

IN THE COURT OF THE I ADDITIONAL CITY CIVIL JUDGE, CHENNAI

**Present: Tmt.Dr.R.Sathya, M.L., Ph.D.,
I Additional Judge,**

Monday, the 20th day of July 2026

O.S.No.7945/2019

(C.N.R.No.TNCH01-035802-2019)

[C.S.No.530/2015 on the file of the Hon'ble High Court of Madras]

J.Devanathan

.. Plaintiff

Vs.

1. J.Ragunandhanan (deceased)

2. Mrs.Revathi Sambandham,

3. Ms.Shyamala,

4. Mrs.Suriya Raghunandhanan,

5. Mr.Sriram Raghunandhanan

6. Mr.Anantha Padmanabhan,

7. Mr.Hariharan,

(The Defendants 4 to 7 are impleaded
as per order dated 12.06.2023 in I.A.No.2/2021
and amended as per order in I.A.No.6 of 2023
dated 17.08.2023)

.. Defendants

This suit was originally filed before the Hon'ble High Court, Chennai in **C.S.No.530/2015** and later, it was transferred to the City Civil Court, Chennai on the point of enhancement of pecuniary jurisdiction and renumbered as **O.S.No.7945/2019** and this suit came up before me for final hearing on 13.07.2026 in the presence of M/s.V.R.Manoj Kumar and K.Kanniappan, counsel
O.S.No.7945/2017 **20.07.2026**

for the plaintiff and of M/s.G.Ramdas, J.Raja Rao and A.M.M.Ramana, counsel for the defendants 2 to 7 and upon perusing the written arguments filed by the plaintiff and the defendants 2 to 7 and the Additional written arguments filed by the defendants 2 to 7, upon perusing the evidence and documents on record and having stood over for consideration till this day, this court delivered the following:

JUDGMENT

1. This suit has been filed by the plaintiff under Order VII Rule 1 of CPC and Order IV Rule 1 of O.S. Rules seeking **(a).** partition of the schedule mentioned property by metes and bounds in accordance with law and hand over to the plaintiff herein for possession of 1/4th equal share in both movable and immovable properties of the schedule; **(b).** to grant permanent injunction restraining the defendants from alienating the suit property and for cost.

2. The averments in the plaint in brief are as follows:

The plaintiff is the grandson of one R.Venkatachalam Mudhaliar, Son Mirasu S.Ramalinga Mudhaliar, pensioner Travancore State Service who had purchased a plot No.3 admeasuring about 1 ground & 1560 sq.feet, more fully described in the Schedule property, the layout of 5/52 approved by corporation R.S.No.3139 of Purasaiwalkam, Finchlay Garden, Harley's Road, Kilpauk, in the name of his wife Mrs.V.Rajammal alias Dhanakotti Ammal, vide document No.609/1953, book No.1, 13 sheets for Rs.4,125/-. The witness to the above transaction was signed by V.Janardhanam, son of R.Venkatachalam Mudhaliar,

who was residing at No.12, Damodara Mudhali Street, Kilpauk, Madras. The said property was registered as document No.610/1953, book no.1, Volume 505, pages 430-432, on 23rd March 1953. He had been in peaceful possession and enjoyment of the same till his death. The plot in possession of Mrs.V.Rajammal, applied for permit to construct Ground & First floor on 15-07-1954 vide receipt No.43 dated 21-09-1954. The permit was issued by the Corporation of Madras vide their receipt No.29 dated 27-10-1954. The building was constructed with the money spent by R.Venkatachala Mudhaliar, from his savings as well as the money left by his Late Father Mirasu S.Ramalinga Mudhaliar. After the construction, Mrs.V.Rajammal and Mr.Venkatachala Mudhaliar shifted to Karaikudi where his son V.Janardhanam was working in Income Tax Department got transferred. Mrs. Rajammal expired at Karaikudi on 12-06-1955 at the age of 60 years and thereafter Mr.V.Janardhanam was transferred to Tutucorin. Then Mr.V.Janardhanam shifted the entire family along with his aged father Mr.R.Venkatachalam to Tutucorin. Mr.R.Venkatachalam Mudhaliar expired on 06-09-1957 at Tutucorin. Mr.V.Janardhanam was transferred to Madras during 1959 and the property of Late Mrs.V. Rajammal devolved to her husband Late Mr.R.Venkatachalam Mudhaliar and then after his demise on 06-09-1957, the bequeathed to his only living son Mr. V.Janardhanam the father of the plaintiff. The suit property is only an inherited property and not self acquired by Mr.V.Janardhanam. Mr.V.Janardhanam knew fully well about the status of the property and it is thus declared the property as Hindu Undivided Family in the

income tax returns of Mr.V.Janardhanam and not as self acquired. Apart from the above property, Mrs.Rajammal left so much valuable jewels and silver utensils, as she being the daughter-in-law of Mirasu S.Ramalinga Mudhaliar. Such as **1.** big jadapillai made out of gold and emerald which is worth more than Rs.1 Crore, **2.** one jadapillai, 1 necklace, 1 pair of earrings and 4 bangles made of gold and ruby Rs.50,00,000/-, **3.** one Comb made in ivory with diamond and ruby embedded, approximately worth about Rs. 10,00,000/-, **4.** silver utensils worth more than 20,000 Re.1 coins weight approximately 500 KG i.e., Rs.20,00,000/- **5.** The worth of the properties totaling to Rs.1,80,00,000/-. Out of which the 1/4th of the subject matter of the suit in respect of movable properties Rs.45,00,000/-. All the above were left with Mrs.Padma Janardhanam as she is the only daughter-in-law. Besides the immovable property is also concerned, was devolved to the said Padma Janardhanam as 1/5th of the entire suit schedule property. She died intestate leaving her share of the property on 18.12.2013 leaving behind the four legal heirs as such namely Raghunathan the 1st defendant, Devanathan the plaintiff herein, Revathi Samantharn and Shyamala the 2nd and 3rd defendants respectively. After demise of Mrs.Padma Janardhanam, the property of 1/5th share is necessarily to be shared to the living legal heirs as stated above i.e., each 1/4th of the suit schedule property. As aforesaid the same is to be shared equally amongst all the 4 legal heirs of Mrs.Padma Janardhanam. The above along with the diamond ear studs and diamond nose stud worth more than Rs.3 lakhs is to be passed on to the daughter-

in-laws and not to the daughters. The said Janardhanam Mudaliar died intestate on 7.1.1980 and his wife Mrs.Padma Janardhanam expired on 18-12-2013 at the age of 91 years leaving 2 sons and 2 daughters the parties to the litigant herein. The plaintiffs and the defendants as her only surviving legal heirs to succeed to her estate. The Plaintiff and the defendants who are the legal heirs of Janardhanam Mudaliar and his wife Mrs.Padma Janardhanam are equally entitled to respective their share in the suit properties and are in constructive possession of the suit properties. The suit properties are under the control and custody of the 2nd and 3rd Defendants and they are not permitting the plaintiff to enter into the properties and enjoying all the incomes derived from the suit properties. The plaintiffs and the defendants are grown up and aged person and therefore for the better enjoyment of the properties, the properties have to be partitioned. Though the plaintiff expressed his willingness to partition the suit properties by metes and bounds, the 2nd and 3rd Defendants with an ulterior motive and to grab all the properties, the defendants are giving trouble to the plaintiff and they are trying to alienate the suit properties to the detriment of the plaintiff interest. The plaintiff legally sustained possession in part of the suit schedule property. Hence the suit.

3. The averments in the written statement filed by the defendants 2 and 3 which was adopted by the defendants 4 to 7 in brief are as follows:-

The plaintiff and the defendants 1 to 3 are brothers. They are the sons and daughters of late V.Janardhanam. These defendants specifically denies all the

allegations contained in the plaint save those facts that are admitted expressly and puts the plaintiff to strict proof of the same. The suit filed by the plaintiff is totally misconceived, arbitrary, and illegal and an abuse of process of law and the same is liable to be dismissed in limini. The suit in O.S.No.429 of 2019 on the file of this court is a clear case of abuse and misuse of the process of the court since the plaintiff has filed the suit as a second round of litigation for partition suppressing the material fact that he already filed the earlier suit for partition. The same was decided on merits and subsequently the plaintiff has also received the entirety of the sum constituting his share in the earlier suit in C.S.No.602 of 1987, which was originally filed by him on the file of the Hon'ble High Court, Madras and subsequently transferred as O.S.No.908 of 2000 on the file of XVIII Assistant Judge, City Civil Court, Chennai. The above suit was contested and by the judgment and decree dated 07.04.2006 the plaintiff came to be entitled to 1/5th share in certain properties as per the schedule mentioned therein. The Appeal filed by him in A.S.No.560/2007 was also dismissed on merit by the Fast Track Court II, Chennai by judgment and decree dated 05.03.2010. As such the shares of the respective parties in the suit have become final and hence the plaintiff cannot once again re-agitate the same issues by filing a fresh suit for partition in respect of the same. The present suit is clearly barred by res-judicata and further the plaintiff has come forward to re-agitate an already decided matter with sinister motive to grab the property which he is not entitled in law and facts. The relationship of

