



IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
WATRAP.

Present : **Tr. M. Ramanathan, B.A., B.L.,**
District Munsif Cum Judicial Magistrate,
Watrap.

Monday, 30th day of March 2026

ORIGINAL SUIT No. 161/2024
CNR No. TNVR250011552024

1. Sundari
2. Senthil Kumar
3. Saravana Kumar ... Plaintiffs

//Vs //

1. Sundar
2. Durai Raja
3. C. Pandi (Died)
4. S. Krishnan (Died)
5. Ramanan
6. Padmini
7. Mariammal
8. Nedumaran
9. Azhagesan
10. Krishnan ... Defendants

(5th and 6th defendants have been impleaded as per the order passed in I.A. No. 1/2020 dated 31.03.2022)

(7th to 10th defendants have been impleaded as per the order passed in I.A. No. 3/2022 dated 17.03.2023)

The present suit was originally filed before the District Munsif and Judicial Magistrate No. I, Srivilliputhur and taken on the file of the court as O. S. No. 271 of 2015. Later, the present suit was transferred to this court and assigned renumbered as O. S. No. 161 of 2024 due to the change in territorial jurisdiction.

The present suit came up for final hearing in the presence of Learned Advocate R. SOUNDARRAJAN, appearing on behalf of the plaintiffs and Learned Advocate N. NAMASIVAYAM appearing on behalf of the 1st and 2nd defendants and Learned Advocate S. PANEER SELVAM appearing on behalf of the 3, 7 to 10th defendants and Learned Advocate M. ARUMUGAM appearing on behalf of the 4th defendant and 5th and 6th defendants have been remained *ex parte* and having stood till date for consideration of this court and after considering the pleadings, documents, arguments and other materials available on record, this court pronounced the following:

JUDGMENT

1. The present suit has been instituted by the plaintiffs seeking a relief of partition of their 1/3rd share in the suit schedule properties and separate possession thereof, and also a relief of declaration that the settlement deed in favor of the defendants are null and void and not binding upon the plaintiffs share in the suit schedule properties.

2. Summary of the plaint filed by the plaintiff

The plaintiffs state that they are the legal heirs of the deceased Karuppaiah.

They further submit that the suit schedule properties originally belonged to one
Original Suit No. 161 of 2024
Date of Decision: 30.03.2026

Subramaniapillai, who had been in possession and enjoyment of the said properties. The plaintiffs also submit that Subramaniapillai married Indirani after the demise of his first wife. At the time of his marriage with Indirani, Subramaniapillai executed a registered settlement deed over items 1 to 3 of the suit schedule properties, subject to certain conditions. The plaintiffs further submit that the deceased Karuppaiah, the 1st and 2nd defendants, and another woman were born out of the said wedlock. During his lifetime, Subramaniapillai settled his daughter at the time of her marriage.

Subsequently, the legal heir of Subramaniapillai, namely Karuppaiah, died on 12.07.1993, leaving behind the plaintiffs as his legal heirs. The plaintiffs have claimed that they are entitled to one-third share of the deceased Karuppaiah in the suit schedule properties. The plaintiffs contend that, after the demise of Karuppaiah, his brothers frequently created commotion with the plaintiffs and deliberately expelled them from the family in the year 1993. Despite repeated requests made by the plaintiffs, both personally and through elders, for an amicable partition of their one-third share, the same went in vain.

When the plaintiffs initiated steps for partition, they came to know that Indirani, the mother, had executed a registered sale deed in favour of defendants 3 and 4 in respect of items 1 to 3 of the plaint schedule properties, asserting that she had a saleable interest therein. The plaintiffs contend that Indirani was vested only with a right of enjoyment and, therefore, the execution of the said sale deed did not bind the share of the deceased Karuppaiah.

Further, the plaintiffs claim that Indirani, in collusion with defendants 1 and 2, executed a registered settlement deed in favour of defendants 1 and 2 in respect of items 4 to 6 of the plaint schedule properties, asserting that those properties were her self-acquired properties. However, the plaintiffs maintain that items 4 to 6

of the plaint schedule properties are ancestral in nature and not the self-acquired properties of Indirani.

The plaintiffs have further contended that defendants 1 and 2 jointly executed a sale deed in favour of the 4th defendant in respect of item 7 of the suit schedule properties, conveying an undivided two-third share. The plaintiffs have asserted that the suit filed by them is not barred by the law of limitation. They have further contended that the steps taken by them for division of shares amicably, including the issuance of a legal notice, also went in vain. Consequently, the present suit has been filed by the plaintiffs seeking the relief of partition and a declaration.

3. The gist of the written statement filed by the 1st and 2nd defendants

The 1st and 2nd defendants have filed their written statement admitting the relationship. However, they have vehemently contended that the suit filed by the plaintiffs is liable to be dismissed on the ground of suppression of material facts. The 1st and 2nd defendants have specifically denied the allegations set out in the plaint, asserting that they are false, frivolous, and vexatious, and have put the plaintiffs to strict proof thereof. Furthermore, the 1st and 2nd defendants have contended that the execution of the registered settlement deed in favor of the deceased Indrani constituted a valid transfer. By virtue of the said deed, Indrani was vested with absolute rights of ownership and transfer. She had accepted the gift and duly acted upon it. Based on the absolute right of transfer obtained through the settlement deed, the beneficiary lawfully sold the properties in favor of the 3rd defendant.

Subsequent to the transfer, the purchaser has been in continuous possession and enjoyment of the properties conveyed through the registered sale deeds. The 1st and 2nd defendants have further claimed that items 4 to 6 of the suit schedule

properties are the self-acquired properties of the deceased Indrani. Out of love and affection, she settled items 4 and 5 of the suit schedule properties in favor of the 1st defendant. The said settlement was duly accepted, and the 1st defendant has been in possession and enjoyment thereof, having constructed a house on the property and continuing to reside therein. The 1st and 2nd defendants have also asserted that the house tax, water tax, and electricity charges stand in the name of the 1st defendant, thereby evidencing his lawful possession and enjoyment of the said properties.

