

**IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE, PONNERI,
THIRUVALLUR DISTRICT**

**Present : Tmt.P.Ezhilarasi, B.Com., L.L.M.,
Additional Subordinate Judge, Ponneri.**

Saturday, 01st day of August - 2026

O.S.No.18 of 2013

CNR.No.TNTR100001482013

Smt.G.Punitha

..... Plaintiff

// Vs //

1. Smt.Sarasammal

2. Mr.A.Ravi

3. Mr.A.Sekar

4. Smt.V.Mala

5. Mr.D.Radhakrishnan

6. Smt.Malleswari

7. Smt.Vijayalakshmi

..... Defendants

This suit came up for final hearing before me on 20.07.2026 in the presence of Thiru.R.Munusamy, Advocate for the plaintiff and Thiru.R.Maharajan, Advocate for the defendants 2, 3 & 6 and the defendants 1, 4, 5 & 7 remained exparte and upon perusing the entire material records, and also on hearing the arguments of both side, and having stood over for consideration till this day this court delivered the following

JUDGMENT

This suit has been filed by the plaintiff under Order VII Rule 1 of C.P.C, seeking to declare the settlement deed, dated 13.02.2003, vide document number

258/2003, settlement deed, dated 29.03.2005 vide document number 911/2005 as null and void and sale deed, dated 22.02.2006, vide document number 1093/2007 and sale deed, dated 21.06.2012, vide document number 5811/ 2012 as invalid, void, not binding on the plaintiff and for preliminary decree for partition and separate possession of 6/25th shares in "A" schedule property and 6/50th shares in "B" schedule property and for costs of the suit.

2. BRIEF AVERMENTS OF THE PLAINT:-

2.1. The plaintiff states that the 1st defendant is the mother of the defendants 2 to 4 and the plaintiff. The 5th defendant is the brother's son of plaintiff's father Arunachala Mudali. The defendants 6 to 8 are strangers and third party purchasers of the suit property. The properties more fully described in Item-1 of the suit schedule "A" are ancestral joint family properties in the hands of the Kartha and father of the plaintiff and defendants 2 to 4 namely Mr.Arunachala Mudali, S/o.late Raji Mudali. The plaintiff and the defendants 2 to 4 are coparceners and joint family members and they are in joint possession and enjoyment of the same and they are entitled to 1/5th undivided share each along with their father Mr.Arunachala Mudali. The properties in Item-2 of the "A" Schedule property originally belonged to one late.Natesa Mudali, S/o Kanagaraya Mudali, who was elder brother of plaintiff's paternal grand father, late.Raji Mudali. The said late.Natesa Mudali and his wife Rojammal had no issues and they were living with the plaintiff's father Arunachala Mudali.

2.2. The plaintiff further states that from the joint family nucleus and income derived from Item-1 of the "A" schedule properties, Mr.Arunachala Mudali, being Kartha of the family purchased the properties set out in Item-2 of the suit schedule by oral sale from the said Mr.Natesa Mudali, several decades

back and he was put in possession of the same by such oral sale. Hence the plaintiff and defendants 2 to 4 have also acquired 1/5th undivided share each along with their father Mr.Arunachala Mudali. After the death of Natesa Mudali his wife Rojammal continued to live in the family house at Melmudalambedu Village under the care and custody of Arunachala Mudali, where the defendants 2 & 3 are living now. The said Rojammal was ailing, lost her eye sight, hearing capacity and not in sound disposition of mind for nearly 10 years before her death and for 5 years she was completely bedridden before her death and breathed her last in a vegetative state and died on 23.07.2011 without any issues.

2.3. The plaintiff further states that the "B" schedule property is also ancestral joint family properties in the hands of plaintiff's father Arunachala Mudali and his brother Duraisami Mudali and both the branches were entitled to half share each and they had enjoyed the properties jointly. The said Duraisami Mudali died intestate leaving behind the 5th defendant as his sole surviving legal heir to inherit his undivided half share in the "B" schedule properties. Therefore Arunachala Mudali, plaintiff and defendants 1 to 5 are in joint possession and enjoyment of the suit schedule-B properties. The plaintiff is entitled to 1/10th undivided share. The plaintiff's father fell bedridden since the year 2000. Due to prolonged illness and old age he had ultimately died intestate in the year 2007, leaving behind the plaintiff and the defendants 1 to 4 as his surviving legal heirs to inherit his 1/5th undivided share in the "A" schedule properties and 1/10th undivided share in "B" schedule properties.

2.4. The plaintiff states that while so, Arunachala Mudali died leaving behind the plaintiff and the defendants 1 to 4 as his surviving legal heirs. The 1st plaintiff is the wife of Arunachala Mudali. Hence the plaintiff and the defendants 1 to 4 are jointly and equally entitled to inherit the share of the deceased Arunachala Mudali.

Therefore, after the death of Arunachala Mudali the share of the plaintiff and defendants 2 to 4 are entitled to $6/25^{\text{th}}$ undivided share each and the 1st defendant is entitled to $1/25^{\text{th}}$ undivided share in the "A" schedule properties. In so far as the "B" schedule properties are concerned the plaintiff and the defendants 2 to 4 are entitled to $6/50^{\text{th}}$ undivided share each and the 1st defendant is entitled to $1/50^{\text{th}}$ undivided share and the remaining $25/50^{\text{th}}$ undivided share vested with the 5th defendant. Hence the plaintiff and the defendants 1 to 5 are in joint possession and enjoyment of the "B" schedule properties. The defendants 2 & 3, who are managing the suit schedule "A" & "B" joint family properties are not only deceiving the plaintiff but also the defendant in respect of their due share in the cultivation.

