

**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.

**Wednesday, the 25<sup>th</sup> day of March, 2026**

**O.S.No.274/2015**

**CNR.No. TNTM08-000377-2015**

Sammanthan, s/o Chellaperumal

..... Plaintiff

**V.**

1. Ganapathy, s/o Chellaperumal
  2. Sekar, s/o Chellaperumal
  3. Thanigaivel, s/o Annamalai
  4. Punithavathi, w/o Ramamoorthy
  5. Dharanibai, w/o Ganapathy
  6. Balamurugan, s/o Annamalai
  7. Sakthivel, s/o Annamalai
  8. Dinakaran, s/o Annamalai
  9. Manikandan, s/o Paneerselvam
  10. Tamilselvam, s/o Paneerselvam
  11. Manivannan, s/o Kuppusamy
- (Amended as per Order in IA 266/2019 dated 27.06.2019)  
(Amended as per Order in IA 01/2022 dated 12.12.2022)

.....Defendants

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This suit came up for final hearing before me on 10.03.2026 in the presence of Mr.G.Nedunchezhan, learned Advocate for the Plaintiff and Mr. U. Harikrishnan, learned Advocate for the Defendants 1 to 3 and Mr. K. Sundaram, learned Advocate for the Defendants 4 to 10 and Mr. A. Nandakumar, learned Advocate for the 11<sup>th</sup> Defendant 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 1/3<sup>rd</sup> share in the 1<sup>st</sup> item of the suit property against defendants 1 and 2 and to divide the suit property by passing a preliminary decree and in case the defendants 1 and 2 does not bound by the decree of the court, to pass final decree by appointing an Advocate Commissioner to divide the first item of suit schedule property by metes and bounds into three equal shares and to allot the plaintiff's 1/3<sup>rd</sup> share accordingly and also for costs of the suit.

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

- i) The plaintiff submits that the first item of the suit property originally belonged to one Pachammal of Vadapoondipattu village and that she was in absolute possession and enjoyment of the property and has executed a Will dated 27.07.1993 and that as per the recitals of the said Will, after her lifetime, the suit first item property was to devolve upon her children, namely the plaintiff and defendants 1 and 2, in equal shares, with full rights to enjoy the same independently and absolutely.
- ii) The plaintiff further states that the said Pachammal died on 30.06.2015, and upon her death, the Will came into force and in accordance with the Will, the plaintiff and defendants 1 and 2 each became entitled to 1/3 share in the suit *first item property and have been in joint possession* and enjoyment thereof. The plaintiff further states that the said Will is the first and final testament governing the suit first item property.
- iii) The plaintiff further states that he approached defendants 1 and 2 on 01.09.2015 seeking partition of the suit first item property and as the

defendants 1 and 2 refused to agree for partition he is constrained to approach this Court for appropriate legal relief.

- iv) Therefore, the plaintiff prays for a preliminary decree for partition, allotting his 1/3 share in the suit first item property by metes and bounds and in the event of non-cooperation by defendants 1 and 2, the Court may appoint an Advocate Commissioner to divide the property into three equal shares and pass a final decree accordingly.
- v) The plaintiff further states that defendants 3 to 10 have no right or share in the suit properties but they were impleaded as necessary parties pursuant to the instigation by the defendants 1 and 2 and as per the order dated 30.03.2021 in I.A. No. 64 of 2021.
- vi) The plaintiff submits that the ancestral properties originally belonged to his grandfather Arumuga Mudaliar and his legal heirs were Chella Perumal (father of the plaintiffs and defendants 1 and 2), Sundaramurthy Mudaliar, and Saroja. The plaintiff further states that during the lifetime of Sundaramurthy itself, Chella Perumal had already allotted the due share to him and that the remaining ancestral properties devolved equally upon Chella Perumal and Saroja. The plaintiff further states that Saroja died about 10 years ago and her husband Kuppusamy also predeceased her and that their only legal heir is the 11<sup>th</sup> defendant herein. The plaintiff further states that the plaintiff, defendants 1 and 2 and 11<sup>th</sup> defendant being the legal heirs to the ancestral properties and having equal shares in them, the 11<sup>th</sup> defendant was impleaded as a party by order dated 18.02.2022 in I.A. No. 330 of 2021.
- vii) The plaintiff further submits that though the items 2, 3, 4, 5, 6, and 14 of the suit schedule properties have already been partitioned between defendants 1 and 2 by way of Koorchit, the defendants 1 and 2 are refusing the said partition. It is further stated that Saroja, being the sister of Chellaperumal, had half share in the suit items, namely items 2, 3, 4,