R.Venkatachalam Mudaliyar, son of Mirasu S.Ramalinga Mudaliyar is admitted and the only property which had belonged to him situated at Plot No.3, Branson Road (hitherto known as Harley's road), Kilpauk had constituted the ancestral property. It is absolutely unfounded on the part of the plaintiff to misconstrue the street name of the property in the schedule to the plaint and the application to make believe that the properties are different property from the earlier suit and such allegation is devised with sinister motive and the same is an act of fraud on the court committed by the plaintiff. The property which belonged to R.Venkatachalam Mudaliyar situated in Plot No.3, Measuring about 1 ground and the 1560 square feet, is situated in Branson Road, (Harley's Road) Kilpauk and the same is situated in the layout of 2/52, and comprised in R.S.No.3139 Purasaiwakkam Village. The aforesaid suit property had also formed the subject matter of partition in the earlier suit C.S.No.602 of 1987 on the file of Hon'ble High Court, Madras which was transferred and renumbered as O.S.No.908 of 2000 on the file of the XVIII Assistant Judge, City Civil Court, Chennai and the aforesaid suit has already reached a finality. The claim made by the plaintiff that the aforesaid property was purchased by R.Venkatachalam Mudaliyar in favour of his wife Mrs.Rajammal alias Dhanakotti Ammal in terms of document No.609/1953, Book No.1 is admitted. It is stated that the aforesaid property alone constituted the property of R.Venkatachalam Mudaliyar and there was no other immovable property apart from the said property even to the knowledge of the

plaintiff. The very same property together with other movables assets including jewels, ornaments, pooja articles, furniture etc belonging to the grandfather Mr.Venkatachalam Mudaliar and grandmother Mrs.Rajammal, of the parties was subject matter of partition in the earlier suit in C.S.No.602 of 1987 and transferred as O.S.No.908 of 2000. In the aforesaid suit, the plaintiff had sought for similar relief of partition as against the defendants including the deceased mother Padma Janardhanam and the Official Assignee, since the 1st defendant the present suit had already been declared as insolvent. Suppressing the entire facts and to make believe that the said suit properties are different property, the plaintiff has come forward to give the street name as Harley's Road instead of Branson Road and the same is a clear case of fraud committed by the plaintiff. The plaintiff has concocted the aforesaid suit for nefarious intention and motive and the suit is liable to be dismissed with exemplary cost. The allegation that the above plot in possession of Mrs.V.Rajammal had applied for permit to construct the ground floor and first floor on 15.07.1954 vide Receipt No.43 dated 21.09.1954 are much prior and the entirety of the subsequent facts aforesaid are all suppressed by the plaintiff. The allegations that building was constructed with the money spent by R.Venkatachalam Mudaliyar, from the savings of his father are all imputed for the purpose of establishing that the aforesaid property is an ancestral property. The entirety of the allegations are all invented for the purpose of the present suit and

none of those allegations are all pleaded in the earlier suit sought for similar relief by the plaintiff as against these defendants. The allegations para 3, 4, 5, 6 and 7 of the plaint are all imputed for the purpose of the plaint. It has been categorically pleaded in the earlier suit C.S.No.602 of 1987 by the plaintiff, that the property had constituted Hindu Undivided Family property (HUF) in which the plaintiff had taken a specific stand that the plaintiff is entitled to 6/15th share in the said suit properties, would affirm that the plaintiff had devised the unfounded allegations to suit his convenience in the preset suit and the entirety of the contents of the suit is a clear case of fraud on court. The plaintiff in the earlier suit has come forward to provide various list of articles which are depicted as Schedule-II property constituting all the movable properties including shares in company, jewels, gold and silver ornaments as well as precious stones (like diamond jade, ruby, pearl etc.), pooja articles, furniture etc which are to be partitioned as between the parties to the suit, however the same would clearly reveal none of the items mentioned in the present suit in para-6 of the plaint are depicted in the aforesaid suit. The entirety of the items of properties mentioned in the present suit alleging the same to be movables left behind by late V.Rajammal is false and only devised for the purpose of the plaint. The list of articles had never existed even to the knowledge of the plaintiff as the same was never mentioned in the previous partition suit and the same is false allegation imputed for the purpose of unnecessarily harassing these defendants contesting the aforesaid fraudulent, untenable and baseless suit.

The allegation that the property is totally worth Rs.1,80,00,000/- out of which the plaintiff is entitled to 1/4th of the subject matter of the suit in respect of the movable properties being a sum of Rs.45,00,000/- are all false, imaginative and baseless claims at the instance of the plaintiff and the same is expressly denied. None of those articles alleged in the present plaint ever existed or mentioned in the previous suit and the same is only clear imagination of the plaintiff. Janardhanam Mudaliar died intestate on 07.01.1980 and the mother Mrs.Padma Janardhanam died on 18.12.2013. Even during the lifetime of Mrs.Padma Janardhanam, the plaintiff had already filed the earlier suit C.S.No.602 of 1987 and it is a farce allegation at the instance of the plaintiff to come forward with the present suit with the allegation of the demise of the parents intestate and the same is a clear case of abuse of process. The defendants 1 and 2 are entitled to their respective shares in the property as per the decree in the previous suit along with the plaintiff's share of the property which was already sold by the plaintiff having received consideration in respect of the same. Further, 1/5th share was allotted to their mother Mrs.Padma Janardhanam in the earlier suit and the same was settled by the mother Mrs.Padma Janardhanam by virtue of a Registered Settlement Deed dated 19.05.2008 to the 2nd and the 3rd defendant in terms of the Settlement Deed. All the aforesaid facts are fully within the knowledge of the plaintiff and the contra allegation in the plaint is not only untenable but also the same is fraudulent action at the Instance of the plaintiff to grab the property as by way of the second round of litigation in respect

of the same. The defendants 2 and 3 have never attempted to alienate the property as it is their only property and they are residing there. V.Janardhanam and Mrs.Padma Janardhanam had left behind the following persons as her legal heirs: (1) Revathi (daughter) 2nd defendant (2) Shyamala (daughter) 3rd defendant (3) Raghunandan (son) (declared insolvent) 1st defendant (4) Devananthan (son) plaintiff. The property being house, ground and premises bearing Plot No.3 measuring about 1 ground and 1560 square feet, is situated in Door No.10, Branson Road, (Harley's Road) Kilpauk situated in the layout of 2/52, and comprised in R.S.No.3139, Purasaiwakkam Village is falsely depicted in the aforesaid suit schedule as one situated in Harley's Road for the purpose of suppressing the materials fact that the same property is subject matter of the earlier suit filed by the plaintiff. The entire action of the plaintiff in filing the present suit is devised with a fraudulent intention and motive. After the demise of V.Janardhanam, the property had devolved upon his legal heirs including his wife Mrs.Padma Janardhanam. The plaintiff had filed an earlier suit for partition in C.S.No.602 of 1987 in respect of the said property and also in respect of all the various movables including ornaments, jewels, precious stones, vessels, furniture etc., depicted therein seeking for partition and for separate possession of the respectively share of the property of V.Janardhanam. The suit was filed against the mother Mrs.Padma Janardhanam as well as the defendants herein. The Official Assignee was also included as a party in the aforesaid suit as the 1st defendant herein was declared as insolvent. In the

suit in C.S.No.602 of 1987, the plaintiff herein had conceded to the fact that the said property had constituted the absolute property of V.Janardhanam, the father and that he was willing to have 1/5th share in respect of the said property and not the alleged 6/15th share as claimed by him in the said suit. Based upon the compromise arrived between the parties, a preliminary decree was passed declaring that the plaintiff herein and the defendants along with their mother Mrs.Padma Janardhanam are entitled to 1/5th share each in the suit schedule immovable property by way of a compromise entered between in parties pursuant to order dated 31.07.1992 in Appln.No.2783/1992. Subsequently, an Application No.822 of 1993 was filed for effecting sale of the property by auction and that Alwin & Co., was appointed as auctioneers to sell the property by auction and deposit the sale proceeds into Court. The 2nd and 3rd defendants had filed an Application No.3377 of 1994 for seeking leave of the court to participate in the auction and bid at the auction and the same was granted. The 2nd and 3rd defendants were the highest bidders at the auction at Rs.30,60,000/- and the same was accepted and in furtherance of which a demand draft for a sum of Rs.6,12,000/- was payable to the plaintiff towards his 1/5th share. The aforesaid amount was paid to the plaintiff herein. Based upon the payment of the aforesaid amount, the 2nd and 3rd defendants had also become entitled to the 1/5th share of the plaintiff herein. This fact is also admitted by the plaintiff in his evidence as PW1 in O.S.No.908/2000 (C.S No.602/1987). After having received the entire consideration in respect of the