2.5. The plaintiff states that after the death of her father Arunachala Mudali in the year 2007, the defendants 2 & 3 being the male members of the family had cultivated the lands on behalf of all the family members, but had not properly accounted the profits from the agricultural produce. Now the plaintiff reliably understands that the 2nd defendant muted the revenue entries in respect of the Item-1 of suit schedule "A" properties in his name without the plaintiff's knowledge and consent, which is highly unjustifiable and illegal. Since the defendants 2 & 3 are acting prejudicial to the interest of the plaintiff and denying her rightful dues from the agricultural income and therefore the plaintiff is not in a position to enjoy the suit schedule- A & B properties jointly with the defendants 1 to 5 and hence she has orally demanded them for amicable partition and separate possession of her $6/25^{\text{th}}$ share in the suit schedule "A" properties and $6/50^{\text{th}}$ share in the "B" schedule properties and separate possession of the same.

2.6. The plaintiff states that the defendants have failed to come forward to partition the same in an amicable manner. Therefore left with no other alternative, the plaintiff was compelled to issue a notice through an advocate, dated 12.03.2011 to the defendants 1 to 4 seeking partition and separate possession of her due share

in the "A" schedule properties. The plaintiff issued another advocate notice, dated 12.03.2011 to the defendants 1 to 5 to partition the "B" schedule properties and allot her share in the joint family half share held by her father late.Arunachala Mudali. In the said notice it was mistakenly typed as 1/8th share, but the plaintiff is entitled to only 6/50th share in the "B" schedule properties. Therefore, the plaintiff and the defendants 2 to 4 are entitled to 6/50th share each and the 1st defendant is entitled to 1/50th share and the 5th defendant is entitled to half share, namely 25/50th share in the "B" schedule properties.

2.7. The plaintiff states that having received both the notices, the defendants 2 & 3 instead of coming forward to effect amicable partition, issued a reply notice, dated 02.04.2011 with false averments. In the said reply they claimed that as if the properties in Serial Nos.1 to 5 in Item No.1 of the "A" schedule belonged to Chellammal, who died several decades back suppressing the fact that it is nothing but the joint family properties in the hands of Arunachala Mudali. They have further alleged that the 5th defendant filed a suit in O.S.No.334/2009 for partition of the "B" schedule properties and it is pending before the District Munsif Court, Ponneri and the plaintiff is arrayed as one of the defendants and the plaintiff allegedly aware of the suit. In fact the plaintiff has not received any notice/summons from the District Munsif Court, Ponneri in the suit in O.S.No.334/2009 and hence she had no knowledge about the said suit till the receipt of the reply.

2.8. The plaintiff states that now she filed necessary memo stating that she had no knowledge about the suit. The plaintiff now came to know that the 2nd defendant had filed a written statement in the said suit stating that the plaintiff had adopted the said written statement. Therefore, the plaintiff has filed a necessary memo in the said suit in O.S.No.334/2009 to revoke the alleged adoption of written statement since the plaintiff did not receive any notice/summons in the said suit and did not adopt the written statement of any one. Further it was alleged that

late.Arunachala Mudali purportedly executed an alleged settlement deed in the year 2003 in favour of the 2nd defendant for Item-1 of "A" schedule properties.

2.9. The plaintiff further states that it is absolutely false to state that the 2nd defendant allegedly sold the properties in Serial Nos.13 to 19 in Item-1 and performed the marriage of the 4th defendant. The defendants 2 & 3 further claimed that the suit schedule "A" Item-2 properties are allegedly belonged to one Rojammal, who was the wife of Natesa Mudali and patta stands in her name and she alleged to have executed a registered Will in favour of the 2nd defendant on 09.12.2005. The plaintiff further states that Tmt.Rojammal and Natesa Mudali had lived with Arunachala Mudali and hence the revenue records continued in their name, but the fact remains that Item-2 of the "B" schedule properties were already conveyed orally to Arunachala Mudali and after his death the defendants 2 & 3 taking advantage of the custody of ailing Rojammal had fabricated the alleged Will.

2.10. The plaintiff states that the defendants 2 and 3 have projected an alleged claim that late.Arunachala Mudali purportedly executed an alleged settlement deed on 29.03.2005 in favour of the 3rd defendant in respect of half share held by him as a kartha of the joint family in the "B" schedule properties.The defendants 2 and 3 further alleged that the suit for declaration and partition in O.S.No.334 of 2009 filed by the 5th defendant is pending before the District Munsif court, Ponneri and the plaintiff is one of the defendants in the said suit. The plaintiff states that her father had in fact spoken about partition of the suit properties and giving share to the plaintiff and the defendants 2 to 4 retaining some share for him and his wife, namely the 1st defendant to be enjoyed by her till her life time, when the plaintiff visited him to enquire about his health when he was ill.

It is pertinent to point out here that her father did not know either to read or write and did not know even to put his signature. The alleged documents have been created by the defendants 2 & 3 exploiting her father's total illiteracy, ignorance, unstable health condition and not so sound state of mind during the last years of his life taking advantage of his custody.