The 1st and 2nd defendants have further contended that, out of sheer love and affection, the deceased Indrani settled the 6th item of the suit schedule property in favor of the 2nd defendant. The said settlement was duly accepted, and the 2nd defendant has been in possession and enjoyment thereof, having constructed a house on the property and continuing to reside therein. The 1st and 2nd defendants have also asserted that, although the plaintiffs were fully aware of the execution of the documents, they remained silent and raised no objections at the relevant time. The defendants have further claimed that defendants No.1 and 2 lawfully sold their undivided 2/3 share in the 7th item of the suit schedule property in favor of the 4th defendant. The 1st and 2nd defendants have categorically stated that the present suit filed by the plaintiffs is nothing but an attempt to unjustly extract money from the defendants. They contend that the claims put forth by the plaintiffs are barred by the plea of ouster, that the plaintiffs have no cause of action to institute the present suit, and therefore, the suit is liable to be dismissed with costs in favor of defendants No.1 and 2.

4. The gist of the written statement filed by the 3rd defendant

The 3rd defendant has filed his written statement admitting that items 1 to 3 of the suit schedule properties originally belonged to the deceased Indrani. He has

further stated that he purchased the said properties from Indrani for valid and proper sale consideration, and ever since the purchase, he has been in possession and enjoyment of the properties. The revenue records have also been duly mutated in his name. The 3rd defendant has asserted that the present suit has been filed merely due to misunderstandings among the family members. He has categorically denied the plaintiffs' contention that they came to know about the execution of the sale deeds only in the year 2015, terming such a claim as utterly false, since the plaintiffs had prior knowledge of the transactions. Furthermore, the 3rd defendant has contended that the plaintiffs have not properly valued the suit and have paid a deficit court fee. On these grounds, the 3rd defendant has prayed for dismissal of the suit with costs in his favor.

5. The gist of the written statement filed by the 4th defendant

The 4th defendant has filed his written statement contending that the suit filed by the plaintiffs is barred by limitation. He has specifically denied the allegations set out in the plaint, asserting that they are false, frivolous, and vexatious, and has put the plaintiffs to strict proof thereof. The 4th defendant has further claimed that the plaintiffs have never been in possession or enjoyment of the suit schedule properties. He has also contended that the valuation fixed by the plaintiffs for the suit schedule properties is improper and not in accordance with law. On these grounds, the 4th defendant has prayed for dismissal of the suit with costs in his favor.

6. Points for consideration

Upon perusal of the pleadings on both sides, the court has framed the following issues for the consideration of the court. The issues are:

- | | |
|----|---|
| 1. | Whether the plaintiffs are entitled for partition and allotment of 1/3 share in |
|----|---|

	the suit mentioned properties as prayed for?
2.	Whether the plaintiffs are entitled for the relief of declaration in respect of sale deed No.583/1994 dated 16.03.1994 as prayed for?
3.	Whether the plaintiffs are entitled for the relief of declaration in respect of sale deed No.1293/1994 dated 16.03.1994 as prayed for?
4.	Whether the plaintiffs are entitled for the relief of declaration in respect of Settlement deed No.1800/1993 dated 26.08.1993 as prayed for?
5	Whether the plaintiffs are entitled for the relief of declaration in respect of Settlement deed No.1801/1993 dated 26.08.1993 as prayed for?
6	Whether the plaintiffs are entitled for the relief of declaration in respect of sale deed No.4077/2012 dated 19.10.2012 as prayed for?
7	Whether the suit is barred by the plea of outster?
8.	Whether the suit is properly valued and correct court fees is paid by the plaintiffs?
9.	Whether the suit is barred by limitation?
10.	To what other relief the plaintiffs are entitled for?

7. The 2nd plaintiffs have examined himself as PW1, and Ex. A1 to A12 were marked through him. The plaintiffs further examined Mrs. Sundaravalli, as PW2 and Ex.X1 was marked through the witness. On the side of the defendants, the 2nd defendant examined himself as DW1, and Exhibits B1 to B9 were marked through him. The defendants also examined 8th defendant as DW2 and Ex. B10 and B11 were marked through DW2.

8. Arguments advanced by the both parties:-

The learned counsel appearing for the plaintiffs has filed written arguments contending that the plaintiffs, being the legal heirs of the deceased Karuppaiah, are entitled to an allotment of 1/3 share in the suit schedule properties. It was argued that the sale deed executed by the deceased Indrani is ultra vires to the conditions stipulated in the settlement deed executed by the deceased Subramaniampillai in favor of Indrani. According to the plaintiffs, Indrani did not possess any absolute right of transfer under the settlement deed; rather, she was only granted a right of enjoyment. The learned counsel has therefore contended that the transfers made by Indrani are without lawful authority and are invalid in law. In support of this contention, reliance was placed upon the decision of the Hon'ble Supreme Court reported in (1985) 4 SCC 85, *A. Sreenivasa Pai and Another vs. Saraswathi Ammal @ G. Kamalabai*. On the strength of the above authority, the learned counsel for the plaintiffs has prayed that the suit be decreed with costs.

Conversely, the learned counsel appearing for defendants 1 and 2 vehemently contended that the suit filed by the plaintiffs is not maintainable. It was argued that the settlement deed executed by the deceased Subramania Pillai in favor of the deceased Indrani constituted a valid transfer, and the gift was duly accepted by the donee during the lifetime of the donor. The counsel further submitted that the conditions stipulated in the settlement deed were inconsistent with the law, and it is a well-settled legal position that any condition restraining alienation is void to the extent of such restriction. Consequently, as the condition was void, the donee, namely the deceased Indrani, was vested with the absolute right of transfer. The learned counsel also argued that the suit filed by the plaintiffs is barred by limitation, as it has been instituted after 12 years from the date of disposition, and therefore is not maintainable in the eye of law. In addition, it was contended that the documents sought to be declared null and void by the plaintiffs

are more than 30 years old, and under law, such documents are presumed to be genuine, with no requirement for further proof.