5, 6, 7, 13, 15, 16, 18, and 19. The plaintiff further states that items 8 and 10 were settled in favour of the plaintiff by his mother through a settlement deed and that item 9 was jointly settled in favour of the plaintiff and defendants 1 and 2 and that Item 11 was allotted to him by the Government and that Item 12 and half share in item 17 was purchased by the him and that Item 20 does not belong to the plaintiff and defendants family. He further states that items 7, 8, 9, 10, 11, 12, and 17 have no connection with defendants 3 to 10.

- viii) The plaintiff further states that the patta for the first item still stands in the name of Sivagami Ammal, who is the vendor of Pachammal and that the plaintiff reserves his right to seek mutation of revenue records based on the decree of this Court. The plaintiff undertakes to produce necessary revenue and other documents during trial relating to the 1<sup>st</sup> item of the suit property.
- ix) Hence, the plaintiff has filed the suit seeking 1/3<sup>rd</sup> share in the 1<sup>st</sup> item of the suit property against defendants 1 and 2 and to divide the suit property by passing a preliminary decree and in case the defendants 1 and 2 does not bound by the decree of the court, to pass final decree by appointing an Advocate Commissioner to divide the first item of suit schedule property by metes and bounds into three equal shares and to allot the plaintiff's 1/3<sup>rd</sup> share accordingly and also for costs of the suit.

**III. BRIEF AVERMENTS OF THE WRITTEN STATEMENT & ADDITIONAL WRITTEN STATEMENT FILED BY THE DEFENDANTS 1 to 4 AND ADOPTED BY DEFENDANTS 8 AND 9 AS FOLLOWS:**

The defendants deny the averments of the plaint except those expressly admitted.

- i) The defendant 1 and 2 state that they are in possession and enjoyment of the suit property by cultivating crops and not the plaintiff. The defendants further contend that apart from the suit property, there exists several other joint family ancestral properties namely in Vadapoondipattu village, S. no. 127/10B-4.00 ares, S.no. 127/14B-3.50 ares, S.no. 127/4B-1.50 ares, S. no. 127/9B- 4 Ares, Punjai S. no. 109/12A1-20.50 Ares, S. no.134/2A1-1.50 Ares, S.no.138/2B -05.00 Ares are ancestral properties. The Defendant further states that in Kaganam village, the following properties namely S.No. 262/2 -6.50 Ares, S. No. 280/1a-7.00 Ares, S.No. 283/1a1-4.63 Ares, S.No. 283/1a3-8.27 Ares, S. No. 284/4a-6.00 Ares, S.No. 284/4c-5.00 Ares, S.No. 284/4e-2.50 Ares, S.No 285/1b-1.50 Ares, S. No. 291/2-2.00 Ares are also ancestral properties and as those ancestral properties have not been included for partition, the present suit is bad for partial partition and is liable to be dismissed.
- ii) The defendants 1 and 2 further contend that the plaintiff failed to discharge his duties towards his mother after his marriage and death of his mother and is therefore not entitled to claim any share in the properties.
- iii) The defendants 1 to 3 state that items 1, 8, and 10 were acquired by Pachammal jointly from Sivagami Ammal and Ari Muthu and that items 2 to 7, 9, 11 to 18, 20, 21, and 23 are ancestral properties belonging to father of the defendants Chella Perumal. The defendant further state that item 22 is the self-acquired property of the 3<sup>rd</sup> defendant Thanigaivel, purchased from Madhavan and that item 24 was settled by Pachammal in favour of the 1<sup>st</sup> defendant by way of Settlement deed. Further, item 25 was settled upon Pachammal by her mother Bakkiyammal under a settlement deed dated 20.10.1969 and subsequently bequeathed by Pachammal through a registered Will dated 08.05.2002 to the defendant

herein. The defendant further states that the said Pachammal died in June 2015.

- iv) The defendants contend that the plaintiff is entitled to claim only 1/6<sup>th</sup> share in items 2 to 7, 9, 11 to 18, 20, 21 and 23, and has no right over the remaining properties. The defendants further state that the 11<sup>th</sup> defendant Manivannan has no share in the suit properties and had himself admitted in his counter filed on 16.03.2022 opposing his impleadment as party to the suit. Hence, the defendants pray to dismiss the suit.