2.11. The plaintiff further states that she is entitled to partition and separate possession of her 6/25th share in the suit schedule "A" properties and also 6/50th share in the suit schedule "B" properties. The defendants 2, 3, 5 and Mrs. Rojammal had jointly and stealthily alienated the properties detailed in Serial Nos.13 to 19 in Item No.1 in Schedule-A, Serial Nos.23 to 26 in Item No.2 in Schedule-A and Serial to 22 in Schedule-"B" of the suit schedule properties to the 6th defendant under a sale deed, dated 22.02.2007, vide Document No.1093/2007, registered with the S.R.O., Arani and the said sale deed is illegal, void and not binding on plaintiff in respect of her share in the said properties. The plaintiff further states that the defendants 2 & 3 even after receipt of notice had jointly and stealthily alienated the properties detailed in Serial No.8 in Item No.1 in Schedule "A" and Serial No. 16 in Schedule-"B" of the suit schedule properties to the 7th defendant under a sale deed, dated 21.06.2012, vide Document No.5811/2012, registered with the S.R.O, Arani and the said sale deed is illegal, void and not binding on the plaintiff in respect of her share in the said properties. In fact the plaintiff issued a notice, dated 27.07.2012 to the 7th defendant and having received the notice, she sent reply, dated 16.08.2012 containing false and vexatious reply. The 7th defendant purchased the said property knowing full well about the litigation and also the claim made by the plaintiff in respect of the properties.

2.12. The plaintiff states that the aforesaid sale deeds, dated 22.02.2007 and 21.06.2012 are illegal, void and not binding on the plaintiffs 6/25 th share in the "A" schedule property and 6/50th share in the "B" schedule property. Hence this suit is for declaration declaring that the purported deed of settlement, dated

13.02.2003, Vide Doc. No.258/2003, registered with the SRO, Arani, in respect of Item-1 of Suit A-Schedule Properties allegedly executed by late.Arunachala Mudali in favour of 2nd defendant is null and void, non-est in law and not binding on the plaintiff and for declaration declaring that the purported deed of settlement, dated 29.03.2005, Vide Doc.No.911/2005 registered with the SRO, Arani, in respect of half share in the suit "B" schedule properties allegedly executed by late.Arunachala Mudali in favour of 2nd defendant is null and void, non-est in law and not binding on the plaintiff and for declaration declaring that the purported sale deed, dated 22.02.2006, Vide Doc.No.1093/2007, registered with the SRO, Arani in respect of Serial Nos.13 to 19 in Item No.1 in A-Schedule, Serial Nos.23 to 26 in Item No.2 in "A" Schedule and Serial Nos.20 to 22 in "B" Schedule of the suit schedule properties executed by the defendant 2, 3, 5 & Rojammal in favour of the 6th defendant is invalid, void and not binding on the plaintiff and for declaration declaring that the purported sale deed, dated 21.06.2012. Vide Doc.No.5811/2012, registered with the SRO, Arani in respect of Serial No.8 in Item No.1 in "A" Schedule Serial No.16 in "B" Schedule of the suit schedule properties executed by the defendants 2 & 3 in favour of the 7th defendant is invalid, void and not binding on the plaintiff and for Partition and Separate possession of the plaintiff's 6/25th share in the "A" Schedule properties with metes and bounds and for Partition and Separate possession of the plaintiff's 6/50th share in the "B" Schedule properties with metes and bounds and for costs.

3. BRIEF AVERMENTS MADE IN THE WRITTEN STATEMENT FILED BY THE 2nd DEFENDANT AND ADOPTED BY DEFENDANTS 3 & 6 :

3.1. This defendant submits that the main relief under the suit is for partition and separate possession of 6/25th share in "A" schedule and 6/50th share in "B" schedule and also for declaration of sale deeds in favour of 6 and 7th defendants is invalid, void and not binding on the plaintiff. The relief should have been

claimed as preliminary decree for partition and separate possession of plaintiffs share mere relief of partition without the relief of preliminary decree is not maintenance as per order VII Rule 7 of CPC. The marriage of plaintiff was performed in the year 1984 itself and living with her matrimonial house at Poovalambedu village which is about 20 kilometers away from the suit village. The marriage was performed in a grand manner with sufficient Sridhana properties including the gold and silver ornaments. After marriage the plaintiff never enjoyed the property as a cosharer and the plaintiff is out of possession of suit properties for the past several decades.

3.2. The plaintiff has stated that after the death of her father Arunachala mudaliar in the year 2007 the defendant 2 and 3 being the male members of the family had cultivated the lands on behalf of all the family members but had not properly accounted the profits from the agricultural produce. Therefore it is clear admission that the plaintiff is out of possession of the suit properties. As admitted by the plaintiff as above the suit property should have been paid on the plaintiffs share under section 37 (1) of TNCF Act. Whereas the suit is valued under section 37 (2) of TNCF Act and paid the fixed court fee which is totally incorrect. Assuming if the plaintiff is in joint possession the market value of suit properties given by the plaintiff is totally incorrect. If the suit is valued as per the guideline value it goes beyond the pecuniary jurisdiction of this court and the suit is not maintainable. The 5th defendant Radhakrishnan already filed a suit in O.S.No.334/2009 for the relief of partition and declaration against plaintiff and 1 to 4 defendant and two others filed before the District Munsif Court, Ponneri in respect of "B" schedule properties in the present suit in O.S.No.18 of 2013, where in the present plaintiff along with 1 to 4 defendants jointly together filed the written statement, the said suit in O.S.No.334/2009 is pending for trial therefore the present suit is hit by lispendence under section 52 of Transfer of property of Act.

