

**IN THE COURT OF DISTRICT MUNSIF, SHENCOTTAI.**

Present : **Thiru.K.N.Guru, B.A.B.L.,**  
District Munsif, Shencottai.

Thursday, the 30<sup>th</sup> day of April 2026

**ORIGINAL SUIT No.78/2023**

**(CNR.No.TNTS11-006851-2023)**

Vasantha

.. Plaintiff

/Vs/

1. The Tahsildar, Taluk Office, Shencottai.
  2. The Government of Tamil Nadu through its District Collector, Tenkasi District
  3. Murugeshwari
  4. Krishnakumari (Minor)
  5. Sakthi (Minor)
  6. Radha
- .... 3 to 6 Defendants/Counter Claimants

The suit came before me for final hearing on 28.04.2026 in the presence of Thiru.K.S.Muthu, Advocate for the Plaintiff and Thiru.M.Rahuman Sadat, (Government Pleader) Advocate for the 1<sup>st</sup> and 2<sup>nd</sup> Defendants and Thiru.K.Sailapathy Sivagnanam, Advocate for the 3 to 6 Defendants /Counter-claimants; and after hearing both sides and on perusal of records and having stood over for consideration till this date and this court delivers the following:-

**JUDGMENT**

This suit is filed by the Plaintiff seeking the relief of declaration that the Plaintiff and Defendants 3 to 6 are the legal heirs of the deceased Kuttisamy, and for

a consequential mandatory injunction directing Defendants 1 and 2 to issue a Legal Heirship Certificate, together with the costs of the suit.

In response, Defendants 3 to 6 have filed a counter-claim seeking a declaration that the legal heirs of the deceased Kuttisamy are his father Late Raja, his mother Late Kalamammal, his wife Late Mariammal, the 3rd Defendant Murugeshwari, Late Kala, and the 6th Defendant Radha, and for a consequential mandatory injunction directing the 1st Defendant to issue a Legal Heirship Certificate in the names of the aforementioned legal heirs, together with the costs of the counter-claim.

## **2. Plaintiff Case in a Nutshell:-**

The Plaintiff asserts that she is the legally wedded wife of the deceased Kuttisamy, who died on 26.05.2022, and claims entitlement to a Legal Heirship Certificate. According to her, the deceased's first wife, Mariammal, had deserted him and subsequently died in 2007, after which the Plaintiff continued to live with and depend upon Kuttisamy. She relies on a registered marriage certificate, personal identification documents, and nomination records to establish her marital status. The Plaintiff further contends that the rejection of her application by the Tahsildar was arbitrary and based solely on an incorrect assumption regarding the existence of two wives, without proper inquiry. She claims that she cared for the children of the deceased and now faces financial hardship, necessitating the issuance of the certificate.

**3. Case of Defendants 1 and 2:**

Defendants 1 and 2, representing the revenue authorities, deny the Plaintiff's claims and contend that the suit is not maintainable either in law or on facts. They assert that the Plaintiff has failed to substantiate her allegations with proper proof and that the rejection of the Legal Heirship Certificate was justified due to the existence of rival claims and disputed marital status. They put the Plaintiff to strict proof of all material facts, including the alleged divorce of the first wife, the validity of her marriage with the deceased, and her dependency on him. According to these Defendants, the Plaintiff is not entitled to the relief sought in the absence of clear and conclusive evidence.

**4. Case of Defendants 3 to 6 and Counter-Claim:**

Defendants 3 to 6, being the daughters and grandchildren of the deceased through his first wife Mariammal, strongly deny the Plaintiff's status as a legally wedded wife. They contend that Mariammal remained the only lawful wife of Kuttisamy until her death and that no valid divorce ever took place. They further allege that the Plaintiff was already married to another person, Subbiah, and that such marriage subsists, rendering any alleged marriage with Kuttisamy void. These Defendants assert that the Plaintiff has fabricated facts, suppressed material particulars, and falsely claimed to have raised the children. Through their counter-claim, they seek a declaration that only the blood relatives of the deceased—namely his daughters and their legal heirs—are entitled to be recognized as legal heirs, and

pray for issuance of the Legal Heirship Certificate accordingly.

**5. Reply of the Plaintiff to Counter-Claim:**

In response, the Plaintiff vehemently denies all allegations made by Defendants 3 to 6, particularly the claim that she was married to Subbiah or has a child through him. She reiterates that she is the lawful wife of Kuttisamy and that the first wife had deserted him long prior to her marriage. The Plaintiff maintains that her marriage was validly solemnized and registered, and that she fulfilled all responsibilities of a spouse and caretaker within the family. She further disputes the necessity of impleading the deceased daughter's husband as a party and clarifies that her inclusion of certain defendants was out of caution. The Plaintiff also alleges misconduct on the part of the 6th Defendant's husband, including trespass and removal of documents, and insists that the counter-claim is baseless and deserves dismissal.

**6. On the basis of the plaint, counterclaim, reply statement and documents on record, the following issues were framed.**

1. Whether the plaintiff is entitled to the relief of declaration that she and defendants 3 to 6 are the legal heirs of the deceased?
2. Whether the plaintiff is entitled for the relief of mandatory injunction direct in the 1<sup>st</sup> and 2<sup>nd</sup> defendant to issue a legal heirs certificate?
3. Whether the counter claim filed by the defendants for the relief of declaration that defendants 3 to 6 are the legal heirs of the deceased and consequential mandatory injunction?
4. To what other relief the parties are entitled to?