#### **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 11.07.2018 and additional issues on 07.02.2023 which are as follows:-

- 1) Whether the Plaintiff is entitled to the relief of partition as prayed for?
- 2) Whether the suit property is the share in the property, allotted to the plaintiff as per the Will dated 27.07.1993?
- 3) Whether the Will dated 08.05.2002 was executed in favour of the 2<sup>nd</sup> defendant?
- 4) 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 property is the share in the property, allotted to the plaintiff as per the Will dated 27.07.1993?
- 2) Whether the Plaintiff is entitled to the relief of partition as prayed for?

- 3) Whether the Will dated 08.05.2002 was executed in favour of the 2<sup>nd</sup> defendant?
- 4) 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 A13 namely, Exhibit A1 – Certified copy of the Will dated 27.07.1993, Exhibit A2 – Online copy of the Patta no. 293 in the name of Sivagami, Exhibit A3- Certified copy of the Death Certificate of Pachammal dated 30-06-2015, Exhibit A4 – Certified copy of the Natham Nilavari Thooya Chitta in the name of the Plaintiff in Survey no. 119/4 in respect of 11<sup>th</sup> item of Schedule of property, Exhibit A5 – Original Sale deed dated 10.08.1993 in respect of 12<sup>th</sup> item of the suit property, Exhibit A6 – Original Sale deed dated 29.06.1995 in the name of the Plaintiff with respect to item 17, Exhibit A7 – Original sale deed dated 10.07.1980 purchased by Ranganathan from Sundaravalli, Exhibit A8- Court Certified copy of the Settlement deed dated 28.07.1993 executed by Pachammal in favour of the Plaintiff, Exhibit A9- Certified copy of the Joint Patta no. 418 with respect to S. NO. 134/2A2 in the name of Sekar, Ganapathy, Exhibit A10- Online copy of the Joint Patta no. 418 with respect to S. NO. 134/2A2, 134/2A4,134/2A5 in the name of Sekar, Ganapathy, Exhibit A11- Certified copy of the Patta no. 338 in the name of the Plaintiff with respect to item no. 9,10, Exhibit A12- Online copy of the Patta no. 338 in the name of the Plaintiff with respect to item no 9,10 and Exhibit A13- Court certified copy of Patta no. 232 in the name of the Wife and sons of Chellaperumal is marked through PW 1 and further, during cross of PW1, **Exhibit B1** – Online copy of the Patta no. 155 in the name of Chellaperumal , father of the plaintiff, and **Exhibit B2** –Online copy of the Patta no. 232 in the name of the wife and sons of Chellaperumal, is marked through him by the Defendant.

Further, one of the attesting witnesses to the Will dated 27.07.1993 Mr. Venkatesan, was only examined in chief as PW2 and no document was marked through him. Despite granting of several opportunities and steps taken for appearance, PW2 did not turn up for cross examination. Hence, the cross examination of PW2 was closed by this Court. No other witnesses were examined on the Plaintiff side. Hence, the plaintiff side evidence was closed.

On the side of the Defendants, the 2<sup>nd</sup> Defendant, Mr. Sekar was examined as DW1 and through him, Exhibit B3 to B21 namely Exhibit B3 – Original Sale deed dated 07.07.1949 in favour of Arumugam, Exhibit B4 – Original Settlement deed dated 20.10.1969 executed in favour of Pachammal by her mother , Exhibit B5- Settlement deed dated 28.07.1993 executed in favour of D2 Sekar by his mother Pachammal, Exhibit B6- Registered Will dated 08.05.2002 executed by Pachammal in favour of D2, Exhibit B7- Court certified copy of the Sale deed dated 29.03.1971 executed in favour of Madhavan by Chellaperumal, Exhibit B8- Court certified copy of the Settlement deed dated 28.07.1993 executed by Pachammal in favour of Ganapathy D1, Exhibit B9- Court certified copy of the Sale deed dated 12.12.1984 executed by Sivagami and Seshalingam in favour of Pachammal, Exhibit B10 – Court certified copy of the Sale deed dated 05-07-1999 executed by Madhavan in favour of Thanigaivel, D3, Exhibit B11- Certified copy of Legal heir certificate of Chellamal and Pachammal dated 18.07.2017. Exhibit B12 – Court certified copy of Patta no.990 standing in the name of D3 Thanigaivel in survey No. 283/1A 2, Exhibit B13 series – Certified copy of Encumbrance certificate (four numbers), Exhibit B14- Certified Copy of Encumbrance Certificate, Exhibit B15- Original Manaivari Thoraya Patta issued in the name of Plaintiff in survey No. 119/4, Exhibit B16- Original Manaivari Thoraya Patta issued in the name of Pachammal in survey No. 119/7, 132/6B, Exhibit B17 – Certified copy of Natham Nilavari Thooya Chitta in the name of D2 Sekar in Survey No. 119/7 in Patta No. 127, Exhibit B18 – Original Patta in