Further, the learned counsel contended that the plaintiffs claimed to have acquired knowledge of the alleged execution of documents only through Ex.A8. However, the plaintiffs have failed to establish the genuineness and authenticity of Ex.A8. In the absence of such impeccable evidence, the contention that the plaintiffs came to know of the alleged execution of documents in the year 2015 cannot be presumed. The learned counsel further emphasized that the plaintiffs ought to have instituted the present suit immediately upon attaining majority. Having failed to do so, the suit is clearly barred by limitation.

The learned counsel further contended that the plaintiffs have failed to establish that items 4 to 6 of the suit schedule properties are of ancestral nature. On the contrary, it was asserted that these properties were the self-acquired properties of the deceased Indrani, over which she had full rights of ownership and transfer during her lifetime. Accordingly, the plaintiffs did not possess any lawful right or claim over the self-acquired properties of Indrani. On these grounds, the learned counsel prayed that the suit be dismissed with costs.

The learned counsel appearing for defendants 7 to 10 has argued that the conditions stipulated in the settlement deed were inconsistent with the law. It was contended that the legal position is well settled that any condition restraining alienation is void to the extent of such restriction, and therefore, the condition was hit by Section 10 of the Transfer of Property Act. Further, the counsel vehemently claimed that the suit filed by the plaintiffs is barred by non-joinder of necessary parties. On these grounds, the learned counsel prayed that the suit be dismissed with costs.

9. Discussion and answers to the issues

(1) Whether the suit is barred by limitation?

(1.1) Upon a careful scrutiny of the pleadings and submissions, this Court finds it appropriate to decide Issue No.9 before delving into the merits of the case. Consequently, this Court has proceeded to take up Issue No.9 for determination prior to considering any other issues.

(1.2) Upon a careful scrutiny of the evidence available on record, with the consideration of the pleadings and rival submissions, this Court finds that a specific plea has been raised by the defendants that the suit instituted by the plaintiffs is barred by the law of limitation. According to the defendants, the suit has been laid after an inordinate and unexplained delay of more than two decades from the date of the alleged disposition of the suit property, and is therefore liable to be rejected on that ground alone. It is the case of the plaintiffs that they became aware of the alleged disposition only in the year 2015, and in support of such contention, reliance has been placed upon Ex.A8.

(1.3) This Court, upon careful scrutiny of the materials on record, finds that Ex. A8 stands incomplete and not fully produced. Although the plaintiffs assert that they became aware of the disposition of the suit property in 2015, a close examination of Ex. A8 - the Encumbrance Certificate - casts serious doubt on their claim regarding the date of knowledge of the cause of action. A bare perusal of Ex. A8 reveals that the search therein was conducted with reference to a specific document number, a step that no prudent person could undertake without prior knowledge of the registration details.

(1.4) Even assuming, for the sake of argument, that a search had been conducted in respect of the relevant survey numbers prior to the printing of Ex. A8,

and that the plaintiffs thereby became aware of the registration of the impugned documents, the contents of Ex. A8 itself fatally undermine their claim. Ex. A8 comprises three separate sheets, each appearing to be a printout from distinct searches. The first sheet records a search conducted specifically with reference to the document number in question, bearing a printed search date of 24.02.2015. The second sheet similarly reflects a search with respect to the same specific document number, also dated 24.02.2015; however, although it purports to encompass two pages, the remaining page was not enclosed with Ex. A8.

(1.5) It is pertinent to note that the third sheet purports to disclose that a search was conducted with reference to the disputed survey numbers over an extended period, namely from the year 1994 to 1999. However, a careful scrutiny of the said document reveals that the nature, contents, and manner of entries recorded therein render it inherently doubtful. In the considered opinion of this Court, the material inconsistencies, apparent deficiencies, and lack of continuity noticed on the face of the document lead to a strong inference that Ex. A8 has not been placed before the Court in its entirety. In the absence of complete and cogent material, the said exhibit does not inspire confidence and, therefore, cannot be safely relied upon for the purpose of adjudicating the issues involved in the case. Under Section 101 of the Indian Evidence Act, the burden squarely lies upon the party who asserts the fact to establish the same by reliable and cogent evidence. In the present case, the plaintiff having relied upon Ex. A8 to substantiate his claim, the failure to produce the complete and trustworthy document proves fatal. Consequently, Ex. A8 does not inspire the confidence of the Court and cannot be safely relied upon for adjudicating the issues involved.

(1.6) The pleadings of the plaintiffs, even when taken at their face value, undisputedly establish that the suit is barred by the law of limitation. A plain and careful reading of the averments contained in the plaint clearly discloses that the

plaintiffs themselves admit that they were expelled from the house in the year 1993. It is further pleaded that thereafter they had demanded an amicable partition, both personally and through the elders. According to the plaintiffs own case, such demands were not acceded to by the defendants, who allegedly prolonged the matter without effecting any partition.

(1.7) In the considered opinion of this Court, these pleadings unmistakably indicate that the right to sue, if any, accrued to the plaintiffs at the time of their alleged expulsion in 1993 or, at the latest, when their initial demand for amicable partition was not complied with. From that point onwards, the plaintiffs were fully aware of the denial of their alleged rights. Therefore, the cause of action had clearly arisen at that stage, and the suit ought to have been instituted within the period prescribed under law, namely within three years therefrom. However, despite the lapse of nearly twenty two years, the present suit has been instituted only in the year 2015, primarily relying upon Ex. A8. Except for placing reliance on the said document, no specific plea has been raised either to satisfactorily explain the inordinate delay or to seek exclusion or extension of limitation in a manner known to law.

