



TNTU080001112022

Presented on : 11.07.2022
Registered on : 11.07.2022
Decided on : 08.04.2026
Duration : 3 years 8 months 28 days

IN THE COURT OF DISTRICT MUNSIF, VANIYAMBADI

Presided Over by THIRU. V. ESHWAR, B.E., L.L.B.,

OS.78/2022

CNR.No.TNTU080001112022

Plaintiff:

Jayamalini

VERSUS

Defendants:

1. Kanna Gounder
2. Boopathiammal
3. Rajeshwari

Advocate for Plaintiffs: **R.V. Varatharajan**

Advocate for Defendants: **P. Shanmugam**

Claim: Suit for Partition and Injunctions and for Cost

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JUDGMENT

(Delivered on 08.04.2026)

I. Overview

1. The plaintiff seeks the following reliefs from the court:

- a. Preliminary Decree for Partition: To divide the suit property into 6 equal shares and allot one such share to the plaintiff.
- b. Final Decree and Possession: If the defendants fail to deliver the share within the time fixed by the court, to appoint a Court Commissioner to divide and grant separate possession of the plaintiff's share.
- c. Permanent Injunction (Encumbrance): To restrain the defendants, their men, or agents from creating any encumbrance on the plaintiff's 1/6th share.
- d. Permanent Injunction (Possession): To restrain the defendants from interfering with the plaintiff's joint possession and enjoyment of the suit property.
- e. To order the defendants to pay the costs of the suit.

II. Summary of Plaint averments:

2. The plaintiff is the daughter-in-law of the first and second defendants, having married their son Ravi on 25.01.2021 as per Hindu rites and customs at Sri Lakshmi Narayanasamy Temple in Mullai Village. Following the marriage, the couple lived as a joint family with the defendants. At the time of marriage,



upon the demand of the defendants, the plaintiff's family provided 13 sovereigns of gold jewelry, Rs. 60,000 in cash for purchasing a vehicle, and bore marriage expenses amounting to Rs. 3,25,000, along with other household articles.

3. The plaintiff's husband, Ravi, suffered from underlying health issues which were concealed prior to the marriage. Despite the plaintiff's parents spending around Rs. 1,50,000 for his medical treatment, Ravi passed away intestate on 30.01.2022, leaving behind the plaintiff (his wife) and the second defendant (his mother) as his Class-I legal heirs. They had no children. Following his death, the defendants and their relatives subjected the plaintiff to cruelty, forcing her out of the matrimonial home with only the clothes she was wearing, leaving her jewelry and articles behind. A dispute also arose regarding the signature of the plaintiff for claiming her husband's life insurance amount of Rs. 10,00,000.

4. Following the exchange of legal notices and subsequent mediation, the plaintiff currently resides in a house situated on the suit property, while the defendants reside in the ancestral house. The core claim of the plaintiff is that the suit properties were purchased by the first defendant using income derived from ancestral joint family properties. Therefore, the suit properties are Hindu Undivided Family (HUF) properties in which her deceased husband had a 1/3rd share by birth. Upon his death, his 1/3rd share devolves equally upon the plaintiff and the second defendant. Consequently, the plaintiff claims a 1/6th



share in the total suit properties. Despite receiving a legal notice dated 10.06.2022, the defendants have neither partitioned the property nor sent a reply, and are now attempting to alienate the property and disturb her joint possession, necessitating the present suit.

III. Summary of Written statement averments:

5. The third defendant filed a written statement, which was adopted by the first and second defendants. They admit the relationship between the parties, the factum of marriage on 25.01.2021, and the death of Ravi on 30.01.2022 without issues. However, they categorically deny all allegations of dowry demands, concealment of the deceased's illness, and harassment of the plaintiff.

6. The primary defense raised is that the suit properties are not joint family properties. The first defendant asserts that he did not inherit any ancestral property. The suit property was purchased by the first defendant on 17.11.1973 from one Thirupathi out of his own self-earned funds. At the time of this purchase, the plaintiff's husband Ravi was not even born. Therefore, the property is the absolute, independent, and self-acquired property of the first defendant. The plaintiff's husband had no right or share in it during his lifetime, and consequently, the plaintiff cannot claim any partition over the same. The defendants pray for the dismissal of the suit with costs.

**IV. Issues framed**

7. Based on the rival pleadings, the following issues were framed for trial:

1. Whether the plaintiff proves that the suit property is an undivided Hindu Joint family property acquired from ancestral income, as alleged in the plaint?
2. Whether the 1st defendant proves that the suit property is his separate and self-acquired property, having been purchased on 17.11.1973 from his own earnings?
3. Whether the plaintiff is entitled to a 1/6th share in the suit property as a legal heir of her deceased husband, Ravi?
4. Whether the plaintiff is entitled to the relief of partition and separate possession of her alleged 1/6th share in the suit property, as prayed for?
5. Whether the plaintiff is entitled to the reliefs of permanent injunction restraining the defendants from alienating the suit property and from interfering with her possession, as prayed for?
6. To what other relief, if any, is the plaintiff entitled?

V. EVIDENCE ADDUCED

8. To substantiate her case, the plaintiff examined herself as PW-1 and marked eleven documents as Ex.A1 to Ex.A11. Despite filing a written statement, the defendants failed to cross-examine PW-1. The defendants also



did not enter the witness box to adduce any oral evidence, nor did they mark any documentary evidence on their behalf.

VI. ARGUMENTS OF THE PARTIES

9. The Court heard the arguments advanced by the learned counsel for the plaintiff. The learned counsel reiterated the averments in pleadings and the documentary evidence, specifically relying on Ex.A1 (Sale Deed) and Ex.A2 (Patta) to establish the existence of the property, and the death certificate (Ex.A4) to establish the plaintiff's status as a legal heir. It was argued that since the defendants failed to cross-examine PW-1 or lead rebuttal evidence, the averments made by the plaintiff stand unchallenged and the suit ought to be decreed.