7. In this case, on the side of plaintiff, PW1 and PW2 were examined and Ex.A1 to Ex.A14 were marked. On the side of defendants 3 to 6, DW1 was examined, but no documents were marked.

**8. Answer to Issues No.1 to 4:-**

i) The primary point for determination in this suit is whether the Plaintiff is the legally wedded second wife of the deceased Kuttisamy and whether she is entitled to be declared as his legal heir. To support her claim, the Plaintiff places heavy reliance on a Marriage Agreement (Ex.A6). However, it is a settled position of law that a marriage agreement is non-est in law. Under the Hindu Marriage Act, 1955, marriage is a sacrament and not a mere civil contract; it must be solemnized in accordance with statutory requirements and customary rites. A mere written agreement, regardless of its registration, cannot confer the legal status of a husband and wife or substitute for the essential ceremonies required by law.

ii) The Plaintiff further contends that the deceased Kuttisamy had divorced his first wife, Mariammal, through a customary village Panchayat. While Section 29(1) of the Hindu Marriage Act saves the validity of a customary divorce, the burden of proof lies heavily on the person asserting such a custom. To successfully invoke Section 29(1), there must be specific pleadings to the effect that such a custom exists within the particular community of the parties and that such a custom is proved by evidence of long-standing usage. In the present case, the Plaintiff has failed to produce pleadings regarding the specific customary procedures practiced in the

community. Customary divorce must be established as a matter of fact through cogent evidence of continuous usage, which is entirely absent in this case. Hence, the "Customary Divorce" cannot be construed as a valid legal dissolution of marriage.

iii) Furthermore, the depositions of PW1 and DW1 reflect a significant conduct of the deceased: upon the death of the first wife, Mariammal, on June 21, 2007, it was the deceased Kuttisamy who performed the funeral rites. This conduct by the deceased himself serves as strong evidence that the marital bond between Kuttisamy and Mariammal was never severed and subsisted until her demise. Therefore, any alleged marriage between the Plaintiff and the deceased during the lifetime of the first wife is hit by the prohibition under Section 5(i) of the Hindu Marriage Act and is void ab initio (legally void from the beginning) under Section 11.

iv) The Plaintiff also points to her name being recorded as a "nominee" in insurance policies and service registers (Ex.A12, Ex.A13). This Court holds that the mere entry of a person's name as a nominee in a service register or insurance document does not constitute proof of a valid marriage. Such entries are for administrative convenience—specifically to discharge the liability of the insurer or employer—and do not override personal laws of succession. While PW2 testified in favor of the Plaintiff, the deposition was not conclusive and failed to establish a marriage known to law.

v) On the other hand, the status of Defendants 3 to 6 as the legitimate legal heirs of the deceased Kuttisamy is undoubtedly proved. The Plaintiff has failed to

produce any legally admissible proof of her status as a wife. Accordingly, the suit is liable to be dismissed and the counter-claim allowed.

**In the result, the suit is dismissed with costs.**

**In the result, the counter-claim filed by the Defendants 3 to 6 is allowed, declaring that the legal heirs of the deceased Kuttisamy are his father Late Raja, his mother Late Kaliasammal, his wife Late Mariammal, the 3rd Defendant Murugeswari, Late Kala, and the 6th Defendant Radha, and consequently, a mandatory injunction is granted directing the 1st Defendant to issue a Legal Heirship Certificate in the names of the aforementioned legal heirs; with costs.**

Dictated to the Steno-typist directly and typed by him in computer, corrected and pronounced by me in open court, this the **30<sup>th</sup> day of April 2026.**

**District Munsif,  
Shencottai.**

**Plaintiff Side Witnesses:**

1. PW1 - Vasantha (Plaintiff)
2. PW2 – Ramaiah

**Plaintiff Side Documents:-**

<b>Ex.A1</b>	26.05.2022	Death certificate of Kuttisamy.
<b>Ex.A2</b>	21.06.2007	Death Certificate of Mariammal.
<b>Ex.A3</b>	--	Copy of Aadhaar card in the name of Plaintiff.
<b>Ex.A4</b>	--	Copy of Family Card.
<b>Ex.A5</b>	11.07.2020	Death certificate of Kala.

<b>Ex.A6</b>	--	Copy of the Marriage Contract.
<b>Ex.A7</b>	15.10.2020	Death Certificate of Kaliyammal.
<b>Ex.A8</b>	29.09.2018	Death Certificate of Raja.
<b>Ex.A9</b>	--	Order rejecting the Legal Heirship application filed before the 1st Defendant.
<b>Ex.A10</b>	26.10.1994	Certified copy of order in M.C.No.2/1993.
<b>Ex.A11</b>	--	Copy of the Residential Certificate issued to the Plaintiff by the Village Administrative Officer .
<b>Ex.A12</b>	--	Copy of the Bank Passbook opened by Kuttisamy, nominating the Plaintiff as Nominee.
<b>Ex.A13</b>	--	Photocopy of Kuttisamy's Staff Group Mediclaim Certificate, declaring Plaintiff as wife.
<b>Ex.A14</b>	--	Complaint preferred by the Plaintiff's husband, Kuttisamy, against his first wife Mariammal at Shencottah Police Station in November 1992

**Defendants side Witnesses:**

DW1 - Murugeshwari (3<sup>rd</sup> Defendant)

**Defendants Side Documents:-**

Nil

**District Munsif,  
Shencottai.**

DM Court, Shencottai,  
O.S.No.78/2023  
Draft/Fair Judgment (counter claim)  
Dated. 30.04.2026