(1.8) The relevant portions of the pleadings and the oral evidence of P.W.1 are extracted hereunder for convenient and ready reference. In plaint, Para No. 6, it was read as follows, "கருப்பையா இறந்தவுடன் 1, 2 பங்கு பிரதிவாதிகள் வாதிகளுடன் அடிக்கடி தகராறுகள் செய்து 1993 ம் ஆண்டு ஜீலை மாத இறுதியில் அவர்களை வீட்டைவிட்டு விரட்டி விட்டார்கள். அதன்பின்பு 1ம் வாதியின் பிறந்த ஊரான சுந்தரபாண்டியத்தில் வாதிகள் கஷ்ட ஜீவனம் செய்து வருகிறார்கள். அதன்பின்பு பலமுறை வாதிகள் நேரிலும், தங்கள் வகையாட்கள் மூலமும் பிராதின் தபசில் சொத்தின்

தங்களுக்குரிய 3 ல் 1 பங்கு சொத்தினை பிரித்து கேட்டு வருவதில் 1, 2 பிரதிவாதிகள் தருவதாகவே கூறி கால தாமதம் செய்து விட்டனர்."

(1.9) Further, during the course of cross examination dated 25.06.2024, P.W.1, in paragraph No. 7 thereof, has deposed as follows: "நானும், எனது சகோதரரும் மேஜரானபிறகு வழக்கு தாக்கல் செய்யவில்லை என்றால் சரிதான். ஆனால் வாய்மொழியாக சொத்தை கேட்டோம்". The above admission made by P.W.1 unequivocally establishes that after the second and third plaintiffs attained majority, they did not institute any legal proceedings for partition, though they allegedly made oral demands. This testimony clearly demonstrates that the plaintiffs were conscious of their alleged right and had asserted the same, albeit orally, after attaining majority.

(1.10) Even assuming, for the sake of argument, that at the time of their alleged forcible expulsion from the house the plaintiffs were minors, the law mandates that upon attaining majority, they were required to approach the Court within the period of limitation prescribed, namely three years therefrom. The evidence of P.W.1 itself makes it abundantly clear that despite attaining majority and despite demanding partition orally, no suit was filed within the statutory period. In view of the categorical admission of P.W.1, this Court finds that the plaintiffs have failed to institute the suit within three years from the date of attaining majority, and therefore, their claim is clearly barred by limitation. The oral demands alleged by the plaintiffs do not have the effect of extending or saving limitation. Consequently, the plaintiffs cannot seek to circumvent the bar of limitation merely on the basis of belated reliance upon Ex. A8.

(1.11) Further, during the course of cross examination dated 25.06.2024, P.W.1, in paragraph No. 9 thereof, has deposed as follows: "வழக்கு சொத்திற்கு

2003, 2004 ஆண்டுகளில் வில்லங்கம் பார்த்தோமா என்றால் இல்லை. அக்காலக்கட்டத்தில் சொத்தின் நிலைப்பாடுகளைப் பற்றி பார்த்தோமா என்றால் பார்த்தோம். அக்காலக்கட்டத்தில் தாவா 1 முதல் 3 இலக்கச் சொத்துக்களில் Star Hotel நிறுவப்பட்டு, நடத்தி வந்த விபரம் எங்களுக்கு தெரியுமா என்றால் தெரியும் (சாட்சி தற்போது வீடு இருந்த இடம் மட்டுமே எங்களுக்கு தெரியும், மற்ற சொத்துக்கள் எங்கு உள்ளது என்று எங்களுக்கு பிரதிவாதி கூறவில்லை" A careful analysis of the above testimony would clearly reveal that P.W.1 has admitted that as early as in the years 2003 and 2004, the plaintiffs were aware of the status and physical enjoyment of the suit properties and were also conscious of the fact that a Star Hotel was established and being run in suit items Nos. 1 to 3. This admission unmistakably establishes the plaintiffs knowledge of hostile assertion, exclusive possession of the suit properties by the defendants long prior to the institution of the suit.

(1.12) Having admitted such knowledge, the subsequent contention of the plaintiffs that they were unaware of the whereabouts or nature of the suit properties and that the defendants had suppressed material particulars cannot be countenanced. A party who consciously admits knowledge of material facts at an earlier point of time cannot be permitted to approbate and reprobate by putting forth mutually destructive pleas. The principle of estoppel squarely applies to the facts of the present case. The plaintiffs, through the evidence of P.W.1, have clearly acknowledged their awareness of the defendants possession and enjoyment of the suit properties as early as 2003 and 2004. Having taken such a stand on oath, they are estopped from subsequently contending ignorance or attempting to project a delayed cause of action. It is a settled proposition of law that a litigant cannot be allowed to blow hot and cold or advance contradictory versions to suit convenience.

(1.13) Furthermore, this admission assumes considerable significance while examining the plea of limitation. Once it is established that the plaintiffs had knowledge of the defendants hostile and exclusive enjoyment of the suit properties in 2003 and 2004, the right to sue had undoubtedly accrued at that point of time. The institution of the present suit after an inordinate lapse of more than a decade thereafter is clearly barred by limitation, and the plaintiffs cannot resurrect a stale claim under the guise of oral demands or alleged ignorance.

(1.14) Hence, the evidence of P.W.1 not only demolishes the plaintiffs plea of ignorance but also reinforces the conclusion that the cause of action had arisen long prior to the filing of the suit. The contradictory pleas and admissions on record materially weaken the plaintiffs case and disentitle them from any relief, either legal or equitable.

Findings on Issue No. 9

Finally, this Court finds that the plaintiffs have failed to establish, by clear, cogent, and reliable evidence, that the suit has been instituted within the prescribed period of limitation. On the contrary, the pleadings and admissions on record unequivocally demonstrate that the suit is barred by the law of limitation. Accordingly, Issue No. 9 is answered against the plaintiffs.

