheyyar.**

**VIII. Annexures:**

**1. Plaintiff side Witness:-**

PW.1: Jayaraman

**2. Exhibits marked on the side of the Plaintiff:-**

<b>S. no</b>	<b>Exhibit</b>	<b>Particulars of the Exhibits</b>
1.	Ex. A1	Certified copy of the Sale deed dated 16.10.1978
2.	Ex. A2	Copy of the Plaint filed by the Defendants 15 to 19 in OS 72 of 2010
3.	Ex. A3	Copy of the Written statement filed by the Plaintiff herein in OS 72 of 2010
4.	Ex. A4	Certified copy of the Judgment in OS 72 of 2019 dated 11.10.2012,
5.	Ex. A5	Certified copy of the TSLR for the B schedule property
6.	Ex. A6	Certified copy of TSLR Abstract
7.	Ex. A7	Certified copy of the TSLR for B schedule property
8.	Ex. A8	Certified copy of TSLR Abstract

**2. Defendant side witnesses:****DW 1:** Mrs. Amaravathy**DW 2:** Mr. Natesan**3. Defendant side exhibits:**

<b>S. no</b>	<b>Exhibit</b>	<b>Particulars of the Exhibits</b>
1.	Ex. B1	Original Notice u/s 9 of the Tamil Nadu Survey and boundaries Act,1923 issued by the Assistant Surveyor, Head Town Survey to the Defendant's husband and 14 others
2.	Ex. B2	Original EB Bill Receipt dated 19.05.2015 issued in the name of the Defendant's husband
3.	Ex. B3	Original EB bill receipt 21.11.2016 in the name of the Defendant
4.	Ex. B4	Original EB card in the name of the Defendant's husband

**4. Court Witness and Exhibits:** Advocate Commissioner report and plan marked as C1 and C2.

**Principal District Munsif,  
Additional District Munsif (FAC)  
Cheyyar.**