10. The defendants did not advance any arguments.

VII. DISCUSSION AND REASONS FOR DECISION

As to Issue No. 1 and 2:

11. These issues are central to the controversy and are dealt with together. The plaintiff's claim for partition hinges on the characterisation of the suit property as a Hindu Undivided Family property. Her contention is that the first defendant, though the nominal purchaser under Ex.A1, utilised income from an ancestral nucleus to acquire the same. The defendants, in their written statement, have set up a plea of self-acquisition.

12. It is a fundamental rule of Hindu Law that there is no automatic presumption that a property held by a member of a joint family is joint family



property. The mere existence of a joint family does not lead to such an inference. The burden of proof initially lies heavily on the party who asserts the joint character of the property.

13. At this juncture, it is relevant to note the decision of the Hon'ble Madras High Court in *K.V. Ramasamy and another v. K.V. Raghavan and others [2009 (4) CTC 440]*, which crystallises the legal position. The Hon'ble Court held that the person alleging joint family character must first prove that the family possessed a joint nucleus and, crucially, that such nucleus left sufficient surplus income to enable the acquisition of the property in question. It is only when this initial burden is discharged that the onus shifts to the member claiming self-acquisition to prove that the property was purchased with independent funds.

14. Turning to the evidence on record, the plaintiff (PW-1) has made a general statement in her evidence that the properties were purchased from ancestral income. However, she has not placed even a single document on record to show that the first defendant's family owned any ancestral lands prior to the purchase of the suit property. To satisfy the test laid down in *K.V. Ramasamy (supra)*, the plaintiff ought to have shown the extent of the ancestral nucleus and the quantum of surplus income it yielded. In the absence of such evidence, the court cannot presume that a surplus existed.

15. Furthermore, the plaintiff's own document, Ex.A1 (Sale Deed dated 17.11.1973), shows that the first defendant purchased the property in his



individual capacity. At the time of this purchase, the plaintiff's husband, Ravi, was not even born. There is no recital in Ex.A1 suggesting that the consideration of Rs. 1,500/- was paid from joint family funds. Since the plaintiff has failed to prove the existence of a sufficient nucleus, the legal presumption of self-acquisition remains undisturbed. Therefore, this court holds that the suit property is the absolute and separate property of the first defendant. Issue No. 1 is answered against the plaintiff and Issue No. 2 is answered in favour of the first defendant.

As to Issue No. 3 and 4:

16. Since it has been held that the suit property is the self-acquired property of the first defendant, his son (the plaintiff's late husband) did not acquire any right by birth in the said property during the first defendant's lifetime. Under the Hindu Succession Act, a son has no vested interest in the self-acquired property of the father while the father is alive. Consequently, upon the death of Ravi on 30.01.2022, no share in the suit property could have devolved upon the plaintiff or the second defendant as his legal heirs.

17. The plaintiff's claim for a 1/6th share is predicated on the husband having a 1/3rd share by birth, which it have found to be legally unsustainable. Therefore, the plaintiff is not entitled to the relief of partition or separate possession. Issues 3 and 4 are answered against the plaintiff.



As to Issue No. 5:

18. The plaintiff seeks a permanent injunction to protect her "joint possession." However, an injunction is an equitable relief that follows legal title or lawful possession. Having found that the plaintiff has no title or share in the suit property, and in the absence of any concrete evidence to prove her independent or settled possession of the house situated therein, especially when the first defendant is the true owner, the relief of injunction cannot be granted. Issue No. 5 is answered against the plaintiff.

As to Issue No. 6:

19. In view of the findings on the above issues, the plaintiff is not entitled to any other relief. Issue No. 6 is answered accordingly.

VIII. Result

20. In the result, this suit is **dismissed**. Considering the close family relationship between the parties and the overall facts and circumstances of the case, the parties are directed to bear their own costs.

Directly typed by me in my official laptop, corrected and pronounced by me in the open court on this the 8th day of April, 2026.

**District Munsif,
Vaniyambadi.**

**APPENDIX****List of Witnesses Examined for the Plaintiffs:**

Pw1- Jayamalini

List of Exhibits Marked for the Plaintiffs:

Exhibit	Date	Description
Ex.A1	17.11.1973	Certified copy of Sale Deed (Doc. No. 2842/1973) in the name of the 1st Defendant
Ex.A2	08.06.2022	Computerised Chitta – Suit 1st Item Property (Patta No. 1382) Survey No.176/3A2A.
Ex.A3	25.01.2021	Original Marriage Invitation of the Plaintiff
Ex.A4	16.03.2022	Computer Downloaded Death Certificate of Plaintiff's Husband (Ravi) (Date of death 30.01.2022)
Ex.A5	10.06.2022	Reply Notice sent on behalf of Plaintiff with Postal Receipts
Ex.A6	11.06.2022	Original Postal Acknowledgment signed by Defendants' Counsel
Ex.A7	—	Original Postal Acknowledgment signed by 1st Defendant
Ex.A8	—	Original Postal Acknowledgment signed by 2nd Defendant
Ex.A9	—	Original Postal Acknowledgment signed by 3rd Defendant
Ex.A10	11.06.2022	Postal Acknowledgment from Alangayam Police Station
Ex.A11	08.07.2022	Online Guideline Value Statement for Suit Properties



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List of Witnesses Examined for the Defendants: Nil

List of Exhibits Marked for the Defendants: Nil

**District Munsif,
Vaniyambadi.**