(2) Whether the plaintiffs are entitled for partition and allotment of 1/3 share in the suit mentioned properties as prayed for?

(2.1) It is the case of the plaintiffs that the suit schedule properties originally belonged to one Subramania Pillai. According to the plaintiffs, the said Subramania Pillai had executed a registered settlement deed in favour of his wife, Smt. Indirai, in respect of plaint items Nos. 1 to 3 of the suit schedule properties. Under the terms of the said settlement deed, a condition was imposed restraining alienation, and Smt.

Indirai was conferred only a life estate in the settled properties. It is further contended by the plaintiffs that, in violation of the conditions stipulated in the said settlement deed, Smt. Indirai executed two separate sale deeds in favour of the 3rd defendant. The plaintiffs would assert that such alienations are ultra vires the conditions enumerated in Ex. A1 and, therefore, do not convey any valid title to the 3rd defendant. According to the plaintiffs, the said sale deeds are not binding on them and would not affect their alleged rights over plaint items Nos. 1 to 3 of the suit schedule properties.

(2.2) This Court is, therefore, constrained to examine whether the condition specifically incorporated in Ex. A1 operates as a restraint on the donee from alienating or otherwise disposing of the properties conveyed under the said registered settlement deed. Upon a careful perusal of Ex. A1, it is evident that the donor has inserted a specific clause wherein he has stipulated that the properties conveyed thereunder may be transferred, if circumstances so necessitate, subject to the condition that such transfer shall be effected only through the joint execution of the donor and the donee.

(2.3) Thus, the condition contained in Ex. A1 does not impose an absolute prohibition on alienation. Rather, it prescribes a qualified restriction regulating the manner in which the property may be alienated during the lifetime of the donor. The scope and legal effect of such a condition, and whether the same continued to operate after the death of the donor, therefore require careful consideration by this Court in the light of the governing principles of law.

(2.4) This Court is now further required to examine whether the condition incorporated in Ex. A1, requiring the joint execution of the donor and the donee for any alienation of the settled properties, operates as a valid restriction in the eye of law. Upon a careful reading of Ex. A1, it is evident that the donor, while executing

the settlement deed in favour of his wife, Smt. Indirai, sought to regulate her power of alienation by prescribing the mode in which the property could be transferred.

(2.5) Such a stipulation squarely attracts the provisions of Section 10 of the Transfer of Property Act, 1882. While an absolute transfer of property confers full proprietary rights upon the transferee, any condition which seeks to restrain the transferee from alienating the property, or which substantially controls such power, is repugnant to the nature of the interest created. A condition mandating joint execution with the donor, after the transfer has already taken effect, effectively curtails the donee's independent right of disposition and retains control in the donor beyond the transfer. To that extent, the said condition is void and unenforceable, though the transfer itself remains valid.

(2.6) This Court is also required to examine the nature of the right acquired by Smt. Indirai under Ex. A1 in the light of Section 14 of the Hindu Succession Act, 1956. Section 14(1) of the Act mandates that any property possessed by a Hindu female, whether acquired before or after the commencement of the Act, shall be held by her as full owner and not as a limited owner. The Explanation to the Section further clarifies that the expression property includes property acquired by way of gift, settlement, or any other instrument.

(2.7) In the present case, Ex. A1 is a registered settlement deed executed by Subramania Pillai in favour of his wife, Smt. Indirai. The transfer under Ex. A1 is not shown to have been made in discharge of any restricted or limited pre existing right nor does it expressly create a life estate for the first time accompanied by a valid restrictive covenant falling within the exception carved out under Section 14(2) of the Act. On the contrary, the settlement deed evidences a conferment of possession and enjoyment upon the donee, thereby enabling her to hold and enjoy the property as of right.

(2.8) Once it is found that Smt. Indirai was put in possession of the properties under Ex. A1, the limited description of her interest, even if so stated, stands enlarged by operation of law into an absolute estate by virtue of Section 14(1) of the Hindu Succession Act. Any restriction seeking to curtail her power of alienation cannot defeat the statutory mandate. Section 14(2), being in the nature of an exception, must receive a strict construction, and the facts of the present case do not bring the settlement deed within the said exception.

(2.9) Therefore, this Court is of the considered view that Smt. Indirai acquired absolute ownership over plaint items Nos. 1 to 3 by virtue of Ex. A1 read with Section 14(1) of the Hindu Succession Act. Consequently, the sale deeds executed by her in favour of the third defendant cannot be held to be void or non est merely on the ground that she was conferred only a life estate. The plaintiffs' contention to the contrary is unsustainable and liable to be rejected.

(2.10) In view of the above legal position, this Court finds that the plaintiffs' challenge to the alienations is devoid of merit. The restrictive clauses in Ex. A1 are unenforceable, Smt. Indirai had absolute title over the properties, and the sale deeds executed by her are valid and binding. The plaintiffs, therefore, fail to establish any subsisting right over plaint items Nos. 1 to 3.

(2.11) It is the further contention of the plaintiffs that plaint items Nos. 4 to 6 of the suit schedule properties are ancestral in nature. According to them, Smt. Indirani did not possess any lawful right or authority to deal with the said properties in her individual capacity. Nevertheless, it is alleged that she executed a registered settlement deed dated 26.08.1993 in favour of the 1st defendant in respect of plaint items Nos. 4 and 5 of the suit schedule properties. It is further contended that she thereafter executed another settlement deed in favour of the 2nd defendant in respect of plaint item No. 6 of the suit schedule property. The plaintiffs assert that the said settlement deeds were executed without any legal necessity or competence and,

Original Suit No. 161 of 2024 Date of Decision: 30.03.2026

therefore, do not confer any valid title upon the 1st and 2nd defendants and are not binding on their alleged rights.