3.3. The defendant further stated that the properties comprised in Item 1 of "A" schedule is the self acquired properties of Arunachala Mudali and who has executed a registered settlement deed in favour of 2nd defendant and as per the settlement deed the 2nd defendant is in exclusive possession and enjoyment in Item 1 of "A" schedule properties. Item II of "A" schedule properties are the absolute properties of Rojammal and she had executed a registered Will on 09.12.2005 in favour of 2nd defendant. Rojammal died after six year and the 2nd defendant became in absolute owner and in exculsive possession and enjoyment in Item II of "A" schedule porperties. The defendant further stated that "B" schedule properties were allotted to the share of Arunachala Mudali and Deivanaiammal, W/o Duraisamy mudali under the family Koor chit in 1959. Subsequently Arunachala Mudali executed a registered settlement deed regarding his share of properties in favour of his son Sekar (3rd defendant). The defendants 2 and 3 are being exclusive lawful owners they have sold away the portion of properites to 6th and 7th defendants for valuable consideration in the year 2006 and 2012 and the plaintiff is well aware about the alienations and she never raised any objection at the time of execution or subsequent to the alienation. In fact the plaintiff along with her mother and sisters all together signed no objection before the Notary Public Advocate to get the Bank loan exclusively in the name of 2nd defendant. The alleged cause action is not true the suit is liable to be dismissed in limine with costs.

4. ON CAREFUL PERUSAL OF THE PLAINT, WRITTEN STATEMENT AND DOCUMENTS, THE FOLLOWING ISSUES WERE FRAMED AS FOLLOWS :-

(1)	Whether the plaintiff is entitled to the relief of declaration that the Settlement deed no.258/2003, dated 13.02.2003 and sale deed no:1093/2007 dated 22.02.2007 in respect of "A" schedule property is null and void as prayed for?
-----	---

(2)	Whether the plaintiff is entitled to the relief of declaration that the Settlement deed in doc no: 911/2005 dated: 29.03.2005 and sale deed in doc no:5811/2012, dated: 21.06.2012 is null and void as prayed for?
(3)	Whether the plaintiff is entitled to the relief of partition and seperate possession in respect of "A" and "B" schedule properties as prayed for?
(4)	To what relief if any the plaintiff is entitled to ?

5. ADDITIONAL ISSUES :-

1	Whether the plaintiff has properly valued the suit property and whether proper court fee has been paid by the plaintiff?
---	--

6. On the side of the plaintiff, the plaintiff examined herself as PW.1 and Ex.A1 to Ex.A11 were marked on the side of the plaintiff. On the side of the defendants, the 2nd defendant was examined as DW.1 and one Elumalai was examined as DW.2 and Ex.B1 to Ex.B11 were marked on the side of the defendants.

7. DISCUSSIONS:-

7.1. The plaintiff has contended that the 1st defendant is the wife, defendants 2 and 3 are sons. 4, defendant and plaintiff are daughters of late.Arunachalam Mudali. Suit "A" schedule item no: 1 is an ancestral joint family property. Item no: 2 belonged to one Nadesa Mudali and he and his wife died issueless and they lived with Arunachalam Mudali. He derived suit item no: 1 in "A" schedule out of income from joint family property and purchased item no: 2 through oral sale from one Nadesa Mudali. So "B" schedule property is ancestral joint family property of Arunachalam Mudali and his brother Duraiswami Mudali. Duraiswami Mudali died intestate, leaving behind him the 5th defendant as his only legal heir

Arunachalam Mudali, plaintiff and defendants 1 to 5 were in joint possession of suit property. Arunachalam Mudali died intestate in 2007.

7.2. After death of father Arunachalam Mudali, defendants no: 2 and 3, being male members, cultivated the lands on behalf of all family members. The 2nd defendant mutated the revenue records in respect of item no:1 of suit "A" schedule property without knowledge and consent of plaintiff and being prejudicial to her interest of share in suit property. When plaintiff orally demanded 6/25th share in suit "A" schedule and 6/50th share in "B" schedule, defendants did not come forward for amicable partition. So she sent legal notice, dated 12.3.2011. Defendants issued reply stating that serial no:1 to 5 in item 1 in "A" schedule belonged to one Chellammal who died long back and 5th defendant filed O.S.No.334 of 2009 for partition of "B" schedule property and it is pending before District Munsif court, Ponneri and the plaintiff is also one of the defendant in the said suit. But plaintiff who is arrayed as one of the defendant in the said suit filed a memo stating that she had no knowledge about the suit and she has not adopted the written statement filed by the 2nd defendant in the said reply notice.

