

THE COURT OF DISTRICT MUNSIF, GUDIYATTAM,
VELLORE DISTRICT.

Present: Tr.K.Karthick Asath, B.A.,B.L.,(Hons),LLM.,
District Munsif,
Gudiyattam.

Thursday, this the 16th day of April 2026

O.S.No.36/2020
(CNR.No.TNVL10-000058-2020)

Balakrishnan

.... Plaintiff

// Versus //

1. Eganthan
2. Vasanthamma
3. Malliga
4. Radhakrishnan
5. Radhammal
6. Sujatha
7. Parvathi

.... Defendants

This suit came up before this court for final hearing on 07.04.2026 in the presence of Thiru.S.Senthilazhagan, Advocate for the plaintiff and the 1st defendant set exparte on 25.11.2024 and the 2nd defendant set exparte on 13.02.2024 and the 3rd defendant set exparte on 16.02.2020 and the defendants 4 to 7 set exparte on 06.11.2020 and upon perusing the case records and having stood over for consideration till this day, this court delivered the following.

JUDGMENT

Suit filed Under Order 7, Rule 1 and Section 26 of Code of Civil Procedure to declare the registered settlement deed dated 06.06.2018 (D.No.3783/2018) is null and void and the same will not bind the plaintiff

and divide the suit schedule mentioned properties into 5 equal shares and allots one such share to the plaintiff and put him in separate possession and enjoyment of the same and directing an appointment of Advocate commissioner for making an amicable and feasible partition without detriment to any to any of the shares and for cost.

1. The Brief Averments of the plaint :-

The plaintiff submit that the suit property originally purchased by his grandfather Abbai Naidu by way of registered sale deed dated 11.10.1944. The said Abbai Naidu died intestate in or about the year 1965 leaving behind his two sons namely Erraiyan and Chinnayya. The said Erraiyan and Chinnayya orally partitioned to the above said properties and the suit property is allotted to the share of Erraiyan. The plaintiff and 1st defendant are the sons and the defendants 2 and 3 and one Dhanalakshmi are daughters of said Erraiyan. The plaintiff and 1st defendant along with Erraiyan is in joint possession and enjoyment of the suit property. The said Dhanalakshmi died leaving behind the defendants 4 to 7. The said Erraiyan died intestate on 12.06.2018. The suit property is the ancestral property of plaintiff and defendants. In the first week December 2019 1st defendant acting against interest of plaintiff hence plaintiff could not able to continue the joint possession. Subsequently he came to know about that the deceased Erraiyan executed registered settlement deed dated 06.06.2018 infavour of the 1st defendant. On that plaintiff filed the suit for declaring the settlement deed is null and void and divide the suit property into 5 equal shares and allot one such share to the plaintiff.

2. The 1st defendant set exparte on 25.11.2024 for non filing of written statement. The 2nd defendant set exparte on 13.02.2024. The 3rd defendant set exparte on 16.02.2020. The defendants 4 to 7 set exparte on 06.11.2020.

3. Evidence :-

On plaintiff side the plaintiff Saraswathi examined as PW1 and marked Ex.A1 to Ex.A3 and Ex.C1 and Ex.C2. On defendants side no witness is examined and no document is marked.

4. Plaintiff side Argument:-

The plaintiff counsel argued that suit property belongs into plaintiff grandfather Abbaiya Naidu. He died intestate in the year 1965 leaving behind the Erraiyyan and Chinnayya as his legal heirs. Subsequently they oral partition between themselves on that suit property allotted to the shares of Erraiyan. The plaintiff along with Erraiyan enjoyed the suit property by joint possession. The said Erraiyan died on 12.06.2018 leaving behind the plaintiff and defendants as his legal heirs. Subsequently the plaintiff came to know about that the 1st defendant by misrepresentation obtained registered settlement deed from deceased Erraiyan on 06.06.2018 by fraudulently. Hence the plaintiff filed the suit. The plaintiff examined PW1 to PW3 and marked Ex.A1 to Ex.A6. But the defendants side failed to appear and deny the plaintiffs case. He further argued that the plaintiff proved his case by adducing witnesses and documents hence prayed to decreed the suit.