the name of Chellaperumal, Exhibit B19 – Original Patta in the name of Chellaperumal and 2 others, Exhibit B20- Court Certified copy of decree in OS No. 107/2016, Exhibit B21- Court Certified Copy of Judgment in OS No. 107/2016 were marked.

Further, one Mr. Manivannan, the 11<sup>th</sup> defendant herein, was examined as the DW2 and no exhibits were marked through him. Thereafter the defendant side evidence was closed.

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

- 1) **ISSUE NO. 1:** Whether the suit property is the share in the property, allotted to the plaintiff as per the Will dated 27.07.1993?
- 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 first item of the suit property based on the Will dated 27.07.1993. According to Section 101 of the Indian Evidence Act, 1872, (Section 104 of the Bharatiya Sakshya Adhinyam, 2023), the burden of proving the case rests solely upon the plaintiff. The plaintiff states that first item of the suit property originally belonged to one Pachammal of Vadapoondipattu village and that she was in absolute possession and enjoyment of the property and has executed a Will dated 27.07.1993 and that as per the recitals of the said Will, after her lifetime, the suit first item property was to devolve upon her children, namely the plaintiff and defendants 1 and 2, in equal shares, with full rights to enjoy the same independently and absolutely.

ii) The plaintiff further states that the said Pachammal died on 30.06.2015, and upon her death, the Will came into force and in accordance with the Will, the plaintiff and defendants 1 and 2 each became entitled to 1/3 share in the suit *first item property and have been in joint possession* and enjoyment thereof. The plaintiff further states that the said Will is the first and final testament governing the suit first item property. Thus, it could be seen that the plaintiff is claiming partition and seeking 1/3<sup>rd</sup> share based on the Will executed by his mother dated 27.07.1993 which is marked as Exhibit A1. In order to determine whether the plaintiff is entitled to such share, it is first necessary for the plaintiff to prove that the Will is valid and genuine. Hence, the point to be determined here is:

a. ***Whether the registered Will dated 27.07.1993 has been proved in accordance with law?***

iii) In the present case at hand, the plaintiff claims share in 1/3<sup>rd</sup> of the suit property based on the Will. Further, the testator of the Will namely Pachammal has died on 30.06.2015 which has been proved by Exhibit A3 Death Certificate. Thus, the said Will has come into force. The said Will has been marked as Exhibit A1. On perusal of Exhibit A1, it reveals that the said Will is registered and it has been executed by the mother of the Plaintiff and 1<sup>st</sup> and 2<sup>nd</sup> Defendant on 27.07.1993 in favour of them with regard to property in Survey no. 149/6 0.36 cents, which is the first item in the schedule of property.

iv) It is to be noted that the above said Will is registered. However, it is well settled position of law that mere registration of a will would not make it valid unless the same is proved as per the requirements of Section 63 of the Indian Succession Act, 1925 and Section 68 of the Indian Evidence Act of 1872. Thus, a registered will though creates a presumption of genuineness, it has to be proved in accordance with law. Further, it is well established that the burden of proving the due execution of will is upon the propounder, who is the plaintiff in the present case.

v) It is well settled that a Will is an instrument of *testamentary disposition* of property. According to Section 2 (h) of the Indian Succession Act, 1925 “*Will*” means *the legal declaration of the intention of a testator with respect to his property which he desires to be carried into effect after his death.*”

vi) Thus, a will is a voluntary legal declaration of a person’s intention regarding disposition of his or her property. It is well settled position of law that, a *Will even if registered or if the execution of the document is expressly admitted or not specifically denied/disputed by the opposite party, a Will cannot be admitted in evidence* unless it complies with the conditions laid down in Section 68 of the Evidence Act.