7.3. It is further stated that Arunachalam Mudali executed a settlement deed in 2003 in favor of 2nd defendant A.Ravi for item no: 1 of suit schedule and the 2nd defendant in turn sold serial no.13 to 19 in item number 1 and performed marriage of 4th defendant. The defendant no.2 Ravi and defendant no.3 Shekar allegedly claimed that "A" schedule item no: 2 belonged to Rojammal, wife of Nadesam Mudali and patta stands in her name and she executed a registered Will in favor of 2nd defendant on 9.12.2005. And the plaintiff state that the alleged Will in favor of defendant no 2 and 3 was created by them taking advantage of ailment of

Rojammal and the said property was alienated by her husband in favor of plaintiff's father Arunachalam Mudali. In the said reply notice, defendant no.2 and 3 stated that Arunachalam Mudali executed settlement deed, dated 29.03.2005 in respect of suit "B" schedule property in favor of third defendant in respect of half share held by him. And the plaintiff sought to declare the settlement deed, dated 13.2.2003 via Doc no.258/2003 in respect of item no: 1 of suit "A" schedule in favor of 2nd defendant and settlement deed, dated 29.3.2005 via doc.no.911/2005 in respect of half share in the suit "B" schedule property alleged to have executed by Arunachalam Mudali in favor of 2nd defendant as null and void and sale deed, dated 22.2.2006 via Doc no.1093/2007 in respect of item no: 1 in serial no.13 to 19, serial no.23 to 26 in item no.2 of "A" schedule and serial no.20 to 22 in item no: 2 of "B" schedule executed by defendant 2, 3, 5 and Rojammal in favor of 6th defendant and sale deed, dated 21.6.2012 via Doc no: 5811/ 2012 in serial no: 8 in item no: 1 in "A" schedule, serial no: 16 in "B" schedule executed by defendant 2 and 3 in favor of 7th defendant as invalid, void, not binding on the plaintiff and sought for partition and separate possession of 6/25th share in "A" schedule and 6/50th share in "B" schedule and for costs of the suit.

7.4. On the other hand, the contesting defendants number 2, 3 and 6 have filed written statements stating that the relief claimed by the plaintiff is not sustainable and marriage of the plaintiff was performed in the year 1984 and she is living in her matrimonial house and her marriage was performed in a grand manner with sufficient streedhana given in form of gold and silver ornaments and she was out of possession of suit property after marriage. The plaintiff has not properly value the suit and has not paid proper court fee and the suit is beyond the pecuniary jurisdiction of this court.

7.5. Further, 5th defendant Radhakrishnan already filed suit for partition in O.S.No.334 of 2000 before District Munsif Court, Punneri in respect of suit "B"

schedule property and hence this suit is hit by lis pendens. The properties comprised in "A" schedule item 1 was self-acquired property of Arunachalam Mudali and he executed registered settlement deed in favour of 2nd defendant and with regard to item no: 1 of A schedule, Rojammal was owner and she executed a registered Will on 9.12.2005 in favour of the 2nd defendant. "B" schedule property was allotted to share of Deivanayammal, W/o Duraisamy Mudali and Arunachalam Mudali under family Koor chit in 1959. Subsequently, Arunachalam Mudali executed a registered settlement deed in respect of his share in favour of his son Sekar, the 3rd defendant herein and the defendants 2 and 3 being lawful owners sold their properties in favour of 6th and 7th defendant in the year 2006 and 2012 respectively and the plaintiff along with mother and sister i.e., defendants 1, 3 and 4, have signed no objection before notary public to obtain bank loan in the name of second defendant. Therefore, plaintiff is not entitled to any share in the suit properties and sought to dismiss the suit.

DISCUSSION OF ISSUES:-

8. ANSWER TO ADDITIONAL ISSUE:-

“Whether the plaintiff has properly valued the suit property and whether proper court fee has been paid by the plaintiff?”

8.1. The defendants have contended that the plaintiff has not properly valued the suit and that this Court lacks pecuniary jurisdiction to try the suit. The plaintiff, on the other hand, has instituted the suit on the footing that she continues to be in joint possession of the suit properties along with the defendants. It is settled law that in a suit for partition filed by a co-owner claiming joint possession, the suit is to be valued under the provisions relating to partition suits by a co-sharer in joint possession under the provisions of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. The burden to establish improper valuation lies upon the defendants who raise such objection. In the present case, except producing guideline value

particulars, the defendants have not adduced any acceptable evidence to establish either ouster of the plaintiff from possession or undervaluation of the the suit property. Mere production of guideline value cannot be the sole basis to conclude that the suit has been undervalued. No evidence has been let in to establish that the court fee paid by the plaintiff is insufficient.

8.2. Further, the plaintiff has specifically pleaded and deposed that after the death of Arunachalam Mudali, the defendants 2 and 3 were cultivating the lands on behalf of all the family members, which itself indicates continued joint possession. Accordingly, this Court holds that the suit has been properly valued and proper court fee has been paid. The Additional Issue is answered in favour of the plaintiff accordingly.

9. ANSWER TO ISSUE NO:1:-

“Whether the plaintiff is entitled to the relief of declaration that the Settlement deed no.258/2003, dated 13.02.2003 and sale deed no.1093/2007, dated 22.02.2007 in respect of "A" schedule property is null and void as prayed for?”

9.1. The specific case of the plaintiff is that Item No.1 of the "A" Schedule property is an ancestral joint family property and that the settlement deed, dated 13.02.2003 executed by Arunachalam Mudali in favour of the 2nd defendant and the consequential sale deed executed in favour of the 6th defendant are not binding on her share. On the contrary, the defendants have contended that the "A" Schedule property is the self-acquired property of Arunachalam Mudali and therefore he was competent to execute the settlement deed in favour of the second defendant. At the outset, it is to be noted that the burden of proving that a property is self-acquired lies upon the person asserting such fact. *Section 101 of the Indian Evidence Act, 1872*, specifically provides that whoever desires the Court to give judgment as to

any legal right dependent on the existence of facts which he asserts must prove those facts.