share of the plaintiff herein, the present suit is filed fraudulently to harass the 2nd and 3rd defendants. The entire suit is a farce on the face of it and the same is liable to be dismissed in limini as abuse of process of law to once again claim 1/4th share in the suit property. The Official Assignee, who is a proper and necessary party to the present suit has not been made a party would clearly reveal the act of fraud played by the plaintiff. These defendants along with their mother Padma Janadhanam had together filed a suit C.S.No.1096 of 2009 on the file of the Hon'ble High Court, Madras as against the Official Assignee representing the interest of one the brother J.Raghunandan, who was already declared as insolvent. The above suit was filed for declaration that these defendants 2 and 3 along with their mother are entitled to 3/4th share in the plaint schedule property and for partition of 3/4rd share in the suit property and granting separate possession and for appointment of a Commissioner to divide the property into four shares and allot 3 shares to the plaintiffs. The plaintiff was not made a party in the aforesaid suit as he already sold his share in favour of the other sharers of the property on receiving the valid sale consideration in the earlier suit proceedings C.S.No.602 of 1987. In the aforesaid suit the plaintiff had filed Application No.80/2010 in C.S.No.1096/2009, seeking to implead himself as a party in the aforesaid suit. That the 2nd and 3rd defendant had contested the aforesaid Application and the same was dismissed on merits by the Hon'ble High Court, Madras on 07.07.2010. The entirety of the claim of the plaintiff herein was rejected by the Hon'ble High

Court, Madras in the earlier round of litigation in respect of the same property. The aforesaid rejection of application to implead in the suit for partition has become final as the plaintiff has not preferred any Appeal. In the above suit a preliminary decree was passed on 10.10.2013. Thereafter, vide Appln.No.3602/2014 in C.S.No.1096/2009 a final decree came to be passed by the Hon'ble High Court, Madras on 09.03.2016, dividing the suit property by metes and bounds and allotting the parties their respective shares based on the report of the Commissioner. At this juncture the plaintiff had come forward to file the present suit suppressing the material facts with regard to the earlier suits and the payment of consideration in respect of the share of the plaintiff by the other sharers of the property in the earlier proceedings in C.S.No.602 of 1987. The mother of the defendants Mrs.Padma Janardhanam had already settled her 1/5th share in the suit property by way of registered Settlement deed dated 19.05.2008 to the 2nd and the 3rd defendants. Hence, the plaintiff has no right, claim or interest in the suit property. The present suit for partition by re-agitating a matter which is already been given a finality in two rounds of litigations at the instance of the plaintiff is a clear case of abuse of process of court. The plaintiff has no locus standi to file the present suit under the guise of legal heirs of V.Janarthanam since in so far as the share of the plaintiff the matter has already come to a finality. The description of the property is falsely given by the plaintiff in stating the wrong Street and the same is devised

with sinister motive. The entirety of the act of the plaintiff is a fraud on Court and the suit is liable to be dismissed with exemplary cost.

4. Based on the above said pleadings, the following issues were framed by this court :-

1. Whether the plaintiff is entitled for the relief of partition and share of 1/4 in the suit schedule property?
2. Whether the plaintiff is entitled for the relief of partition and injunction restraining the defendants to alienating the suit property?
3. Whether the suit is affected by Doctrine of res-judicata?
4. Whether the suit is maintainable when the plaintiff already received his share by filing C.S.No.602 of 1987, Application No.2783/1992 and O.S.No.908 of 2000?
5. To what other relief the plaintiff is entitled to?

Issues are recasted:

1. Whether the plaintiff is entitled for the relief of partition and ¼ share in both movable and immovable properties mentioned in the suit schedule?
2. Whether the plaintiff is entitled to the relief of permanent injunction restraining the defendants from alienating the suit schedule property?
3. Whether the suit is affected by the Doctrine of res-judicata?
4. Whether the suit is maintainable when the plaintiff had already received his share by filing C.S.No.602 of 1987, Application No.2783/1992 and O.S.No.908 of 2000?
5. To what other relieves the plaintiff is entitled to?

5. On the side of the plaintiff, the plaintiff examined himself as PW1 and through him Ex.A1 to A8 were marked. On the side of the defendants, the 5th defendant examined himself as DW1 and Ex.B1 to B15 were marked.

6. Written arguments of the plaintiff and the defendants 2 to 7 filed. Additional written arguments of the defendants 2 to 7 also filed and all the written arguments perused.

7. The plaintiff is the grandson of one R.Venkatachalam Mudhaliar S/o.Mirasu S.Ramalinga Mudhaliar and one Mrs.V.Rajammal @ Dhanakotti Ammal. Both had died on 06.09.1957 and 12.06.1955 respectively. They had only one son Mr.V.Janardhanam who is the father of the plaintiff and the defendants 1 to 3, Mrs.Padma Janardhanam is the wife of V.Janardhanam, both had died on 07.01.1980 and 18.12.2013 respectively. During the pendency of the suit, the 1st defendant Ragunandhanan died on 11.08.2016 and his legal heirs were impleaded as the defendants 4 to 7.

8. According to the plaintiff, the movable suit schedule property is the land measuring to an extent of one ground 1560 sq.ft comprised in Survey No.3139 situated at Plot No.3, Harley's Road, Kilpauk, Purasaiwalkkam, Chennai and the immovable properties are (1). Big Jadapillai worth more than Rs.1 crore, (2). Jadapillai, 1 necklace, 1 pair of earrings and 4 bangles worth Rs.50 lakhs, (3). One comb worth Rs.10 lakhs, (4). Silver utensils worth more than Rs.20,000/-, Re.1

coins weight approximately 500 KG worth Rs.20 lakhs, totalling worth Rs.1,80,00,000/-.

9. It is the plaintiff case that the suit schedule immovable property was purchased by the Plaintiff's grandfather Venkatachalam Mudaliar in the name of his wife Dhankotti Ammal @ Rajammal in the year 1953. A building was constructed over the property from the funds of Venaktachal Mudaliar and from and out of the money left behind by his father Ramalinga Mudaliar. In the year 1955 Rajammal died and Venkatachala Mudaliar died in 1957. The property was bequeathed to their only son Janardhanam. The said property was shown as HUF property in the Income Tax returns of Janardhanam. Rajammal had left behind certain valuable jewels with her daughter in law Padma Janardhanam, the mother of the plaintiff and defendants 1 to 3. Padma Janradhanan died on 18.12.2013. The plaintiff therefore has filed the suit for partition and sought for possession of 1/4th share in both movable and immovable properties in the suit schedule properties.

10. It is the defendant case that the plaintiff is guilty of fraud, misrepresentation and suppression of material facts in the plant pleadings. The defendants have furnished the facts pertaining to the orders passed in the previous partition suits and other litigation filed by the parties pertaining to the immovable and movable properties in O.S.No.602/1987 (C.S.No.908/2000), I.P No.15/2004, A.S.No.560/2007, C.S.No.1096/2009 etc. The suit immovable property and the entire movables available with the parties were already partitioned among the

parties during the life time of Padma Janardhanam. The plaintiff has received his share of Rs. 6,12,000/- in the year 1994. The 1st defendant was declared an insolvent in I.P.No.15/2004 filed by the Plaintiff herein and the Official Assignee, High Court, Madras was made a party to represent his estate in the earlier suits. Thereafter, in the final decree passed in C.S.No.1096/2009 (subsequent partition suit), the defendants 2 & 3 along with their Mother Padma Janardhanan and the Official Assignee were allotted respective shares in the suit immovable property. Hence, the Official Assignee is a proper and necessary party to the present suit. It is also pointed out that Padma Janardhanan had settled her share in the suit immovable property to her two daughters during her life time. The suit is affected by the Doctrine of Res-judicata as the plaintiff cannot seek the relief of partition for the very same properties and re-agitate the same issues, which were already settled in the previous suits. Both movable and immovable properties of the parties to the suit have been already partitioned and respective shares allotted to each by metes and bounds and the suit is to be dismissed.

11. Issue Nos.1 and 2:

The plaintiff has filed the suit for partition and sought for possession of 1/4th share in both movable and in the immovable property in the suit schedule properties. The case of the plaintiff as narrated in paragraph 5 of the plaint is that the immovable property is a HUF property and the movable properties are the jewels and ornaments left behind by his late grand mother Rajammal to his mother

Padma Janaradhanan and as such he is entitled to 1/4th share in the same. The plaintiff has filed the death certificates of 1) Rajammmal @ Dhanakotti Ammal 2) Venakatachalam 3) Janaradhnan and 4) Padma Janardhanan as Ex.A4 to A7. The plaintiff has not filed any legal heirship certificates of the said deceased.

