

**IN THE COURT OF THE 1st ADDITIONAL DISTRICT AND SESSIONS
JUDGE, TIRUVALLUR**

Present : Tmt. S. TASNEEM, M.L.,
1st Additional District and Sessions Judge
Tiruvallur

Monday, dated the 27th day of April, 2026

Original Suit No. No.255/2017

Malli

.....Plaintiff

/Vs/

1. Chellammal
 2. Nataraja Reddy
 3. Pushpa
 4. R. Vignesh
 5. Devaki
 6. Arjun
- (amended as per orders in IA No. 5/2025 dt. 13.11.2025)

...Defendants

This petition has come up before me on 15.04.2026 for final hearing in the presence of M/s R.Kamalakannan, learned counsel for plaintiff and M/s A.R. Poovannan, Learned Counsel for 2nd defendant, M/s S. Muthukumaravel filed vakalath for D4 and D6 and called absent, set exparte, the defendants 1, 3 to 6 called absent, set exparte and upon hearing both side, perusing the documents and evidences, having stood over for consideration till this day and this Court delivered the following;

Judgment

This Suit is filed for the relief of partition of suit property into 5 equal shares and allotment of one such shares to the plaintiff by passing preliminary decree and for recovery of possession of the property allotted to the plaintiff by final decree.

2. The averments in the Plaint filed by the Plaintiffs are as follows:-

According to plaintiff, the suit property originally belonged to Chellappa Reddy, S/o Balarama Reddy. Patta No.159 in the name of Chellappa Reddy and he was in possession and enjoyment till his death. He died on 06.03.2003 leaving his wife, daughter and three sons. Out of the sons, two of them also died intestate leaving behind their legal heirs. The said Chellappa Reddy died leaving his wife, Chellammal (1st defendant), his son, T.C. Natarajan (2nd defendant) , his daughter Malli (Plaintiff), T.C. Rajamanickam and T.C. Marimuthu as his legal heirs. One of the son T.C. Rajamanickam died intestate leaving his wife Pushpa (3rd defendant) and R. Vignesh (4th defendant) as his legal heirs. The another son T.C. Marimuthu, died leaving his wife Devika (5th defendant) and son M. Arjun (6th defendant) as his legal heirs . Thus, the plaintiff and the defendants 1 and 2 are each entitled to 1/5th share. Likewise, the 3rd and 4th defendant entitled to 1/5th share and 5th and 6th defendant are entitled to 1/5th share. Though plaintiff orally demanded partition and allotment of her 1/5th share, the defendants were postponing the same and evading. At last, they refused for partition. Hence, this suit for partition and allotment of plaintiff's 1/5th share in the suit properties.

3. The averments in the written statement filed by the 2nd defendant in brief :

The 2nd defendant resisted the suit contending that all the suit properties are not the properties of Chellappa Reddy. Chellappa Reddy acquired only 3.50 cents on his own by partition along with his brother. Further, during his life time, he with his brother on 24.10.1979 settled 0.92 cents in S.No.95/21 Tharakshi Village, Uthukottai Taluk under a registered sale deed. Thus, during 1979 itself, plaintiff allotted her due share. Thus 3/4th share was kept common with the defendants. The defendants out of their own income purchased properties in the name of their father. The properties are not derived from his ancestors or by own income. Thus, the allegation that all the suit properties are the properties of Chellappa Reddy is totally incorrect. During the life time of his father, properties were purchased in his name by the defendant and brothers and were partitioned among the three brothes and they are in possession and enjoyment of their respective share. Thus, partition was held before 2003 itself, and there is no property left unpartitioned or in common. Item No.13,14,16 and 20 measuring Acre 4.98 cents allotted to first son Rajamanickam and the defendants 3 and 4 are in possession of the same. Item No.2, 5 to 10, 17 and 19 of 4.37 cents were allotted to his immediate elder brother Marimuthu and defendants 5 and 6 are in possession of the same. In respect of item No. 3, 4, 16 and 18 of Acre 4.41 cents was allotted to the 2nd defendant and the 2nd defendant acquired and is in possession and enjoyment. Item No.11, 12 and 18 measuring 0.14 cents was allotted to the 2nd defendant and was given life estate of their mother Chellammal to the defendant and