(2.12) Upon a careful perusal of the documentary evidence available on record, this Court finds that the plaintiffs have not produced a single document to substantiate their assertion that plaint items Nos. 4 to 6 of the suit schedule properties are ancestral in nature. Except for a bare plea in the plaint, no revenue record, title deed, or other contemporaneous document has been marked to establish that the said properties devolved from a common ancestor or retained the character of ancestral property. In the absence of any such documentary proof, the contention of the plaintiffs that plaint items Nos. 4 to 6 are ancestral properties remains unsubstantiated and cannot be accepted.

(2.13) Although the 1st and 2nd defendants have specifically contended that plaint items Nos. 4 to 6 of the suit schedule properties are the self acquired properties of Smt. Indirani and have relied upon Exs. A5 and A6 in support of their claim, the initial burden of proving that the said properties are ancestral in nature squarely lies upon the plaintiffs. The plaintiffs having asserted a positive and specific plea that plaint items Nos. 4 to 6 are ancestral properties, it is incumbent upon them, in terms of Section 101 of the Indian Evidence Act, 1872, to establish the same by cogent and acceptable evidence.

(2.14) In the absence of any satisfactory evidence adduced by the plaintiffs to discharge this primary burden, the burden does not shift upon the defendants to prove their defence based on Exs. A5 and A6. Mere denial of the defendants case or challenge to the documents relied upon by them cannot absolve the plaintiffs of their obligation to prove the ancestral character of the properties. Therefore, this Court finds that the plaintiffs have failed to establish that plaint items Nos. 4 to 6 are ancestral in nature, and consequently, the validity of the settlement deeds executed by Smt. Indirani in respect of the said properties cannot be assailed on that ground.

(2.15) It is the further specific case of the plaintiffs that plaint item No. 7 of the suit schedule property originally belonged to one Subramania Pillai. It is contended that upon the death of the said Subramania Pillai, the property devolved upon his legal heirs, including Karuppaiah. According to the plaintiffs, Karuppaiah, being one of the co-sharers, was entitled to an undivided one-third share in the said property. The plaintiffs, claiming through the deceased Karuppaiah as his legal representatives, assert that they are entitled to succeed to and claim the said one-third undivided share in plaint item No. 7 of the suit schedule property.

(2.16) Upon a careful perusal of Ex. A7, this Court finds that the property comprised in Survey No. 318/1, to an extent of 73 ares, originally belonged to the deceased Subramania Pillai. It is further evident that the said Subramania Pillai died intestate, leaving behind his legal heirs. The same is corroborated by Ex. A10, which is the Patta relating to Survey No. 318/1 standing in the name of the deceased Subramania Pillai, thereby affirming his title and possession over the said property during his lifetime. In view of the above documentary evidence, this Court has no hesitation in holding that plaint item No. 7 formed part of the estate of the deceased Subramania Pillai at the time of his death. Consequently, this Court is now constrained to determine the lawful heirs of the deceased Subramania Pillai and the quantum of share to which each of them is entitled, in accordance with the applicable law of succession.

(2.17) Upon a careful perusal of the pleadings, the written statements, and the oral evidence on record, it is clearly established that the deceased Subramania Pillai had married twice during his lifetime. The evidence further reveals that he had married Smt. Indirani subsequent to the demise of his first wife. Through the said marriage, the deceased Subramania Pillai had children, namely Karuppaiah, the first and second defendants, and another daughter by name Smt. Parameshwari. However, it is evident from the records that Smt. Parameshwari, as well as the legal

heirs of the deceased Subramania Pillai born out of his first marriage, have not been arrayed as parties to the present suit. P.W.1, during the course of cross examination, has explicitly admitted that Smt. Parameshwari has not been impleaded as a party to the suit.

(2.18) The above facts unmistakably establish that all the necessary parties, who would be legally entitled to a share in the estate of the deceased Subramania Pillai, have not been brought on record. The omission to implead such co-sharers, whose presence is essential for an effective and complete adjudication of the issues involved, strikes at the very root of the maintainability of the suit. In a suit for partition and separate possession, all co-sharers having a right, title, or interest in the suit properties are necessary parties, as any decree passed in their absence would neither be final nor binding upon them. P.W.1 has expressly admitted during cross-examination that Smt. Parameshwari has not been impleaded, thereby placing the fact beyond dispute.

(2.19) Although the plaintiffs have contended that the deceased Subramania Pillai had, during his lifetime, settled the legal heirs born out of his first marriage and had also settled his daughter, Smt. Parameshwari, by affording her stridhana, such a plea cannot be accepted in the absence of cogent and unimpeachable evidence. Except for a mere assertion in the plaint, no documentary material such as settlement deeds, release deeds, gift deeds, or other acceptable evidence has been produced to substantiate the said claim. Further, the persons who are alleged to have been so settled, namely Smt. Parameshwari and the legal heirs born out of the first marriage, have admittedly not been impleaded as parties to the present suit. In the absence of their participation in the proceedings, this Court cannot presume the factum of settlement or voluntary relinquishment of their lawful shares. A plea of prior settlement or exclusion from succession, being a positive assertion, must be specifically pleaded and strictly proved, which the plaintiffs have failed to do. In the

absence of satisfactory proof and in view of the non-impleadment of the said legal heirs, this Court is of the considered opinion that the plaintiffs contention regarding alleged settlements and stridhana is wholly untenable and cannot be sustained. Accordingly, the said plea is rejected.

(2.20) The failure to implead all the legal heirs of the deceased Subramania Pillai, who are admittedly entitled to shares in the estate, goes to the root of the matter and renders the suit bad for non-joinder of necessary parties. In the absence of such indispensable parties, no effective, complete, or enforceable adjudication of rights can be made by this Court. Consequently, this Court holds that the suit, insofar as it relates to plaint item No. 7 and the alleged share of the plaintiffs therein, is vitiated by non-joinder of necessary parties and is therefore not maintainable in the present form.