9.2. In the present case, though the defendants have pleaded that the suit property is the self-acquired property of Arunachalam Mudali, DW.1, namely the 2nd defendant, has categorically admitted during cross-examination that:

- (i) he has not produced the parent title deeds relating to the suit property;
- (ii) he has not stated the date of purchase or the name of the vendor from whom Arunachalam Mudali purchased the property;
- (iii) he has not produced the alleged Will said to have been executed in favour of his father;
- (iv) though the parent documents are available with him, he has not chosen to produce the same before this Court;
- (v) Arunachalam Mudali was illiterate and used only to affix his left thumb impression; and
- (vi) the suit properties are ancestral properties.

It is further pertinent to note that the recitals contained in the settlement deed itself disclose that the property settled was both ancestral and self-acquired property of Arunachalam Mudali. Such inconsistent recitals create serious doubt regarding the exclusive title of the settlor.

9.3. *Section 114 Illustration (g) of the Indian Evidence Act* empowers the Court to draw an adverse inference against a party withholding the best evidence available. Since the defendants admittedly possess the parent documents and have failed to produce them, an adverse inference necessarily follows: The evidence of PW1 that the properties are ancestral properties has remained substantially unshaken. The contention of the defendants that the plaintiff was married in the

year 1984 and had received streedhana cannot defeat her statutory right as a coparcener. At this juncture, it is relevant to refer to *Section 6 of the Hindu Succession Act, 1956*, as substituted by the Hindu Succession (Amendment) Act, 2005, which reads that ‘the daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as the son and shall have the same rights and liabilities in the coparcenary property’.

9.4. The Constitution Bench of the Hon’ble Supreme Court in ***Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1***, has authoritatively held that: “A daughter remains a coparcener by birth and has the same rights and liabilities as a son irrespective of whether the father was alive on the date of commencement of the amendment.” Likewise, in ***Danamma @ Suman Surpur v. Amar, (2018) 3 SCC 343***, the Hon’ble Supreme Court reiterated that daughters are entitled to equal coparcenary rights. Therefore, the plaintiff, being the daughter of Arunachalam Mudali, acquired coparcenary rights by birth in the ancestral properties and such right could not have been defeated by unilateral alienation in favour of one son. However, it is equally well settled that a coparcener is competent to alienate his own undivided interest in the coparcenary property. The alienation made by one coparcener is not wholly void but is valid to the extent of the share that ultimately falls to his allotment in the partition.

9.5. The Hon’ble Supreme Court in ***Rukhmabai v. Lala Laxminarayan, AIR 1960 SC 335***, recognized the right of a coparcener to alienate his undivided interest in coparcenary property. Therefore, this Court is of the considered view that the settlement deed, dated 13.02.2003 bearing Doc.No.258/2003 executed in favour of the 2nd defendant cannot bind the plaintiff’s coparcenary share. However, the said settlement deed shall remain operative and binding to the extent of the share, if any, ultimately allotted to the 2nd defendant in the final decree proceedings.

Consequently, the sale deed bearing Document No.1093 of 2007, executed in favour of the 6th defendant shall also be valid only to the extent of the shares of the executants and shall not bind the plaintiff's share in the suit property. Accordingly, Issue No.1 is answered partly in favour of the plaintiff by holding that the settlement deed, dated 13.02.2003 bearing Doc.No.258 of 2003 and the sale deed bearing Doc.No.1093 of 2007 are not binding upon the plaintiff's share in the "A" Schedule property and shall bind only the share, if any, ultimately allotted to the respective executants. This issue is answered accordingly.

10. ANSWER TO ISSUE NO: 2

“Whether the plaintiff is entitled to the relief of declaration that the settlement deed bearing Document No.911 of 2005, dated 29.03.2005 and the sale deed bearing Document No.2811 of 2012, dated 21.06.2012 are null and void, as prayed for?”

10.1. The defendants have contended that "B" Schedule property was allotted to Arunachalam Mudali under a family arrangement of the year 1959 and that he subsequently settled his share in favour of the 3rd defendant. However, except making such a plea, the defendants have not produced any document evidencing the alleged family arrangement or Koor Chit of the year 1959. DW.1 himself has admitted that no such document has been filed before this Court. The defendants have further relied upon the alleged Will, dated 09.12.2005 said to have been executed by Rojammal in favour of the second defendant.

10.2. *Section 63(c) of the Indian Succession Act, 1925*, requires that a Will must be attested by two or more witnesses. *Section 68 of the Indian Evidence Act, 1872*, mandates examination of at least one attesting witness for proving execution of a Will. Admittedly, no attesting witness to the alleged Will has been examined. The Hon'ble Supreme Court in ***H. Venkatachala Iyengar v. B.N. Thimmajamma***,

AIR 1959 SC 443, held that the propounder of a Will must prove due execution and remove all suspicious circumstances surrounding the execution of the Will. Similarly, in **Jaswant Kaur v. Amrit Kaur, (1977) 1 SCC 369**, it was held that where suspicious circumstances exist, the burden on the propounder becomes heavier. In the present case, PW.1 has categorically stated that Rojammal was physically and mentally incapable of executing the alleged Will. The defendants have failed to examine either the attesting witnesses or the scribe. Therefore, the alleged Will has not been proved in accordance with law.