she is enjoying the same. The plaintiff is well aware of partition and possession of his brother and wantonly is trying out luck and filed this false suit. There is no joint family nucleus or common properties of Chellappa Reddy. Properties given to their mother Chellammal as sold and the sale consideration was given to the plaintiff in the recent past. Till now the 2nd defendant is supporting plaintiff in all the ways for her needs. The plaintiff has no legal right over the properties listed in the plaint. This suit is filed by plaintiff only under the inducement of her husband. The suit relief is barred by limitation.

4. **The averments in the written statement filed by the defendants 4 and 6 in brief :**

The defendants 4 and 6 resisted the suit contending that the suit properties are the self acquired properties of Chellappa Reddy and the same is not yet partitioned till date. So, the defendants 4 and 6 are having share over the suit properties and they have no objection for partition of the suit properties.

5. After filing of the plaint and written statement the following issues were framed

- 1 **Whether the plaintiff is entitled to decree of partition of 1/5 share in the suit properties as prayed for ?**
- 2 **To what relief the plaintiff is entitled to ?**

6. The plaintiffs in order to prove their case have examined the plaintiff as PW1 and examined one Vasantha plaintiff as PW2, and marked, Ex.A1 to Ex.A8 and in cross of PW1 Ex.A9 was marked. The defendants in order to substanti-

ate their case have not examined any witness and no document is marked on their side.

7. Heard both side.

8. ISSUE No.1 :

Since the issues involved are inter-linked, for the convenience of discussions, these three issues are discussed together.

The case of the plaintiff is that the suit properties are the self acquired properties of their father Chellappa Reddy. He died leaving the plaintiff and defendants as legal heirs. As such, the plaintiff is entitled to 1/5th share in the suit properties.

Per contra the 2nd defendant contesting the case of plaintiff alleges that already partition had taken place in respect of suit properties and the properties were purchased by the defendants with their own source of income in the name of their father. Further, the plaintiff was already settled with 0.92 cents in S.No.95/21 Tharakshi Village, Uthukottai Taluk under a registered sale deed. Thus, the plaintiff is not entitled to any share as she is not in possession and the suit properties were already partitioned among the sons of Chellappa Reddy.

9 The plaintiff in order to substantiate her case has marked Ex.A1, Patta No.159 in the name of Chellappa Reddy. The patta No.273 in the name of Chellappa reddy is marked as Ex.A2. The death certificate of Chellappa Reddy is marked as Ex.A8. The legal notices issued to defendants and their return postal covers are marked as Ex.A3 to Ex.A7. Ex.A9 is the settlement deed dated 24.10.1979 infavour

of plaintiff.

While the plaintiff alleges that the suit properties are the self acquired properties of father of the plaintiff and the defendants, Chellappa Reddy, the 2nd defendant contend that, many properties were purchased by the defendants in the name of their father, as such, they have already partitioned the suit properties among themselves and they are in possession of their respective properties. However, in order to substantiate that the suit properties were purchased by the 2nd defendant or any other defendant or the deceased son of Chellappa Reddy, the 2nd defendant has not adduced any oral or documentary evidence, while Ex.A1 clearly shows that all the suit properties stand in the name of their father, Chellappa Reddy.