12. The defendants have admitted the relationship between the parties. It is admitted that the plaintiff and defendants 2 to 3 are the children of late Padma Janardhanan. However, the question as to whether the Plaintiff is entitled to 1/4th share in his mother's property as described in the suit schedule has to be established by the Plaintiff.

13. It is pertinent to note that even though the plaintiff has claimed the immovable property as HUF/ancestral property, he has not made any claim for his individual share in the entire property but on the other hand claimed a share from the share of his mother Padma Janardhanan. Similarly in respect of the movable properties, which according to the Plaintiff was given to his mother by his grand mother Rajammal, he has claimed only from the mother's share. The plaintiff has not filed or marked the Sale deed of the suit immovable property. Further, the Plaintiff has also not marked any document to establish that the suit properties are Hindu Undivided Family (HUF) properties. The plaintiff while claiming the property as HUF has not pleaded anywhere in the plaint or proved by way of documents as to what happened to the plaintiffs share in the alleged HUF/ancestral property and why the plaintiff had not claimed his individual share in the entire

property and why the plaintiff instead of claiming his individual share directly, is claiming only a share in his mother's share.

14. On the side of the defendants, Ex.B1 and Ex.B2 the original plaint and amended plaint filed in the first partition suit O.S.No.602/1987 (C.S.No.908/2000) has been marked through PW1 in cross examination. It is evident from the reading of Ex.B1 and Ex.B2 the present plaintiff has filed suit as against his mother Padma Janardhanam, the defendants 1 to 3 in the present suit claiming a relief of partition and separate possession of 6/15 share in HUF properties and 1/5 share in self acquired properties and the said suit has been filed by the plaintiff when his mother late Padma Janardhanan was alive and she along with her first son and 2 daughters were the defendants in the said suit.

15. On perusal of Ex.B3, it is evident that the parties in Ex.B1, Ex.B2 had come to a compromise and a preliminary decree has been passed in respect of the immovable property alone. As per the above compromise the parties to the suit namely the plaintiff herein and the defendants namely his late mother Padma Janardhanan, along with the defendants 1 to 3 herein have each agreed to take 1/5th share in the suit immovable property, by accepting that the property belonged to late Janardhanan, the father of the plaintiff. Ex.B4 is the orders passed therein and as per the same, the property was brought to auction and thereafter the plaintiff has accepted a sum of Rs.6,12,000/- during the year 1994 in respect of his 1/5th individual share in the immovable property in the year 1994 itself, which was paid

by the defendants 2 and 3 herein along with their late mother, Padma Janaradhanan.

It is the evidence of PW1 in this regard as follows:

“....என் அம்மா உயிரோடு இருக்கும் காலத்திலேயே சொத்தை பாகம் செய்ய கேட்டு மெட்ராஸ் உயர்நீதிமன்றத்தில் CS No.602/1987 என்ற வழக்கை தாக்கல் செய்துள்ளேன் என்றால் இல்லை. நான் மேற்சொன்ன வழக்கை நான் தான் தாக்கல் செய்தேன். மேற்சொன்ன வழக்கில் என் அம்மா பத்மா ஜனார்த்தனன் மற்றும் 1 முதல் 3 பிரதிவாதிகளும் தரப்பினர்களாக இருந்தனர் என்றால் சரிதான். மேற்சொன்ன வழக்கு விபரங்களை இவ்வழக்கில் நான் தாக்கல் செய்துள்ள வழக்குரையில் கூறவில்லை என்றால் சரிதான். CS No.602/1987 வழக்கு நிலுவையில் இருக்கும் போது அவ்வழக்கில் உள்ள அசையா சொத்தை ஏலம் மூலம் விற்பனை செய்யக்கோரி மனு தாக்கல் செய்துள்ளேன் என்றால் சரிதான். அந்த மனுவில் என் அம்மாவும் என்னுடைய சகோதரிகளான இவ்வழக்கின் 2,3 பிரதிவாதிகளும் சொத்தை தாங்கள் கிரயம் வாங்கிக் கொள்வதற்கு மனு தாக்கல் செய்தேனா என்றால் சரிதான். உயர்நீதிமன்றத்தில் மேற்படி சொத்தின் மதிப்பு ரூ.30,60,000/- நிர்ணயம் செய்யப்பட்டு அதில் என்னுடைய 1/5 பங்குத்தொகையான ரூ.6,12,000/-ஐ நான் பெற்றுக்கொண்டேன் என்று சொன்னால் மேற்சொன்ன தொகையை நீதிமன்றம் நிர்ணயம் செய்யவில்லை. தரப்பினர்களாக நிர்ணயம் செய்துகொண்டனர். ரூ.6,12,000/-ஐ நான் பெற்றுக்கொண்டேன். எனக்குரிய 1/5 பாகத்திற்கு நான் ரொக்கமாக தொகை பெற்றுக்கொண்டு சொத்தில் இருந்து வெளியேறிவிட்டேன் என்று சொன்னால் சரிதான். அது சம்மந்தமாக உயர்நீதிமன்ற CS. No.602/1987 வழக்கில் Application No.822/1993 & 3377/1994 ஆக என்ற மனுக்களில் உத்தரவு பிறப்பிக்கப்பட்டுள்ளது என்றால் சரிதான். மேற்சொன்ன உத்தரவு காரணமாகத்தான் எனக்கு தனிப்பட்ட முறையில் பாகம் எதுவும் நான் கேட்கவில்லை என்றால் என் அம்மா பாகத்தில் என் பாகம் கேட்கிறேன்.”

16. The plaintiff admits the receipt of Rs.6,12,000/- towards his 1/5th share in the property but denies the knowledge of the order passed in A.No.822/1993 and

3377/1994 in Ex.B4. Therefore, the question that the immovable property was declared as HUF has been nullified by the conduct of the parties themselves in the previous suit by accepting that it belonged to the father Mr.Janardhanan and each accepting to receive 1/5th share. (Ex.B1 to Ex.B4) The plaintiff has filed 13 documents along with the plaint and some additional documents are also referred to in the Proof Affidavit. However, only 8 documents were marked as Exhibits through PW1. Out of the 8 documents, Ex.A1 is the Building permission issued by Corporation of Madras. Ex.A2 is the Challan for payment of money. Ex.A3 is the Building plan and Ex.A8 is the Quit rent Permanent Land Register, the other documents Ex.A4 to Ex.A7 are Death Certificate of Danakottiammal @ Rajammal (Ex.A4), Death Certificate of Venkatachala Mudaliar (Ex.A5), Death Certificate of V.Janardhanan (Ex.A6) and Death Certificate of Padma Janardhanan (Ex.A7). It is pertinent to note that the Plaintiff has not even marked the title deed of the property to establish his case. The plaintiff has also deliberately not mentioned the Door Number and street name in the description of the suit property in the present suit. In this regard it is the admission of PW1 during his cross-examination that the immovable property mentioned in the earlier suit in C.S.No.602 of 1987 and the immovable property in the present suit is one and the same and his evidence in this regard is as follows :

“ என்னிடம் காட்டப்படுவது நான் உயர் நீதிமன்றத்தில் தாக்கல் செய்த 602/1987 வழக்கில் தாக்கல் செய்த வழக்குரை சான்றிட்ட நகல் என்றால்

சரிதான். அது பி.வா.சா.ஆ.1. பி.வா.சா.1 ல் 2 வது தபசில் 2 வது item காட்டப்பட்டுள்ள சொத்து கதவு எண்-10 க்ரான்சஸ் கார்டன் ரோடு, சென்னை - 10 ஆகும். மேற்சொன்ன சொத்தும் இவ்வழக்கு சொத்தும் ஒரே சொத்து என்றால் சரிதான். வழக்குரை சொத்தில் கதவு எண் குறிப்பிடவில்லை சர்வே நெம்பர் மற்றும் பிளாட் நெம்பர் குறிப்பிட்டுள்ளேன்.”

17. It is relevant to note that based on an application filed by the plaintiff herein (I.P.No.15/2004), the 1st defendant in the present suit J.Raghunandan was already declared an insolvent pending the earlier partition suit O.S.No.908/2000 (C.S.No.602/1987) and the Official Assignee was made a party to the suit to represent the share of the 1st defendant.