5. Discussion:-

This court after considering the argument of plaintiff side and perusing the pertinent records this court proceed to delineate the findings based on the following discussion,

5.1. The case of the plaintiff is that the suit property originally purchased by his grandfather Abbai Naidu by way of registered sale deed daated 11.10.1944. The said Abbai Naidu died intestate in or about the year 1965 leaving behind his two sons namely Erraiyan and Chinnayya. The said Erraiyan and Chinnayya orally partitioned to the above said properties and the suit property is allotted to the share of Erraiyan. The plaintiff and 1st defendant are the sons and the defendants 2 and 3 and one Dhanalakshmi are daughters of said Erraiyan. The plaintiff and 1st defendant along with Erraiyan is in joint possession and enjoyment of the suit property. The said Dhanalakshmi died leaving behind the defendants 4 to 7 are legalheirs. The said Erraiyan died intestate on 12.06.2018. The suit property is the ancestral property of plaintiff and defendants. In the first week December 2019 1st defendant acting against interest of plaintiff hence plaintiff could not able to continue the joint possession. Subsequently he came to know about that the deceased Erraiyan executed registered settlement deed dated 06.06.2018 infavour of the 1st defendant. On that plaintiff filed the suit for declaring the settlement deed is null and void and divide the suit property into 5 equal shares and allot one such share to the plaintiff.

5.2. On perusing the available records the 1st defendant set exparte on 08.11.2021 and again on 25.11.2024 for non filing of written statement. The 2nd defendant set exparte on 13.02.2024. The 3rd defendant set exparte on 16.02.2020. The defendants 4 to 7 set exparte on 06.11.2020. On that non of the defendants not deny the plaint pleadings by filing written statement and contest the suit.

5.3. For proving the suit the plaintiff examined himself as PW1 and marked Ex.A1 to Ex.A6 documents. The Ex.A1 is the registered sale deed dated 11.10.1944. The Ex.A2 is the death certificate of Erraiyan. The Ex.A3 is the legal heir certificate of deceased Erraiyan. The Ex.A4 is the registered settlement deed dated 06.06.2018. The Ex.A5 is the Online encumbrance certificate. The Ex.A6 is the Guideline value of the suit property. On plaintiff side they further examined one Prabakaran as PW2 and one Shanthakumar as PW3.

5.4. On perusing the plaint pleadings the plaintiff claimed that the suit properties are the ancestral property hence he and other legalheirs of deceased Erraiyan having shares in the suit property on that the settlement deed (Ex.A4) executed by the Erraiyan infavour of the 1st defendant is null and void. Then the burden upon the plaintiff to prove that suit property is the ancestral property. The plaintiff pleaded that suit properties purchased by his grandfather Abbaiya Naidu by way of sale deed dated 11.10.1944 and the same marked as Ex.A1. As per the plaint pleadings the grandfather of plaintiff is died in or about in the year 1965 that is after the commencement of the Hindu Succession Act 1956. The plaintiff himself

pleaded that the plaintiff father Erraiyan and Chinnayya are orally partitioned on that suit property is allotted to the share of his father Erraiyan. It is settled principle of law that after the enactment of Hindu Succession Act 1956 any property inherent from the male ancestor should be considered as his self acquired property. On that the suit property obtained by the plaintiff father Erraiyan by way of oral partition is to be treated as his self acquired property. On that he has every right to settled, transfer or alineate the same. In this circumstances the plaintiff failed to prove that how the suit property is the ancestral property of him.

5.5. For better discussion this court rely upon the judgment passed by the Hon'ble Apex Court in *Angadi chandranna Vs Shankar 2025 INSC 532* the relevant portion of above precedent is extracted here below,

“17. It cannot be disputed that the properties divided among Defendant No.1 and his brothers through partition deed dated 09.05.1986, are joint family properties. However, as per Hindu law, after partition, each party gets a separate and distinct share and this share becomes their self-acquired property and they have absolute rights over it and they can sell, transfer, or bequeath it as they wish. Accordingly, the properties bequeathed through partition, become the self- acquired properties of the respective sharers.

18. Apparently, the plaintiffs did not question the partition deed (Ex.P1) effected among the brothers. It states that the respective parties shall hereinafter enjoy the properties allotted to their share with a right to sell, lease, gift, encumber, etc. The partition deed further reveals that the suit property was allotted to C.Thippeswamy, one of the brothers of Defendant No.1; and Defendant No.1 was allotted 10 acres of land, which was different from the suit property measuring 7 acres 20 Guntas allotted to the said C.Thippeswamy. It also proceeds to state that after the death of the father Channappa, the joint family became unmanageable due to difference of opinion among the members and therefore, they decided that it was not good to stay together and partitioned the lands allotted to them. Thus, the intention of the parties and the

recitals in the partition deed establish that the parties wanted to go their separate ways and did not want the property to remain as joint family property.