10. Further, the 2nd defendant has also failed to produce the alleged partition deed, by which he alleges that the suit properties were partitioned among the sons of Chellappa Reddy, the same is also absent in this case. Even though the plaintiff was cross examined by the 2nd defendant, nothing contra to the case of the plaintiff is elicited from her evidence, even though she has not conclusively deposed about the exact date of her marriage or even the death of their father. However, when the plaintiff has produced Ex.A1 patta in respect of item No.1 to 19 and Ex.A2 patta in respect of item No.20 in the name of their father, Chellappa Reddy, it has to be construed that the suit properties belong to Chellappa Reddy. Thus, the 2nd defendant has failed to produce any of his contention as to the alleged partition.

11. It is also the contention of the 2nd defendant that the plaintiff was already settled with 0.92 cents towards her share by way of sale deed. However, absolutely

there is no document to prove the same. Even the plaintiff in her cross examination has denied such settlement or sale deed or allotment of her due share. Thus, the plaintiff has proved her case that the suit properties are the absolute properties of her father Chellappa Reddy and as such, she is entitled to 1/5th share in the suit properties. Hence, this issue is decided in favour of plaintiff.

12. Even though the 2nd defendant contends that the plaintiff was given in marriage in the year 1979 and also she is not in possession, it is settled law that possession of one co-sharer is possession of all co-sharers, it cannot be adverse to them, unless there is a denial of their right to their knowledge by the person in possession and exclusion and ouster following thereon for the statutory period. There can be no question of ouster, if there is participation in the profits to any degree. The Hon'ble Apex Court in its authority reported in **2004 1 SCC 271 (Md. Mohammad Ali (dead) by LRs Vs. Jagadish Kalita & Ors)** held that

“question of adverse possession and after extracting the legal propositions from various decisions, their Lordships concluded that long and continuous possession by itself, it is trite, would not constitute adverse possession. Even non-participation in the rent and profits of the land to a co-sharer does not amount to ouster so as to give title by prescription. A co-sharer, as is well settled, becomes a constructive trustee of other co-sharer and the right of a person or his predecessors-in-interest is deemed to have been protected by the trustees”

13. Even though the 2nd defendant contends that all the brothers borne all the expenses towards the purchase of properties, he has not filed any documentary evidence to prove the same.

14. Thus in view of the discussions supra, the plaintiff being one of the legal heir of Chellappa Reddy is entitled to 1/5th share in the suit properties. This issue is decided in favour of plaintiff.

15. Issue No. 2:-

In view of the discussions supra, the plaintiff being the legal heirs of Chellappa Reddy is all entitled to 1/5th share over the suit properties.

In the result, this suit decreed and preliminary decree is passed for partition of suit property into 5 equal shares and the plaintiff is entitled to 1/5th share in the suit properties. The plaintiffs are entitled to file application under Order 26 Rule 13 of C.P.C. for partition of suit properties by metes and bounds and allotment of their respective shares. In view of the relationship between the parties, both the parties are directed to bear their own costs.

Dictated to my steno, directly typed by her in computer, corrected and pronounced by me in open court, this the 27th day of April, 2026

**I ADDITIONAL DISTRICT JUDGE
TIRUVALLUR**

Plaintiff's side witness:

PW1- Tmt. .Malli (plaintiff)

P.W.2- Tmt. Vasantha

Plaintiffs side Exhibits:

Ex.A1	22.04.2017	Patta No.159 in the name of Chellappa Reddy in respect of suit properties Item No.1 to 19
Ex.A2		Patta No.273 in the name of Chellappa Reddy in respect of suit properties Item No.20
Ex.A3	0105.2017	Legal notice sent by plaintiff to the defendants
Ex.A4		Acknowledgement received from the 1 st defendant
Ex.A5		Returned cover sent to 2 nd defendant
Ex.A6		Acknowledgement received from the 4 th defendant
Ex.A7		Returned cover sent to 6 th defendant
Ex.A8	07.03.2003.	Death certificate of Chellappa Reddy
Ex.A9	24.10.1979	Copy of Settlement deed

Defendants side witnesses and Exhibits : NIL

-

**I ADDITIONAL DISTRICT JUDGE
TIRUVALLUR**