It is the evidence of PW1 admitting the same in this regard as follows:

“... நான் இந்த வழக்கில் 1 வது பரிகாரமாக வழக்குரை சொத்தில் ¼ பாகம் எனக்கு பிரித்து தர கோரியுள்ளேன் என்றால் சரிதான். முந்தைய வழக்கில் எனக்குரிய 1/5 பாகத்தை நீதிமன்ற உத்தரவின் மூலம் பெற்றுக்கொண்டேன் என்றும் நான் கோரிய பரிகாரம் நிலைக்கத்தக்கது அல்ல என்றால் சரியல்ல. என்னுடைய அண்ணனுக்கு எதிராக தொகை செலுத்தக்கோரி தீர்ப்பு பெற்றேன் என்றால் சரிதான். தீர்ப்புபடி அவர் நடந்து கொள்ளாததால் நொடிப்பு நிலை எய்தவர் என்று விளம்புகை செய்யகோரி IP.No.15/2004 என்ற மனுவை சென்னை உயர் நீதிமன்றத்தில் தாக்கல் செய்துள்ளேன் என்றால் சரிதான். அந்த மனுவில் 17.04.2004 அன்று நான் கோரிய படி உத்தரவு பிறப்பிக்கப்பட்டது. அந்த உத்தரவிற்கு பிறகு எனது அண்ணனுக்குரிய பாகச்சொத்தை உயர்நீதிமன்ற சொத்தாட்சியர் அவர் வசம் எடுத்துக்கொண்டார் என்றால் சரிதான். பி.வா.சா.ஆ.1 வழக்கு உயர் நீதிமன்றத்தில் இருந்து சென்னை சிட்டி சிவில் கோர்ட்டிற்கு மாறுதலாகி 908/2000 என நெம்பர் ஆனது என்றால் சரிதான். அந்த வழக்கு சொத்து விவரத்தில் சீர்திருத்தம் செய்ய கோரி மனு தாக்கல் செய்து அனுமதிக்கப்பட்டது என்றால் சரிதான். என்னிடம் காட்டப்படும் மனு சீர்திருத்த வழக்குரை நகல் என்றால் சரிதான். அது பி.வா.சா.ஆ.2 சீர்திருத்த வழக்குரையில் மூலம் 2 வது தபசில் 1 பி, 1 சி மற்றும் 2-item சொத்துகளை 4

என்னிடம் காட்டப்படுவது நான் உயர் நீதிமன்றத்தில் தாக்கல் செய்த 602/1987 வழக்கில் தாக்கல் செய்த வழக்குரை சான்றிட்ட நகல் என்றால் சரிதான். அது பி.வா.சா.ஆ.1. பி.வா.சா.1 ல் 2 வது தபசில் 2 வது item காட்டப்பட்டுள்ள சொத்து கதவு எண்-10 க்ரான்சஸ் கார்டன் ரோடு, சென்னை - 10 ஆகும். மேற்சொன்ன சொத்தும் இவ்வழக்கு சொத்தும் ஒரே சொத்து என்றால் சரிதான். வழக்குரை சொத்தில் கதவு எண் குறிப்பிடவில்லை சர்வே நெம்பர் மற்றும் பிளாட் நெம்பர் குறிப்பிட்டுள்ளேன். திதாக சேர்க்கப்பட்டது என்றால் சரிதான்....”

18. It is relevant to note that Ex.B1 plaint was amended and Ex.B2 is the amended plaint In the amended plaint the schedule of movable properties was amended to include many items under Schedule II, Part 1, 1A, 1B, and 1C, which consisted of gold ornaments, jewels, precious stones including diamonds ruby, jade, cats eye, pearl, navaratha, silver items, vessels, pooja items, shares, furniture, stainless steel; etc. This fact is admitted by PW1 during his cross examination. It is therefore clear that in the first partition suit all movable and immovable properties available with the parties has been included as is evident from the amended plaint marked as Ex.B2, Ex.B5 and Ex.B6 the Judgment and decree passed in the first partition suit O.S.No.908/2000 (C.S.No.602/1987) and on perusal of Ex.B5 there is a categorical finding in paragraph 19 and 20 of the Judgment, that the plaintiff had failed to prove that the suit immovable property is a HUF property and the said paragraph in Ex.B5 is extracted as follows:

“ வழக்குரை 5 வது பத்தியில், அட்டவணை 2 பகுதி 2 ல் கூறப்பட்டுள்ள அசையா சொத்து மற்றும் வருமானம் பிரிவினை செய்யப்படாத இந்து கூட்டுக் குடும்பத்திற்கு சொந்தமானது என்று வருமான வரி கணக்கு

சமர்ப்பித்துள்ளதாகவும், வாதியின் தகப்பனார் ஜனார்தனம் விட்டுச் சென்றுள்ள சொத்துக்கள், பிரிவினை செய்யப்படாத இந்து கூட்டுக் குடும்பத்திற்கு சொந்தமானது என்பதை பிரதிவாதியோ ஒத்துக்கொண்டுள்ளதாகக் கூறப்பட்டுள்ளது. ஆனால், வழக்குரையில் எந்த தேதியில், எந்த சந்தர்ப்பத்தில், பிரதிவாதிகள் அவ்வாறு ஒத்துக்கொண்டுள்ளனர்? அதற்கு ஆதரவான ஆவணங்கள் என்ன? என்று கூறிப்பிட்டு கூறப்படவில்லை. அத்துடன் வழக்குரை பத்தி 5 ல், வழக்குரையில் கூறப்பட்டுள்ள அசையும் சொத்துக்கள் பிரிவினை செய்யப்படாத இந்து கூட்டுக் குடும்பத்திற்கு சொந்தமானது என்பதை பிரதிவாதிகள் ஒத்துக்கொண்டார்கள் என்றும் குறிப்பிட்டு கூறப்படவில்லை. வா.சா.1 ன் சாட்சியத்தில், வா.சா.ஆ.28, 30, 31 ல் கண்ட அபிடவிட்டுகள் 1,3, 4 பிரதிவாதிகளால் வருமான வரி அலுவலகத்திற்கு தாக்கல் செய்யப்பட்டுள்ளதில், அவர்கள் பிரிவினை செய்யப்படாத இந்துக் கூட்டுக் குடும்ப உறுப்பினர்கள் என்றும், அவர்களுக்கு விவசாய வருமானம் எதவும் இல்லை என்றும், ஒத்துக் கொண்டுள்ளதாகக் கூறப்பட்டுள்ளது. வா.சா.ஆ.28, 30, 31 ஆகியவை, 1,3,4 பிரதிவாதிகளால் கொடுக்கப்பட்ட அபிடவிட் என்பது ஒத்துக் கொள்ளப்பட்டுள்ளது. ஆனால், அவை எந்த சந்தர்ப்பத்தில் அவ்வாறு கொடுக்கப்பட்டுள்ளது? என்பது கேள்விக்குறியாக உள்ளது. அத்துடன், அவை விவசாய வருமானம் இல்லை என்பதை தெளிவுபடுத்துவதற்காகவே கொடுக்கப்பட்ட அபிடவிட் என்றும் தெரிகின்றது. அதில் ஒரு வரியில் பிரிவினை செய்யப்படாத இந்து கூட்டுக்குடும்ப உறுப்பினர்கள் என்று கூறப்பட்டுள்ள ஒரே வாசகத்தை மட்டும் வைத்துக் கொண்டு, அவர்கள் குடும்பம் பிரிவினை செய்யப்படாத இந்து கூட்டுக் குடும்பம் என்று வாதி தரப்பில் கூறுவது பொருத்தமானதாக இல்லை. மேலும், வாதியின் தகப்பனார் ஜனார்தனம் என்வரால், 1974-75 ம் வருடத்திற்கு தாக்கல் செய்யப்பட்டுள்ள வா.சா.ஆ.29 ல் கண்ட வருமான வரி கணக்கு பட்டியலிலும், பிரிவினை செய்யப்படாத இந்து கூட்டுக் குடும்ப என்று குறிப்பிட்டுள்ளார் என்று வா.சா.1 ன் சாட்சியத்தில் கூறப்பட்டுள்ளது. வருமான வரி கணக்கில் பிரிவினை செய்யப்படாத இந்து கூட்டுக் குடும்பம் என்று குறிப்பிட்டுள்ளார் என்று வா.சா.1 ன் சாட்சியத்தில் கூறப்பட்டுள்ளது. வருமான வரி கணக்கில் பிரிவினை செய்யப்படாத இந்து கூட்டுக் குடும்பம் என்று ஒரு இடத்தில் குறிப்பிடப்பட்ட ஒரு வாசகத்தை மட்டும் வைத்துக்கொண்டு, அதற்கு ஆதரவாக வேறு சாட்சியமோ, ஆவணமோ

இல்லாத நிலையில், வாதியின் குடும்பம் பிரிவினை செய்யப்படாத இந்து கூட்டுக் குடும்பம் என்று வாதி தரப்பில் கூறுவது பொருத்தமானதாகவும், ஏற்றுக் கொள்ளத் தக்கதாகவும் இல்லை.