vii) The Hon’ble Supreme Court of India in **MEENA PRADHAN & ORS. V. KAMLA PRADHAN & ANR 2023 LiveLaw (SC) 809**, has relied on various judgments including *H. Venkatachala Iyengar v. B.N. Thimmajamma, 1959 Supp (1) SCR 426* and has laid down the principles governing Wills which are as follows:

a) The testator should have signed the Will out of his own free Will, and at the time of execution, he had a sound state of mind, he was aware of the nature and effect thereof and the Will was not executed under any suspicious circumstances.

b) The testator shall sign or affix his mark to the Will or it shall be signed by some other person in his presence and by his direction and the said signature or affixation shall show that it was intended to give effect to the writing as a Will;

(c) It is mandatory to get it attested by two or more witnesses, though no particular form of attestation is necessary;

(c) Each of the attesting witnesses must have seen the testator sign or affix his mark to the Will or has seen some other person sign the Will, in the presence and by the direction of the testator or has received from the testator a personal acknowledgment of such signatures;

(d) Each of the attesting witnesses shall sign the Will in the presence of the testator, however, the presence of all witnesses at the same time is not required;

(e) For the purpose of proving the execution of the Will, at least one of the *attesting witnesses, who is alive, subject to the process of court, and capable of giving evidence*, shall be examined;

(f) The attesting witness should speak not only about the testator's signatures but also that each of the witnesses had signed the will in the presence of the testator;

(g) If one attesting witness can prove the execution of the Will, the examination of other attesting witnesses can be dispensed with;

(h) Where *one attesting witness examined to prove the Will, fails to prove its due execution*, then the other available attesting witness has to be called to supplement his evidence.

viii) In the present case at hand, the plaintiff in order to prove the genuineness of the Will dated 27.07.1993, has examined one of the attesting witnesses namely Mr. K. Venkatesan, son of Kishatappan as PW2. On careful perusal of chief examination of PW2, he has deposed that “மேற்படி உயில் சாசனத்தை நாதமுனி என்ற பத்திர எழுத்தர் பாச்சம்மாஸிடம் தகவல்களை கேட்டு தயாரித்தார். பிறகு பாச்சம்மாஸிடம் அந்த உயில் சாசனத்தை படித்துக் காட்டினார். அவற்றை நன்றாக புரிந்து கொண்டு உயில் சாசனத்தில் கையெழுத்துக்கள் போட்டார். சாட்சிகளாக நானும் வடபூண்டிபட்டு கிராமத்தை சேர்ந்த பலராம முதலியார் குமாரர் வெங்கடேசனும் கையெழுத்துக்கள் போட்டோம். எழுதியவர் என்ற இடத்தில் நாதமுனி என்பவர் கையெழுத்து போட்டார். மேற்படி உயில் சாசனம் செய்யாறு இணை சார் பதிவாளர் இரண்டு அலுவலகத்தில் பதிவு செய்யப்பட்டது. மேற்படி பாச்சம்மாள் மூன்று ஆண்டுகளுக்கு முன்பு காலமாகிவிட்டார். அவரது காலத்திற்கு பிறகு உயில் சாசனப்படி பிரதிவாதிகள் வழக்கு சொத்தை கூட்டாக அனுபவிக்கிறார்கள். மேற்படி பாச்சம்மாள்

மனப்பூர்வமாக தெளிவான சிந்தனையுடன் மேற்சொன்ன உயிர் சாசனத்தை ஏற்படுத்தினார் என்பதற்கு நான் சாட்சி ஆவேன். எனவே மேற் சொன்ன தகவல்களை நேரடியாக தெரியும் என்ற வகையில் சத்யபிரமாணமாய் உறுதி கூறி சாட்சியமளிக்கிறேன்.”

ix) Though PW2 has clearly stated about the due execution of the Will by Pachammal, it could be seen that the said PW2, was never subjected to cross-examination. On perusal, it could be seen that several notices including witness summons has been issued to the PW2, to make his appearance for cross-examination.