19. As reiterated above, after the joint family property has been distributed in accordance with law, it ceases to be joint family properties and the shares of the respective parties become their self-acquired properties. Hence, the suit property acquired by Defendant No.1 became his self-acquired property, on being sold by his brother Thippeswamy to him, vide sale deed dated 16.10.1989....."

And this court also rely upon the citation of Hon'ble Apex Court in ***Arshnoor Singh Vs. Harpal Kaur and others (2019 5 CTC 110)*** the relevant portion of the above judgment is extracted here below.

"7.5. After the Hindu Succession Act, 1956 came into force, this position has undergone a change. Post 1956, if a person inherits a self-acquired property from his paternal ancestors, the said property becomes his self-acquired property, and does not remain coparcenary property."

On considering the above two judgments passed by the Hon'ble Supreme Court of India it is clearly guided that any property inherits after the commencement of 1956 Act is become there self acquired property and they can sell, transfar or bequeath it as they wish. On that as per the facts of the case the suit property inherit by the plaintiff father Erraiyan by way of oral partition after the death of his father Abbaiya Naidu in the year 1965 hence the property obtained by the Erraiyan is become his absolute property on that he has every right to settle the same. Hence the settlement deed executed by the Erraiyan infavour of the 1st defendant on 06.06.2018 is valid. This court also rely upon judgment passed by our Hon'ble High Court of Madras in ***S.Sampoornam vs C.K.Shanmugam (2022 SCC***

ONLINE MAD 1594) the relevant portion made in para 11 is extracted here below,

“11. It is clear from the above judgment that when the Hindu Succession Act, 1956 was not in force, the old Hindu Mitakshara law was governing the field. Under the Mitakshara law whenever a male ancestor inherits any property from any of his parental ancestors up to three degrees above him, then his legal heirs upto three degrees below him, will get an equal right as co-parceners in that property. This position was altered after the coming into force of Section 8 of the Hindu Succession Act, 1956. After this provision came into force, where the son inherits property belonging to the father or grandfather, he does not take it as a co-parcener and he inherits the property in his individual capacity.”

As per the above judgment it is clearly explained that after the enforcement of Hindu Succession Act 1956 the position of legal right granted by birth is changed as per section 8 of the Act when the son inherits property belonging to the father or grand father he inherits the same in his individual capacity not as a coparceners. On that the plaintiff father Erraiyan also inherit the property in a individual capacity not as a coparcener on that the legal heirs of Erraiyan are not having any legal right to claim the suit property is a ancestral property.

5.6. It is further submit that while the plaintiff failed to prove that suit property is a ancestral property then he has no right to claim partition over the same and he has no locus standi to challenge the settlement deed executed by the Erraiyan infavour of the 1st defendant. The alleged settlement deed is a registered one then the burden upon plaintiff to prove that it is forged and fraudulent one. But plaintiff failed to prove the same. Mere averments and oral evidence of PW1 to PW3 are not strong enough to disbelieve the execution of registered document.

5.7. It is further submitted that in the plaint and in the proof affidavit filed by the plaintiff he pleaded that the daughters are already married prior to 1987 hence they have no right to claim share in the suit property but subsequently he corrected the plaint stating that as per the amendment Act 2005 the female members have got share in the suit property. On that the plaint pleadings self contrary to its own pleadings and based on the correction the shares and court fees are altered. On considering the above discussion the plaintiff failed to prove that the suit property is a ancestral property on that the settlement deed executed by the Erraiyan is null and void. It is further submit that the plaintiff failed to prove how they entitle for partition of the suit property. On that the plaintiff cannot entitled for the suit claim as prayed in the suit.

6. Result :-

As a result, this suit is dismissed without cost.

Dictated to Steno typist directly, typed by him in the desktop, corrected and pronounced by me in the open Court on this the 16th day of April 2026.

Sd/- K.Karthick Asath,
District Munsif,
Gudiyattam.

Plaintiff side Witnesses:-

PW1 Balakrishnan
PW2 Prabakaran
PW3 Santhakumar

Plaintiff side Exhibits :-

Ex.A1	11.10.1944	Original registered sale deed executed infavour of Abbai Naidu (D.No.1454/1944)
Ex.A2	-	Death Certificate of deceasaed Erraiyan
Ex.A3	-	Copy of the Legal heirship certificate of deceased Erraiyan
Ex.A4	06.06.2018	Certified copy of the settlement deed
Ex.A5	-	Online Encumbrance Certificate
Ex.A6	-	Online Guideline Value of the suit property

Defendants side witnesses:- Nil

Defendants side Exhibits :- Nil

Sd/- K.Karthick Asath,
**District Munsif,
Gudiyattam.**