வா.சா.ஆ.28 முதல் 31 ல் கண்ட ஆவணங்கள், 1974, 75 மற்றும் 1985 ம் வருடங்களுக்குரியவைகளாக உள்ளன. அதற்கு பின்னர், இவ்வழக்கு தாக்கல் செய்த காலத்தில், அவரது குடும்பம் எந்த நிலையில் இருந்ததுள்ளது என்பதை வாதியோ உரிய சாட்சி மற்றும் சான்றாவணங்கள் மூலம் நிரூபிக்க வேண்டும். அப்படியில்லாமல் மேற்கண்ட ஆவணங்களில் கூறப்பட்டுள்ள வாசத்தின் அடிப்படையில், அவர்களது குடும்பம் பிரிவினை செய்யப்படாத இந்து கூட்டுக் குடும்பம் என்று கூறியிருப்பது ஏற்றுக் கொள்ளத்தக்கதில்லை. அத்துடன் வா.சா.ஆ.28 முதல் 31 ல், வழக்கில் சம்பந்தப்பட்ட சொத்துக்களைப் பற்றி எந்த விவரமும் கூறப்படவில்லை. வழக்குரையில் கண்ட சொத்துக்கள் பிரிவினை செய்யப்படாத இந்து கூட்டுக் குடும்பத்திற்கு சொந்தமானது என்று நிரூபிக்கப்பட வேண்டுமென்றால், அவை வாதியின் தாத்தா அல்லது பாட்டிக்கு சொந்தமானது என்று ஆதார பூர்வமாக நிரூபிக்கப்பட வேண்டும் அல்லது அவரது தாத்தா, பாட்டிக்குரிய சொத்துக்களிலிருந்து கிடைக்கப்பெற்ற வருமானங்கள் மூலம் தாவாச் சொத்துக்கள் வாங்கப்பட்டுள்ளது என்று ஆதாரபூர்வமாக நிரூபிக்க வேண்டும். அதன் அடிப்படையில் பார்க்கும்போது, தாவாச் சொத்துக்கள் வாதியின் தாத்தா பாட்டிக்கு சொந்தமானது என்றோ, அல்லது அவர்களுக்கு சொந்தமான சொத்திலிருந்து கிடைத்த வருமானத்தின் மூலம் வாங்கப்பட்டதாகவோ, வாதி தரப்பில் உரிய முறையில் நிரூபிக்கப்படவில்லை. அத்துடன், தாவாச் சொத்துக்கள், பிரிவினை செய்யப்படாத இந்து கூட்டுக் குடும்பத்திற்கு சொந்தமானது என்பதை பிரதிவாதிகள் ஒத்துக் கொண்டதாக வாதி தரப்பில் கூறப்பட்டுள்ளதை பிரதிவாதிகள் மறுத்துள்ளனர். எனவே, அதையும் உரிய முறையில் நிரூபிக்க வேண்டிய கடமையும், பொறுப்பும், வாதியைச் சேர்ந்ததாகும். அப்படியிருந்தும், எந்த சூழ்நிலையில், எந்த தேதியில், யார் முன்னிலையில், ஒத்துக் கொண்டார்கள்? அவ்வாறு ஒத்துக் கொண்டது, தாவாச் சொத்து சம்பந்தப்பட்ட அசையும் சொத்துக்களையும் சேர்த்தா? என்பது பொறுத்தும் வாதி தரப்பில் உரிய சாட்சியம் அளிக்கப்படவில்லை. இந்நிலையில் தாவாச் சொத்துக்கள் பிரிவினை செய்யப்படாத இந்து கூட்டுக் குடும்பத்திற்கு சொந்தமானது என்ற பிரதிவாதிகள் ஒத்துக் கொண்டதாக வழக்குரை 5 வது பத்தியில்

கூறப்பட்டுள்ளதும் உரிய முறையில் நிரூபிக்கப்படவில்லை என்று அறிய முடிகின்றது.”

Therefore, the plaintiff cannot re-agitate the same in the present suit. Moreover, the plaintiff has not filed any documents before this court to substantiate that the immovable property is a HUF property. Further, once a partition has been effected by metes and bounds and the parties therein were allotted separate shares, the same becomes their individual property and not a HUF property.

19. In paragraph 6 of the present suit the plaintiff has stated a list of 4 items including gold, emerald, ruby, silver and diamond items, which according to the plaintiff was given to his mother Padma Janardhanan by his grand mother Rajammal. The plaintiff has claimed 1/4th share in the said items which are listed as the movable properties in the schedule. It is pertinent to note that the said Rajammal died on 12.06.1955 as per Ex.A4. It is the case of the plaintiff that the said movables belonged to Rajammal and she had given it to her daughter-in-law Padma Janardhanan the plaintiff's mother. The present suit has been filed in 2015 which is 60 years after the death of Rajammal. The plaintiff has not mentioned when the alleged movables were given by deceased Rajammal to his mother Padma Janardhanan. In the amended plaint Ex.B2 in C.S.No.602/1987 filed earlier by the plaintiff when his mother was alive, the entire movable properties of the family including gold ornaments, jewellery, silver, precious stones, shares,

pooja items, furniture etc were added and included in Schedule II , Part 1, 1A, 1B & IC. PW1 has admitted in his Cross examination of 25.07.2025 that in Ex.B2 the plaint was amended to include the movable properties 1B and 1C in Schedule II. Hence, it is clear that even during the life time of the mother Padma Janardhanan all the movable properties available for partition with the parties were included in the list of movables under Schedule II, Part 1, 1A, IB and IC. The plaintiff has failed to explain as to why the movables in the present suit schedule were not included in the first partition suit filed against his mother and others, when allegedly the same was in the possession of his mother Padma Janardhanan during her life time. It is relevant to note that Dhanakotti Ammal @ Rajammal died in 1955 more than 60 years before filing of the present suit and the alleged jewels mentioned as movables in the suit were not mentioned in the first partition suit filed in the year 1987, which was 32 years after her death.

20. Further, on perusal of Ex.B5, the Judgment in O.S.No.908/2000 (C.S.602/1987) the plaintiff herein had admitted in his cross examination that the jewels mentioned Schedule II Part 1 belonged to his grand mother Dhankottiammal @ Raiammal. But however, the plaintiff had failed to prove that they belonged to his grand mother and the court had passed a finding in Ex.B5 paragraph 24 that many of the jewels and ornaments mentioned (Schedule II, Part 1C) were sold for various purposes on earlier occasions and some of the ornaments, jewels and other

items were not in existence and they are only an imagination of the plaintiff and the extract of the said Judgment in this regard as follows:

“ வழக்குரை அட்டவணை 2 பகுதி 1C-ல் கூறப்பட்டுள்ள அனைத்து அசையும் சொத்துக்களும் வாதியின் தகப்பணார் ஜனார்தனம் என்பவருக்கு சொந்தமானது என்றும், அவற்றில் வாரிசு நிலையில், வாதி மற்றும் 1 முதல் 4 பிரதிவாதிகளுக்கு தலா 1/5 பாகம் உரிமைப்பட்டது என்றும் வழக்குரையில், வா.சா.1 ன் சாட்சியத்திலும் கூறப்பட்டுள்ளது. 1, 3, 4 பிரதிவாதி தரப்பில், அதில் கூறப்பட்டுள்ள பல பொருட்கள் தற்போது இல்லை என்றும், பல அயிட்டங்கள் கற்பனையானவை என்றும், சில அயிட்டங்கள் 1, 3, 4 பிரதிவாதிகளுக்கு தனிப்பட்ட முறையில் பாத்தியப்பட்டது என்றும், அவற்றில் கூறப்பட்டுள்ள மதிப்பீடு தவறானது என்றும் கூறப்பட்டுள்ளது. பாகப்பிரிவினைக்கு உட்படுத்தப்பட வேண்டுமென்று சொல்லப்பட்டுள்ள அசையும் சொத்துக்களில் தற்போது சில இல்லை என்றும், சில கற்பனையானவை என்றும் கூறப்பட்டுள்ள நிலையில், அவை தற்போதும் இருக்குமாயின், அவை யாருடைய பாதுகாப்பில் இருக்கின்றன என்றும், அவையும் பாகப்பிரிவினைக்கு உட்படுத்தத்தக்கது என்றும் நிரூபிக்க வேண்டிய கடமையும், பொறுப்பும் வாதியைச் சார்ந்ததாகும். அவ்வாறு எந்த பொருட்கள் பாகப்பிரிவினைக்கு தயாராக உள்ளன என்பதை வாதி நிரூபித்துவிட்டு, அந்த பொருட்கள் அவரது தகப்பனாருக்கு சொந்தமானது என்று நிரூபிக்கும்பட்சத்தில், அதில் வாரிசு நிலையில் வாதி பாகம் பெறத் தக்கவர் ஆவார். அவ்வாறு பகுதி 1C-ல் கூறப்பட்டுள்ள அசையும் சொத்துக்களான பொருட்கள் தற்போதும் பாகப்பிரிவினைக்கு தயாராக உள்ளன என்று நிரூபிக்கப்பட வேண்டுமென்றால், அவற்றைப் பொறுத்து நீதிமன்ற ஆணையர் மூலம் பொருட்களுக்கான விவரப்பட்டியல் (Inventory) எடுத்து, அவை பாகப்பிரிவினை செய்யப்படும் வரை ஒரு நபருடைய பாதுகாப்பில் ஒப்படைக்கப்பட்டிருக்க வேண்டும். அவ்வாறு நீதிமன்றம் மூலமாக பகுதி 1C-ல் சொல்லப்பட்டுள்ள அசையும் சொத்துக்களை அறுதியிட்டு அறிந்து அவற்றை பாகப்பிரிவினை செய்யும் வரை பாதுகாப்பதற்கு உரிய நடவடிக்கை வாதி தரப்பில் எடுக்கப்படவில்லை.”