x) However, PW2 had not appeared before the court and he was not subjected to cross-examination at all. Further, no steps have been taken for the examination of other attesting witness namely, B. Venkatesan, son of Balaraman. No reason was furnished by the plaintiff for non-examination of the other attesting witness also. Further, Section 69 of the Indian Evidence Act, 1872 clearly provides that, where no attesting witness can be found, then evidence has to be led for proving the handwriting of the attesting witness. Moreover, it is not the case of the plaintiff that no attesting witness can be found. ***Thus, the one of the attesting witnesses who filed affidavit of evidence did not present himself for cross-examination and thus the evidence given by PW2 in his Affidavit of evidence cannot be considered by this Court and has to be disregarded.***

xi) Thus, from the aforesaid discussions, it could be seen that the burden is on the plaintiff to prove that the Will is valid and genuine by examining the attesting witness. Though the plaintiff has examined one attesting witness, the said witness did not present himself for cross-examination. Further, the plaintiff has not taken any steps to prove the Will as mandated under the law. Hence, it is seen that the Plaintiff has failed to prove the validity and genuineness of the Will dated 27.07.1993 and therefore as the Will has not been proved by the Plaintiff, he has not proved that he is entitled to 1/3<sup>rd</sup> share in the suit property.

b. Further, with regard to the issue as to whether the plaintiff is entitled for partition, it could be seen that the defendants had pleaded partial partition and hence, other suit items were added to the suit schedule property. It must be considered as to whether the plea of partial partition would apply to the present case at hand?

xii) It is well settled position of law that the rule of partial partition would apply only to joint family properties and ancestral properties. Thus, a coparcener who seeks partition, must include all the properties which are ancestral properties. However, the rule of partial partition would not apply to the case, where a property is self-acquired or based on any testamentary disposition. However, in the present case at hand, the first item in the suit schedule property is based on the Will, which is a testamentary disposition. The other items in the Suit schedule property apart from Item no. 1 have been added only at the instance of the Defendants. The item no. 1 in the schedule of property and the other items 2 to 25 in the schedule of property are entirely separate and distinct properties. Further, *the defendants in their examination had themselves admitted that Item no. 1 in the schedule of property has been acquired by the Pachammal from Sivagami Ammal and Arimuthu*. When the defendants had themselves admitted the fact that the Item no. 1 of the suit schedule property is a self-acquired property of their mother Pachammal, hence, the bequeathing of the Item no. 1 through Will would not come under the Joint family property. Further DW1, in the cross-examination has themselves admitted that “இந்த வழக்கு தாக்கல் செய்தபோது என்னுடைய தாயார் எனக்கும் ஒன்றாம் பிரதிவாதிக்கும், வாதிக்கும், உயில் எழுதி வைத்த சொத்துக்காக தாக்கல் செய்துள்ளார் என்றால் சரிதான். மேற்படி சொத்தானது வட பூண்டிப்பட்டு கிராம நஞ்சை சர்வே எண் 149 /6- 36 சென்ட் என்றால் சரிதான். மேற்படி சொத்து குறித்து தான் 27.07.1993 தேதியிட்ட உயில் ஒன்றை தாயார் எழுதி வைத்துள்ளார். என்றால் தேதி தெரியாது ஆனால் உயில் ஒன்று எழுதி வைத்தார். என்னுடைய அம்மா 30.06.2015 அன்று இறந்தார்

என்றால் சரி தான். அவர் இறந்த பிறகு மேற்படி உயிலானது நடைமுறைக்கு வந்தது என்றால் சரிதான்.”

xiii) Thus, as the Item no. 1 of the suit property claimed by the Plaintiff is a self-acquired property, the doctrine of partial partition would not apply. The claim of the plaintiff is based on the beneficiary of the Will and not as a coparcener. The property has to be treated as separate property of the testatrix. Hence, the rule of partial partition would not apply in the present case at hand.

xiv) In the light of the aforesaid discussions, plaintiff is not entitled for the relief of partition as the Will has not been duly proved in accordance with law.

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

3) **ISSUE NO. 3:** Whether the Will dated 08.05.2002 was executed in favour of the 2<sup>nd</sup> defendant?

As the relief of partition has itself been negated by this Court, this issue is irrelevant and not necessary to be determined.

***Issue no. 3 is answered in the negative.***

**ISSUE NO. 4:** To what other reliefs, the plaintiff is entitled to?

No further reliefs.

## **VII. RESULT:**

In the result, the suit is dismissed. No order as to costs.

Directly typed by me in my Laptop, formatted by the typist, corrected and pronounced by me in the open court, on this the 25<sup>th</sup> day of March, 2026.