10.3. The evidence further establishes that "B" Schedule property originally belonged jointly to Arunachalam Mudali and Duraisami Mudali. Consequently, Arunachalam Mudali could have dealt only with his own share and not with the entire property. The plaintiff, being a coparcener under Section 6 of the Hindu Succession Act, acquired an equal right by birth in the ancestral share of Arunachalam Mudali. Such statutory right cannot be defeated by unilateral settlement in favour of one son. However, applying the equitable principle governing alienation by a coparcener, the settlement deed, dated 29.03.2005 bearing Document No.911 of 2005 executed in favour of the third defendant shall remain binding only to the extent of the share, if any, that ultimately falls to the share of Arunachalam Mudali and thereafter to the 3rd defendant.

10.4. Likewise, the sale deed, dated 21.06.2012 bearing Document No.5811 of 2012 executed in favour of the 7th defendant shall be valid only to the extent of the shares of the executants and shall not bind the plaintiff's share in the "B" Schedule property. Accordingly, Issue No.2 is answered partly in favour of the plaintiff by holding that the settlement deed bearing Document No.911 of 2005 and the sale deed bearing Document No.5811 of 2012 are not binding upon the plaintiff's share and shall bind only the shares, if any, ultimately allotted to the

respective executants in the final decree proceedings. This issue is answered accordingly.

11. ANSWER TO ISSUE NO:3

“Whether the plaintiff is entitled to partition and separate possession in respect of "A" and "B" Schedule properties?”

11.1. The plaintiff is admittedly the daughter of Arunachalam Mudali. The plea of the defendants that the plaintiff was married in the year 1984 and was given sufficient streedhana cannot extinguish her statutory coparcenary rights. Section 6 of the Hindu Succession Act, 1956, as amended by Act 39 of 2005, confers equal coparcenary rights upon daughters. The law has now been conclusively settled by the Constitution Bench judgment of the Hon’ble Supreme Court in *Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1*, wherein it was held that:

- a daughter is a coparcener by birth;
- her rights are identical to those of a son;
- her rights are not dependent upon whether the father was alive on the date of commencement of the amendment. In the present case, Arunachalam Mudali died in the year 2007, after the coming into force of the Hindu Succession (Amendment) Act, 2005.

11.2. The evidence on record establishes that A Schedule property is ancestral coparcenary property. At the time of death of Arunachalam Mudali, the coparceners were: Arunachalam Mudali, 2nd defendant, 3rd defendant, Plaintiff and 4th defendant. On a notional partition under Section 6 of the Hindu Succession Act, each coparcener would be entitled to 1/5 share. Thereafter, the 1/5 share of Arunachalam Mudali devolved upon his Class-I heirs under Sections 8 and 10 of the Hindu Succession Act, namely, wife

(Defendant no:1), plaintiff, defendant no: 2 to 4. Thus, each Class-I heir would get 1/25 share out of Arunachalam Mudali's share. Therefore, the plaintiff's total entitlement in "A" Schedule property is Coparcenary share = 1/5 and Share inherited from father = 1/25. Hence, $1/5 + 1/25 = 6/25$ share. Accordingly, the plaintiff is entitled to 6/25 share in "A" Schedule property.

11.3. The evidence establishes that "B" Schedule property belonged jointly to Arunachalam Mudali and his brother Duraisami Mudali. After the death of Duraisami Mudali, his half share devolved upon the 5th defendant. Accordingly, Arunachalam Mudali was entitled only to ***one-half share*** in "B" Schedule property. The plaintiff's entitlement in Arunachalam Mudali's half share is again: $6/25 \times 1/2 = 6/50$ ***share***. Hence, the plaintiff is entitled to ***6/50 share in "B" Schedule property***. The alienations made by defendants 2 and 3 are valid only to the extent of their own shares and cannot bind the plaintiff's share. Accordingly, the plaintiff is entitled to a preliminary decree for partition and separate possession of **6/25 share in A Schedule property**, and **6/50 share in "B" Schedule property**. Issue No.3 is answered in favour of the plaintiff accordingly.

12. ANSWER TO ISSUE NO:4

"To what other relief is the plaintiff entitled?"

In view of the findings rendered above, this Court holds that the settlement deed, dated 13.02.2003 bearing Document No.258 of 2003 is not binding upon the plaintiff's share. The sale deed bearing Document No.1093 of 2007 executed in favour of the sixth defendant is not binding upon the plaintiff's share. The settlement deed, dated 29.03.2005 bearing Document No.911 of 2005 is not binding upon the plaintiff's share. The sale deed, dated 21.06.2012 bearing Document No.2811 of 2012 executed in favour of the 7th defendant is not binding

upon the plaintiff's share. Considering the facts and circumstances of the case the court is of the opinion that the plaintiff is not entitled to any relief other than the reliefs already granted to her above and thus this issue is answered accordingly.

RESULT:

In the result,

(1) The suit is decreed with costs.

(2) It is hereby declared that the Settlement deed, dated 13.02.2003 bearing Document No.258 of 2003 alleged to have been executed by late.Arunachalam Mudali in favour of the 2nd defendant in respect of the "A" Schedule property is not binding on the plaintiff's share in the suit property. However, the said settlement deed shall be valid and operative to the extent of the share, if any, that may ultimately be allotted to the 2nd defendant in the final decree proceedings.