Therefore, it is evident that all the jewels including those belonging to late Rajammal were already the subject matter of the first partition suit and there was

no other movable properties available for partition as claimed in the present schedule of moveable properties. It is established from the Judgment and decree in O.S.No.908/2000 (C.S.No.602/1987) marked as Ex.B5 and Ex.B6, that from list of movables under Schedule II, Part 1, 1A, IB and IC, only certain movables were qualified to be partitioned. Accordingly, the same were partitioned among the parties including the plaintiff herein, his late mother Padma Janardhanan and the defendants 1 to 3 herein.

21. The first appeal (A.S.No.560/2007) filed by the plaintiff as against the Judgment and decree passed in O.S.No.908/2000 was dismissed and Judgment and decree has been marked as Ex.B7 and B8. The plaintiff has failed to prove and establish the existence of the movables as shown in the suit schedule on the date of filing of the present suit by way of inventory or otherwise to establish it in any manner known to law. Further, in the subsequent partition suit filed in C.S.No.1096/2009 in the Final decree Ex.B13 the suit immovable property has been divided by metes and bounds and the shares of the defendants 1 to 3 and their late mother were allocated separately. The share of the 1st defendant, who was declared Insolvent was represented by the Official Assignee, High Court, Madras in the above suit. The fact that the plaintiff herein has already received money towards his share in said property is also recorded therein. The plaintiff is fully aware of the same as evident from the order marked as Ex.B9, where the implead petition (A.No.80/2010) filed by him in the above suit was dismissed. The plaintiff

had filed an application before this court marked as Ex.B14 to receive additional documents in which the copy of the preliminary Judgment in C.S.No.1096/2009 is filed as document No.6. Even though the plaintiff is party in the earlier litigation, PW1 in his cross examination on 25.07.2025 denied the Judgment and decree in the earlier partition suits as well the first appeal marked as Ex.B5 , ExB6, Ex.B7 and Ex.B8. He has also denied the order passed in the implead petition marked as Ex.B9 in C.S.No.1096/2009. The plaintiff is well aware that the entire immovable property as shown in the suit schedule has been partitioned by metes and bounds and separate shares have been allotted to the defendants 1 to 3 and their mother. But the plaintiff instead of filing the partition suit in respect of the share allotted to his late mother has filed this suit in respect of the entire property which was already partitioned with a malafide intention by suppressing the true facts. By doing so the plaintiff is trying to reopen the issues pertaining to the shares of the parties and re-agitate the same. The Official Assignee was a party to the earlier partition suits O.S.No.908/2000 (C.S.No.602/1987) and C.S.1096/2009 as evident from the documents marked as Ex.B5 to B13. The share/estate of the 1st defendant, who was declared Insolvent was represented by the Official Assignee, High Court, Madras in the above suit. As per the orders passed in the final decree application and final decree in C.S.No.1096/2009 marked as Ex.B12 and B13, the share allotted to 1st defendant is vested with the Official Assignee. The first defendant having declared insolvent in the I.P.No.15/2004 filed by the plaintiff and

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his share being under the estate of the Official Assignee, High Court, Madras, PW1 in his cross-examination on 25.07.2025 having admitted the same, the plaintiff has deliberately suppressed these facts and have failed to add the Official Assignee as a proper and necessary party to the suit.

22. The defendants have marked Ex.B15, registered Settlement deed dated 19.05.2008 executed by Padma Janardhanan, settling her share in the immovable property in favour of her two daughters, defendants 2 and 3. This fact has also been recorded in the order passed in the final decree application A.No.3602/2014 in C.S.No.1096/2009 marked as Ex.B12. The implead petition filed by the plaintiff in the above suit marked as Ex.B9 in C.S.No.1096/2009 establishes plaintiff knowledge of all the proceedings including the above settlement deed Ex.B15 as the same is referred in Ex.B12 the order passed in Final decree application No.3602/2014 in C.S.No.1096/2009. Further, in Ex.B14 also the plaintiff has filed the order passed in C.S.No.1096/2009 as Document No.6 and hence, the plaintiff cannot plead ignorance of the above settlement deed executed by his mother in favour of defendants 2 and 3. In the light of the Ex.B15 Settlement deed, the plaintiff has no manner of right for partition in respect of the immovable property in view of the fact that Padma Janardhanan had already settled her share in the immovable property to defendants 2 and 3 as early as in the year 2008 and further in view of the detailed discussion made above this court is of the considered view

that the plaintiff had failed to prove and establish the existence of the movable mentioned in the suit schedule and is not entitled to the relief prayed therein.

23. Under the above circumstances, the Issue No.1 is decided as against the plaintiff. Further, as the plaintiff has failed to establish his right to claim partition, he cannot seek the relief of injunction as against the owners of the suit property namely the defendants and hence Issue No.2 is also answered as against the plaintiff.

24. Issue No.3:

From a plain reading of the plaint it appears as if the plaintiff has sought the relief of partition for the first time. However, from the suit prayer it is evident that the plaintiff has not sought for partition and separate possession of his own share but on the other hand he has sought for partition and separate possession of a share in his mother's share.

25. As discussed in Issue No.1 and 2, the plaintiff has not provided any answers in the plaint as to why he has not claimed his individual share in the suit property either in his pleading or by evidence and on the other hand claimed on a share in his mother's share. In his Cross examination PW1 admitted the earlier partition suit filed by him and the plaints filed therein marked as Ex.B1 and Ex.B2 through PW1 during cross examination. PW1 also admitted that he had already received a sum of Rs.6,12,000/- as his share in the suit immovable property. However, the plaintiff has not mentioned anything about the previous partition suit

in his plaint nor filed any documents. The documents filed and marked by the defendants as Ex.B1 to B13 provide the details of the two partition suits filed earlier by the parties and the orders passed therein. The entirety of the aforesaid facts are suppressed by the plaintiff to suite his own convenience. Further, there are categorical findings in paragraph 19 and 20 of the Judgment marked as Ex.B5 that the plaintiff had failed to prove that the suit immovable property is a HUF property. Therefore, the plaintiff cannot re-agitate the same in the present suit and raising the same issues which were already decided in the earlier suit, which attracts the Doctrine of Res-judicata. The plaintiff is fully aware that the suit immovable property as depicted in the schedule was already partitioned by metes and bounds and separate shares were allotted to the plaintiff, defendants 1 to 3 and their mother as is evident from Ex.B9 to Ex.B13. The plaintiff is fully aware that in the final decree marked as Ex.B13, the share of the mother and the sisters have been separately allotted. It is also relevant to note that the 1/4 share (belonging to the 1st defendant) in the entire property shown as suit immovable property herein was vested with the Official Assignee, High Court, Madras. Suppressing these facts, the plaintiff has filed the present suit against the entire suit immovable property (as it was before it was partitioned) instead of filing a suit pertaining to his mother's share, which is clearly demarcated in the final decree marked as Ex.B13. The plaintiff has tried to reopen the issues pertaining to the shares of the defendants and

had tried to re-agitate the same issues, which were already decided under Ex.B9 to Ex.B13 and which is also not permissible under law.

26. The immovable property shown in the schedule of the property in the present suit is same one in the previous suits as is evident from Ex.B1 to Ex.B13 and also from the admission of PW1 himself during his cross-examination. The issue regarding the shares of the parties to the suit have been already decided in the earlier partition suits. The plaintiff therefore cannot seek partition of the very same immovable property by way of present suit as the relief of partition was granted to the respective parties in the earlier partition suits and the respective shares allotted. It is relevant to note that Ex.B1 and Ex.B2 were marked during the Cross examination of PW1. As per Ex.B2, the amended plaint the entire movable properties of the family including gold ornaments, jewellery, silver, precious stones, shares, pooja items, furniture etc were added and included in Schedule II, Part 1, 1A, 1B & 1C. PW1 has admitted the same in his Cross examination that in Ex.B2 the plaint was amended to include the movable properties 1B and 1C in schedule-II. Hence, it is clear that even during the life time of the mother Padma Janardhanan, the entire movable properties available for partition with the parties were included in the list of movables under Schedule II, Part 1, 1A, 1B and 1C.