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

**VIII. Annexures:**

**1. Plaintiff side Witness:-**

PW.1: Sammanthan

PW.2: Venkatesan

**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 Will dated 27.07.1993
2.	Ex. A2	Online copy of the Patta no. 293 in the name of Sivagami
3.	Ex.A3	Certified copy of the Death Certificate of Pachammal dared 30-06-2015
4.	Ex. A4	Certified copy of the Natham Nilavari Thooya Chitta in the name of the Plaintiff in Survey no. 119/4 in respect of 11 <sup>th</sup> item of Schedule of property
5.	Ex. A5	Original Sale deed dated 10.08.1993 in respect of 12 <sup>th</sup> item of the suit property
6.	Ex. A6	Original Sale deed dated 29.06.1995 in the name of the Plaintiff with respect to item 17

7.	Ex. A7	Original sale deed dated 10.07.1980 purchased by Ranganathan from Sundaravalli
8.	Ex. A8	Court Certified copy of the Settlement deed dated 28.07.1993 executed by Pachammal in favour of the Plaintiff
9.	Ex. A9	- Certified copy of the Joint Patta no. 418 with respect to S. NO. 134/2A2 in the name of Sekar, Ganapathy
10.	Ex.A10	Online copy of the Joint Patta no. 418 with respect to S. NO. 134/2A2, 134/2A4,134/2A5 in the name of Sekar, Ganapathy
11.	Ex. A11	Certified copy of the Patta no. 338 in the name of the Plaintiff with respect to item no. 9,10
12.	Ex. A12	Online copy of the Patta no. 338 in the name of the Plaintiff with respect to item no 9,10
13.	Ex. A13	Court certified copy of Patta no. 232 in the name of the Wife and sons of Chellaperumal

**2. Defendant side witnesses:**

**DW 1:** Sekar

**DW 2:** Manivannan

**3. Defendant side exhibits:**

<b>S. no</b>	<b>Exhibit</b>	<b>Particulars of the Exhibits</b>
1.	Ex. B1	Online copy of the Patta no. 155 in the name of Chellaperumal
2.	Ex. B2	Online copy of the Patta no. 232 in the name of the wife and sons of Chellaperumal,
3.	Ex.B3	Original Sale deed dated 07.07.1949 in favour of Arumugam

4.	Ex. B4	Original Settlement deed dated 20.10.1969 executed in favour of Pachammal by her mother
5.	Ex. B5	Settlement deed dated 28.07.1993 executed in favour of D2 Sekar by his mother Pachammal
6.	Ex. B6	Registered Will dated 08.05.2002 executed by Pachammal in favour of D2
7.	Ex. B7	Court certified copy of the Sale deed dated 29.03.1971 executed in favour of Madhavan by Chellaperumal
8.	Ex. B8	Court certified copy of the Settlement deed dated 28.07.1993 executed by Pachammal in favour of Ganapathy D1
9.	Ex. B9	Court certified copy of the Sale deed dated 12.12.1984 executed by Sivagami and Seshalingam in favour of Pachammal
10.	Ex. B10	Court certified copy of the Sale deed dated 05-07-1999 executed by Madhavan in favour of Thanigaivel, D3
11.	Ex. B11	Certified copy of Legal heir certificate of Chellamal and Pachammal dated 18.07.2017.
12.	Ex.B12	Court certified copy of Patta no.990 standing in the name of D3 Thanigaivel in survey No. 283/1A 2
13.	Ex.B13	Certified copy of Encumbrance certificate (four numbers)
14.	Ex.B14	Certified Copy of Encumbrance Certificate
15.	Ex. B15	Original Manaivari Thoraya Patta issued in the name of Plaintiff in survey No. 119/4
16.	Ex. B16	Original Manaivari Thoraya Patta issued in the name of Pachammal in survey No. 119/7, 132/6B
17.	Ex. B17	Certified copy of Natham Nilavari Thooya Chitta in the name of D2 Sekar in Survey No. 119/7 in Patta No. 127
18.	Ex.B18	Original Patta in the name of Chellaperumal

19.	Ex. B19	Original Patta in the name of Chellaperumal and 2 others
20.	Ex. B20	Court Certified copy of decree in OS No. 107/2016
21.	Ex.B21	Court Certified Copy of Judgment in OS No. 107/2016

**4. Court Witness and Exhibits: NIL**

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