(2.21) In view of the foregoing discussions and findings, this Court holds that the suit is bad for non-joinder of necessary parties, inasmuch as all the legal heirs of the deceased Subramania Pillai, who are admittedly entitled to a share in the suit properties, have not been impleaded. The plaintiffs have not only failed to bring all indispensable parties on record but have also failed to discharge the burden cast upon them to substantiate their claims by reliable and cogent evidence. The pleadings and the evidence adduced fall short of establishing either exclusive entitlement or lawful exclusion of the omitted co-sharers. In the absence of necessary parties and in view of the plaintiffs' failure to prove their case, no effective or binding adjudication can be rendered.

Findings on Issue No. 1

Accordingly, Issue No. 1 is answered against the plaintiffs, and this Court finds that the plaintiffs are not entitled to the relief of partition and separate possession as prayed for.

(3) Whether the plaintiffs are entitled for the relief of declaration in respect of sale deed No.583/1994 dated 16.03.1994 as prayed for?

In view of the discussions and findings by this Court while answering Issue No. 1, it is held that Smt. Indirani had acquired absolute right, title, and interest over plaint items Nos. 1 to 3 of the suit schedule properties by virtue of the settlement deed Ex. A1 executed by her husband, the deceased Subramania Pillai. By operation of law, she was vested with full ownership and absolute right of transfer in respect of the said properties. Consequently, the sale deeds executed by the deceased Smt. Indirani in favour of the deceased 3rd defendant are valid and binding in law. This Court finds that no adverse inference can be drawn against the said alienations, and the plaintiffs have failed to establish any legal infirmity therein.

Findings on Issue No.2

Consequently, Issue No. 2 is answered against the plaintiffs. This Court holds that the plaintiffs are not entitled to the relief of declaration sought in respect of Ex. A3, and the prayer to declare Ex. A3 as null and void is hereby rejected.

(4) Whether the plaintiffs are entitled for the relief of declaration in respect of sale deed No.1293/1994 dated 16.03.1994 as prayed for?

In view of the discussions and findings by this Court while answering Issue No. 1, it is held that Smt. Indirani had acquired absolute right, title, and interest over plaint items Nos. 1 to 3 of the suit schedule properties by virtue of the settlement deed Ex. A1 executed by her husband, the deceased Subramania Pillai. By operation of law, she was vested with full ownership and absolute right of transfer in respect of the said properties. Consequently, the sale deeds executed by the deceased Smt. Indirani in favour of the deceased 3rd defendant are valid and binding in law. This

Court finds that no adverse inference can be drawn against the said alienations, and the plaintiffs have failed to establish any legal infirmity therein.

Findings on Issue No.3

Consequently, Issue No. 3 is answered against the plaintiffs. This Court holds that the plaintiffs are not entitled to the relief of declaration sought in respect of Ex. A4, and the prayer to declare Ex. A4 as null and void is hereby rejected.

(6) Whether the plaintiffs are entitled for the relief of declaration in respect of Settlement deed No.1800/1993 dated 26.08.1993 as prayed for?

In view of the discussions and findings by this Court while answering Issue No. 1, it is abundantly clear that the plaintiffs have failed to discharge the burden cast upon them to establish that plaint items Nos. 4 to 6 of the suit schedule properties are ancestral in nature. In the absence of any reliable, cogent, and unimpeachable evidence in support of such a plea, the said contention cannot be accepted. Accordingly, the plaintiffs are not entitled to assail the said transactions on the ground of alleged lack of competence or title.

Findings on Issue No. 4

Consequently, Issue No. 4 is answered against the plaintiffs. This Court holds that the plaintiffs are not entitled to the relief of declaration sought in respect of Ex. A5, and the prayer to declare Ex. A5 as null and void is hereby rejected.

(7) Whether the plaintiffs are entitled for the relief of declaration in respect of Settlement deed No.1801/1993 dated 26.08.1993 as prayed for?

In view of the discussions and findings by this Court while answering Issue No. 1, it is abundantly clear that the plaintiffs have failed to discharge the burden cast upon them to establish that plaint items Nos. 4 to 6 of the suit schedule properties are ancestral in nature. In the absence of any reliable, cogent, and unimpeachable evidence in support of such a plea, the said contention cannot be accepted. Accordingly, the plaintiffs are not entitled to assail the said transactions on the ground of alleged lack of competence or title.

Findings on Issue No. 5

Consequently, Issue No. 5 is answered against the plaintiffs. This Court holds that the plaintiffs are not entitled to the relief of declaration sought in respect of Ex. A6, and the prayer to declare Ex. A6 as null and void is hereby rejected.

(8) Whether the plaintiffs are entitled for the relief of declaration in respect of sale deed No.4077/2012 dated 19.10.2012 as prayed for?

While answering Issue No. 1, this Court finds that the suit instituted by the plaintiffs suffers from the defects of being barred by the law of limitation as well as for non-joinder of necessary parties. The plaintiffs, having failed to institute the suit within the prescribed period and having omitted to implead all indispensable parties, are not entitled to question the legality or validity of Ex. A7. In view of these fundamental infirmities, this Court is of the considered opinion that no adverse inference is warranted against Ex. A7, and the challenge raised by the plaintiffs in that regard is unsustainable in law.

Findings on Issue No. 6

Consequently, Issue No. 6 is answered against the plaintiffs. This Court holds that the plaintiffs are not entitled to the relief of declaration sought in respect of Ex. A6, and the prayer to declare Ex. A7 as null and void is hereby rejected.

(9) Whether the suit is barred by the plea of ouster?