27. It is relevant to note that as per the findings of the court in paragraph 17 and 18 of the Judgment in O.S.No.908 of 2000 (Ex.B5), the plaintiff herein had admitted in his cross examination that the jewels mentioned Schedule II Part 1

belonged to his grand mother Dhankottiammal @ Rajammal. However, the plaintiff had failed to prove that they belonged to his grand mother, in the earlier partition suit. It is also the finding of the trial court in Ex.B5 in paragraph 24 that many of the jewels and ornaments mentioned (Schedule II, Part 1C) were sold for various purposes on earlier occasions and some of the ornaments, jewels and other items were not in existence and are only an imagination of the plaintiff.

28. Further, the relief of partition of all movables as stated in the schedule to Ex.B2 were already granted to the parties including the plaintiff herein vide Judgment and decree marked as Ex.B5 and Ex.B6. The same has been confirmed in the Judgment and decree in Appeal Suit marked as Ex.B 7 and Ex.B8. Therefore, the plaintiff cannot once again re-agitate the same issues by filing another partition suit. Hence, the present suit is affected by the Doctrine of Res-judicata and Issue No.3 is decided accordingly in favour of the defendants.

29. Issue No. 4:

It is evident from the suit pleadings and the suit prayer that the plaintiff has not claimed 1/4th share in his mother's share but has claimed his individual share in the suit schedule immovable and movable properties. There is no pleadings in the plaint regarding what happened to the share of the plaintiff. The plaintiff has not given any reasons for not claiming his individual share either in the plaint or by way of documents. It is the defendants plea that there were earlier partition suits filed by the parties in C.S.No.602/1987(O.S.No.908/2000) and C.S.No.1096/2009
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and that the plaintiff had received his share in the suit immovable property by receiving a sum of Rs.6,12,000/- in the year 1994 after a preliminary decree was passed in respect of the immovable property.

30. During the Cross examination of PW1 on 10.07.2025 admitted that he had received a sum of Rs.6,12,000/- towards his 1/5th share in the suit immovable property as per the orders passed in A.No.822/1993 & A.No.3377/1994 in C.S.No.602/1987. Further during his cross examination on 25.07.2025 he had admitted that the suit immovable property shown in Schedule II, Part 2 in the Ex.B1 is the same immovable property shown in the present suit schedule. Therefore it is evident that the plaintiff has already received his share in the same.

31. Further, by Ex.B3, a preliminary decree was passed in the first partition suit and Ex.B4 is the orders passed in A.No.822/1993 and A.No.3377/1994 in C.S.No.602/1987 from which it is evident that the plaintiff has received a sum of Rs.6,12,000/- before the Hon'ble High Court, Madras in respect of his 1/5th share. PW1 while admitting the receipt of the above amount as per the above orders in his cross examination on 10.07.2025, surprisingly contradicts the same in his cross examination on 25.07.2025 by denying Ex.B4 order of the High Court, in which the receipt of Rs.6,12,000/- towards his 1/5th share is recorded. This shows the malafide conduct of the plaintiff in suppressing material facts before this court. Therefore, it is clear from the admission of PW1 in his cross examination as well as from the documents marked by the defendants in Ex.B1 to Ex.B13 that there

was already a partition of the suit immovable property and movable properties and the plaintiff has received his 1/5th share. The plaintiff has conveniently suppressed these facts and filed the plaint without disclosing the earlier partition and hence, the issue No.4 is answered in favour of the defendants.

32. Issue No.5:

The plaintiff has filed the suit for partition without disclosing the true facts and suppressed the earlier partition suits and other litigation between the parties. The plaintiff has conveniently concealed the fact that he has obtained his individual share in the suit property by receiving a sum of Rs.6,12,000/- in the year 1994 itself and that the rest of the suit immovable property was given to the defendants 1 to 3 and their late mother as per Ex.B4. Thereafter, by Judgment and decree in O.S.No.908 of 2000 (C.S.No.602/1987) marked as Ex.B5 and Ex.B6, the movables were also partitioned between the plaintiff, his mother and defendants 1 to 3. Further, in the subsequent partition suit in C.S.No.1096 of 2009 in Appln.No.3602 of 2014 (Ex.B13), the immovable property was further partitioned between defendants 1 to 3 and their mother and shares were allotted to them by metes and bounds. The mother of the plaintiff has settled her share in the suit immovable property by way of Ex.B15 Settlement Deed to the defendants 2 and 3 after the earlier partition suit. Hence, in view of the above settlement, the defendants 2 and 3 alone are entitled to the share of plaintiff's mother Padma Janardhanan in the suit immovable property and no other parties can claim a share in the same.

33. Further, the entire movable properties were subject matter of the earlier Judgment and decree in O.S.No.908 of 2000 (C.S.No.602 of 1987) marked as Ex.B5 and Ex.B6. The plaintiff has failed to prove the existence of the suit schedule movables at the time of filing the plaint and also failed to disclose why these movables were not included in the first partition suit. The plaintiff can claim partition only in respect of the movables which were given to the mother in the first partition and the same is not mentioned as schedule in the present suit. Hence, the plaintiff has miserably failed to prove that he is entitled to a share in the said movables.

34. The plaintiff has been continuously litigating the matter for nearly 40 years and is guilty of suppression, misrepresentation and coming to court with unclean hands and filing a fresh partition suit with misleading facts. Hence, on the principle of equity and justice, this court holds that the plaintiff is not entitled to the suit reliefs and the suit is dismissed with cost of the plaintiff.

In the result, the suit is dismissed with cost.

This Judgment has been directly dictated by me to the stenographer, typed and computerized by her, corrected and pronounced by me in the open court, on this the 20th day of July 2026.

I Additional Judge,
City Civil Court, Chennai.

Witnesses on behalf of the plaintiff :-

PW1 : Thiru.J.Devanathan

Exhibits on behalf of the plaintiff :-

- Ex.A.1 - 27.10.1954 - Building permission issued by Corporation of Madras (original)
- Ex.A.2 - 20.10.1954 - Challan for payment of money (original)
- Ex.A.3 - -- - Building plan (original)
- Ex.A4 - 16.09.2009 - Death Certificate of Danakottiammal @ Rajammal (original)
- Ex.A5 - 10.04.2006 - Death Certificate of Venkatachala Mudaliar (original)
- Ex.A6 - 18.09.1980 - Death Certificate of V.Janardhanan (original)
- Ex.A7 - 18.01.2014 - Death Certificate of Padma Janardhanan (computer generated copy)
- Ex.A8 - 26.04.2013 - Quit-Rent Permanent Land Register (True copy)

Witnesses examined on behalf of the defendants :-

DW1: Thiru.Sriram Raghunandhanan

Exhibits on behalf of the defendants:

- Ex.B1 - 11.02.1987 - Complaint in C.S.No.602 of 1987 (Certified copy)
- Ex.B2 - Feb-1987 - Amended complaint in O.S.No.908 of 2000 in C.S.No.602 of 1987) (Certified copy)
- Ex.B3 - 02.06.1992 - Petition in Appln.No.2783 of 1992 in O.S.No.602 of 1987 and Order dated 31.07.1992 (Certified copy)

- Ex.B4 - 27.07.1994 - Petition and Order in Appln.No.3377 of 1994 in C.S.No.602/1987 (Certified copy)
- Ex.B5 - 07.04.2006 - Judgment in O.S.No.908 of 2000 (C.S.No.602/1987) (Certified copy)
- Ex.B6 - 07.04.2006 - Decree in O.S.No.908 of 2000 (C.S.No.602/1987) (Certified copy)
- Ex.B7 - 05.03.2010 - Judgment in A.S.No.560 of 2007 (Certified copy)
- Ex.B8 - 05.03.2010 - Decree in A.S.No.560 of 2007 (Certified copy)
- Ex.B9 - 07.07.2010 - Order in Appln.No.80 of 2010 in C.S.No.1096 of 2009 (Certified copy)
- Ex.B10 - 10.10.2013 - Judgment in C.S.No.1096 of 2009 (Certified copy)
- Ex.B11 - 10.10.2013 - Decree in C.S.No.1096 of 2009 (Certified copy)
- Ex.B12 - 09.03.2016 - Order in Appln.No.3602 of 2014 in C.S.No.1096 of 2009 (Certified copy)
- Ex.B13 - 09.03.2016 - Decree in Appln.No.3602 of 2014 along with Advocate Commissioner Report and Sketch (Certified copied)
- Ex.B14 - 14.02.2025 - Affidavit and Petition in I.A.No.7 of 2025 in O.S.No.7945 of 2019 (Certified copy)
- Ex.B15 - 19.05.2008 - Deed of Settlement executed by Mrs.J.Padma Janardhanam in Doc.No.1900 of 2008 (Certified copy)

I Additional Judge,
City Civil Court, Chennai.

Draft/ Fair : Judgment in

O.S.No.7945/2019
[C.S.No.530 of 2015]

Dated : 20.07.2026

I Additional Court,
City Civil Court, Chennai