(3) It is hereby declared that the Settlement deed, dated 29.03.2005 bearing Document No.911 of 2005 alleged to have been executed by late.Arunachalam Mudali in favour of the 3rd defendant in respect of the "B" Schedule property is not binding on the plaintiff's share in the suit property. However, the said settlement deed shall be valid and operative to the extent of the share, if any, that may ultimately be allotted to the 3rd defendant in the final decree proceedings.

(4) It is hereby declared that the Sale deed, dated 22.02.2006 bearing Document No.1093 of 2007 executed by defendants 2, 3, 5 and Rojammal in favour of the 6th defendant in respect of Serial Nos.13 to 19 in Item No.1 of "A" Schedule property, Serial Nos.23 to 26 in Item No.2 of "A" Schedule property and Serial Nos.20 to 22 in Item No.2 of "B" Schedule property is not binding upon the plaintiff's share in the suit properties. However, the said sale deed shall remain valid and binding to the extent of the shares, if any, ultimately allotted to the respective executants in the final decree proceedings.

(5) It is hereby declared that the Sale deed, dated 21.06.2012 bearing Document No.5811 of 2012 executed by defendants 2 and 3 in favour of the 7th defendant in respect of Serial No.8 in Item No.1 of "A" Schedule property and Serial No.16 in "B" Schedule property is not binding upon the plaintiff's share in the suit properties. However, the said sale deed shall remain valid and binding to the extent of the shares, if any, ultimately allotted to defendants 2 and 3 in the final decree proceedings.

(6) A preliminary decree for partition is passed declaring that the plaintiff is entitled to:

(i) 6/25th share in the "A" Schedule properties; and (ii) 6/50th share in the "B" Schedule properties. The plaintiff is entitled to have the suit properties divided by metes and bounds and to obtain separate possession of her aforesaid shares by instituting final decree proceedings. The rights, if any, acquired by defendants 6 and 7 under the impugned sale deeds shall be worked out only in respect of the shares that may ultimately be allotted to their respective vendors and shall not affect or prejudice the plaintiff's share declared under this judgment.

(7) Accordingly, a preliminary decree shall be drawn and the plaintiff and the defendants are at liberty to have their share in the suit property separated by due process of law.

(8) Considering the relationship between the parties, this court doth order that the parties shall bear their own costs.

Directly typed by me in my laptop, corrected and pronounced by me in the open court on this 01st day of August -2026.

**Additional Sub Judge,
Ponneri.**

PLAINTIFFS SIDE WITNESS:

PW.1 - Mrs.Punitha

PW.2 - Mr.Rajesh Kumar

PLAINTIFFS SIDE EXHIBITS:

S.No.	Exhibits	Description of Documents
1.	Ex.A1.	Copy of settlement deed, dated : 13.02.2023
2.	Ex.A2.	Copy of settlement deed, dated : 29.03.2005
3.	Ex.A3.	Copy of sale deed, dated : 22.02.2007
4.	Ex.A4.	Copy of sale deed, dated : 21.06.2012
5.	Ex.A5.	Copy of Patta (No.190)
6.	Ex.A6.	Copy of Patta (No.3)
7.	Ex.A7.	Copy of Patta (No.415)
8.	Ex.A8.	Death certificate of Arunachalam
9.	Ex.A9.	Legal notice issued by the plaintiff's counsel to the defendants 1 to 5, dated : 12.03.2011
10.	Ex.A10.	Legal notice issued by the plaintiff's counsel to the defendants 1 to 4, dated : 12.03.2011
11.	Ex.A11.	Reply notice issued by the defendant's counsel to the plaintiff counsel, dated : 30.03.2011
12.	Ex.A12.	Reply notice issued by the defendant's counsel to the plaintiff counsel, dated : 02.04.2011
13.	Ex.A13.	Legal notice issued by the plaintiff's counsel to the 7 th defendant, dated : 27.07.2012.
14.	Ex.A14.	Reply notice issued by the 7 th defendant's counsel to the plaintiff counsel, dated : 16.08.2012

15.	Ex.A15.	Proceedings of the Sub Registrar, Arani, dated : 16.07.2012
16.	Ex.A16.	Returned cover (3 Nos)
17.	Ex.A17.	Acknowledgement cards (10 Nos)

DEFENDANTS SIDE WITNESS:

DW.1- Mr.Ravi

DW.2- Mr.Elumalai

DEFENDANTS SIDE EXHIBITS:

S.No.	Exhibits	Description of Documents
1.	Ex.B1.	Partition deed, dated : 16.08.1995
2.	Ex.B2.	Copy of Will, dated : 09.12.2005
3.	Ex.B3.	E.Patta (No.415)
4.	Ex.B4.	E.Patta & Chitta particulars (Patta No.415)
5.	Ex.B5.	E.Patta (No.3)
6.	Ex.B6.	Copy of Amended plaint in O.S.No.334 of 2009
7.	Ex.B7.	Copy of Additional Written statement in O.S.No.334 of 2009
8.	Ex.B8.	Legal notice issued by the 5 th defendant's counsel to the defendants and plaintiff.
9.	Ex.B9.	Reply notice issued by the defendant's counsel to the plaintiff counsel, dated : 11.11.2008
10.	Ex.B10.	Consent letter by the plaintiff to the 2 nd defendant, dated : 09.10.2008
11.	Ex.B11.	Survey numberwise Guideline values

**Additional Sub Judge,
Ponneri.**