It is well settled that a plea of ouster is ordinarily required to be proved by clear and cogent evidence, as it constitutes a stringent defence. However, in the present case, the admissions elicited from P.W.1 assume considerable significance. P.W.1 has categorically admitted that the plaintiffs have not been in joint possession of the suit schedule properties ever since their alleged forcible expulsion from the house. Such an admission clearly negatives the plea of continuous or constructive joint possession. Once actual joint possession is denied and constructive joint possession is not substantiated by acceptable evidence, no presumption of joint possession can be drawn in favour of the plaintiffs. The burden squarely lies upon the plaintiffs to establish that they continued to be in joint possession of the suit properties despite their physical exclusion, which they have miserably failed to do. In the absence of proof of joint possession, coupled with the clear admission of long standing exclusion, this Court finds that the plea of ouster stands established. Consequently, the cause of action had arisen long prior to the institution of the suit, and the suit is clearly barred by limitation. Therefore, the plaintiffs are disentitled to seek the reliefs claimed, and the suit fails on this ground as well.

Findings on Issue No. 7

Consequently, Issue No. 7 is answered against the plaintiffs. This Court holds that the plaintiffs have failed to establish joint or constructive joint possession of the suit schedule properties and, in view of the proved ouster, the suit is barred by the plea of ouster.

(10) Whether the suit is properly valued and correct court fees is paid by the plaintiffs?

Upon a perusal of the pleadings and the materials on record, it is seen that the suit has been valued on the basis of the property kist, and court fee has been duly paid on 30% of the kist amount. There is no deficiency in the valuation of the suit, and the court fee has been properly calculated and paid in respect of the suit properties. Consequently, this Court finds that the suit has been correctly valued and that the proper court fee has been paid.

Findings on Issue No. 8

Consequently, Issue No. 8 is answered in favor of the plaintiffs and the suit was properly valued. Consequently, this Court finds that the suit has been correctly valued and that the proper court fee has been paid.

(11) To what other relief the plaintiffs are entitled for?

The plaintiffs are not entitled to any of the reliefs claimed in the plaint, nor are they entitled to any other relief.

Findings

As a result, the suit was dismissed without costs. The parties are directed to bear their own costs.

This judgment was personally typed by me in my personal computer at chamber and corrected by me and pronounced by me in open court on the 30th day of March 2026.

District Munsif cum Judicial Magistrate
Watrap

Witness examined on the side of the Plaintiffs:

PW1	30.04.2024	Mr. Senthil Kumar (2 nd plaintiff)
PW2	02.07.2025	Mrs. Sundaravalli

Exhibits marked on the side of the Plaintiffs:

Doc. No	Date	Document
Ex. A1	01.07.1946	The certified copy of the settlement deed in favor Mrs. Indirani (Doc. No. 1867/1946)
Ex. A2	20.07.1993	The original death certificate of Mr. Karuppaiah
Ex. A3	16.03.1994	The certified copy of the sale deed in favor Mr. Pandi (Doc. No. 583/1994)
Ex. A4	16.03.1994	The certified copy of the sale deed in favor Mr. Pandi (Doc. No. 1293/1994)

Ex. A5	26.08.1993	The certified copy of the settlement deed in favor Mr. Sundar (Doc. No. 1800/1993)
Ex. A6	26.08.1993	The certified copy of the settlement deed in favor Mr. Durairaj (Doc. No. 1801/1993)
Ex. A7	19.08.2018	The certified copy of the sale deed in favor Mr. Krishnan (Doc. No. 4077/2012)
Ex. A8	-	The copy of the Encumbrance Certificate
Ex. A9	-	The original Patta (Patta No. 313)
Ex. A10	-	The original Patta (Patta No. 599)
Ex. A11	-	The office copy of the legal notice issued to the defendants along with the postal receipts and acknowledgment cards
Ex. A12	-	The office copy of the reply notice issued by the 1 and 2 defendants

Witness examined on the side of the Defendants:-

DW1	22.10.2025	Mr. Sundar (1 st defendant)
DW2	05.01.2026	Mr. Nedumaran (8 th defendant)

Exhibits marked on the side of the Defendants:-

Doc. No	Date	Document
Ex. B1	17.07.1984	The certified copy of the sale deed in favor Mrs. Indirani (Doc. No. 1101/1984)
Ex. B2	15.09.1989	The certified copy of the sale deed in favor Mrs. Indirani

		(Doc. No. 1683/1989)
Ex. B3	26.08.1993	The certified copy of the settlement deed in favor Mr. Sundar (Doc. No. 1800/1993)
Ex. B4	-	The original tax receipts standing in the name of the 1 st defendant (3 Nos)
Ex. B5	-	The online copy of the electricity receipt in the name of the 1 st defendant
Ex. B6	28.11.1981	The certified copy of the sale deed in favor Mrs. Indirani (Doc. No. 2005/1981)
Ex. B7	-	The certified copy of the settlement deed in favor Mr. Durairaj (Doc. No. 1801/1993)
Ex. B8	-	The original tax receipts standing in the name of the 2 nd defendant (3 Nos)
Ex. B9	-	The original electricity receipts standing in the name of the 2 nd defendant (2 Nos)
Ex. B10	16.04.1994	The certified copy of the sale deed in favor Mr. Pandi (Doc. No. 583/1994)
Ex. B11	16.03.1994	The certified copy of the sale deed in favor Mr. Pandi (Doc. No. 1293/1994)
Ex. B12	09.01.2026	The online copy of the Encumbrance Certificate
Ex. B13	19.05.1943	The certified copy of the sale deed in favor Mr. Subramania Pillai and his brother (Doc. No. 583/1984)

Exhibits marked on the side of the witness:-

Doc. No	Date	Document
Ex. X1	-	The copy of the Aadhar card belongs to PW2 Mrs. Sundaravalli (Compared with the original)

District Munsif cum Judicial Magistrate
Watrap

**Dm cum Jm Court,
Watrap.
O.S No. 161 / 2024
Fair/ Draft
Judgment
Date: 30.04.2026**