



/IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

A.S.No.298 of 2016

1.S.Sivasubramanian
2.Senthilvelavan
3.K.Senbagavalli
4.R.Revathi

..Appellants

Vs.

1.R.Murugayyan
2.R.Ramanathan
3.M.Saroja
4.P.S.Vaithianathan
5.S.Thenmozhi
6.R.Sivagami
7.V.Selvakumar
8.S.Arulmozhi
9.V.Senthil Kumar
10.V.Varalakshmi
11.Brinda
12.S.Latha
13.S.Arulkumaran

..Respondents

Appeal Suit filed under Section 96 of C.P.C and Order XLI Rules 1 and 2 of CPC, against the judgment and decree dated 29.04.2014 passed in I.A.No.2 of 2008 in O.S.No.3 of 2008 on the file of the Principal District Judge, Thiruvarur.



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For Appellant(s):

Ms.K.Abhirami
for Mrs.V.Srimathi

For Respondent(s):

Mr.V.Raghupathy
for R1
Mr.R.Krishna Ramanujam
for R12 and R13
R4-Died
No appearance for
R2, R3, R5, R6, R7, R9 and R11
Batta due for R8 and R10-
Notice not sent (unserved)**JUDGMENT****(Judgment of the Court was delivered by M.JOTHIRAMAN, J.)**

The legal heirs of the deceased first defendant have preferred this appeal, aggrieved over passing of the judgment and decree in I.A.No.2 of 2008 in O.S.No.3 of 2008 on the file of the Principal District Court, Thiruvarur.

2. The first respondent/plaintiff has obtained a preliminary decree for partition on 24.04.1998 in O.S.No.304 of 1995 on the file of the learned District Judge, Thiruvarur. Thereafter, he had filed an application in I.A.No.2 of 2008 seeking appointment of an Advocate Commissioner to measure and demarcate his share in the suit properties and to pass a final decree based on the report of the Advocate Commissioner. The learned trial Court appointed an Advocate Commissioner, who inspected the suit schedule properties and submitted his report. Based on the report of the Commissioner, the learned trial Judge has



passed the final decree on 23.04.2014. Aggrieved over the same, the legal representatives of the deceased first defendant have preferred this appeal.

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3. The learned counsel appearing for the appellants would submit that the Court below erred in allotting the valuable properties to the first respondent/plaintiff leaving the properties, which are of no value in favour of the appellants and other sharers. The Court below failed to note that the first respondent/decreed holder is entitled to get $7/30^{\text{th}}$ share and therefore, the allotment made in favour of the first respondent/plaintiff is in far excess of the share, to which the first respondent/plaintiff is entitled to.

4. The learned counsel appearing for the first respondent/plaintiff would submit that the first respondent/plaintiff was allotted $7/30^{\text{th}}$ share in the suit schedule properties. In item No.3 of A Schedule property, a land together with the building thereon situated at North Street, Gopalamuthiram, Mannargudi, the plaintiff is in possession and enjoyment of the properties. Similarly in item No.5 of A Schedule property, a land together with the six shops bearing Door Nos.3A, 2, 3, 4, 5, 6 and 7 situated at Raja Gopalaswamy Sannathi Street, Mannargudi also, the plaintiff is in possession and enjoyment of the said property. In item No.2 of the C-Schedule property measuring 4856 sq.ft, out of the total extent of 9774 sq.ft being the southern portion situated at Natesa Pillai Street, Mannargudi, the plaintiff is in possession and enjoyment of the suit



properties. D-Schedule properties were delivered to the plaintiff through execution proceedings in pursuant to the final decree and thereafter, he sold the lands situated in Serumangalam Village to one Mrs.S.Rajeswari, under a registered sale deed in the year 2017. He sold the lands situated in Karakkottai Village to Arutselvam under the registered sale deed in the year 2018. The learned counsel would further submit that there has been no order of stay operating against the final decree passed by the trial Court and thereby, the final decree has attained enforceability. The plaintiff is in continuous possession and enjoyment of item Nos.1 to 3 allotted to the plaintiff under the final decree.

5. Heard Ms.K.Abhirami, learned counsel representing Mrs.V.Srimathi, learned counsel appearing for the appellant, Mr.V.Raghupathy, learned counsel appearing for the first respondent, Mr.R.Krishna Ramanujam, learned counsel for the respondent Nos.12 and 13 and perused the materials available on record.

6. It is seen from the records that this Court, vide order dated 20.04.2026, has issued the following directions:

“2. It is contended that the first respondent/plaintiff has conveyed some of the properties to the dis-advantage of the other parties to the appeal.

3. Let an affidavit be filed by the first respondent specifically mentioning that the properties in his name are still in available or whether he has conveyed the same.”



7. Thereafter, this Court, by order dated 29.07.2026, has passed the following order:-

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“4. The main grievance of the parties herein is that there had been inequality in the allotment of shares in the final decree application. It is manifested from the records of the Predecessor Bench vide order dated 16.03.2026 directed all the parties to file an affidavit indicating I) the Details of the Schedule of the properties; ii) the Allotment made within each schedule of the properties and iv) also the prevailing guideline value and market value of the properties.

5. Pursuant to the aforesaid direction, Valuation Report of the Suit Schedule Properties has been filed by both the appellants and the respondents 13 and 14 respectively on 20.04.2026. However, since a contention has been raised that the first respondent had conveyed certain properties to the disadvantage of other parties to the Appeal, the Predecessor Bench had directed the first respondent to file an affidavit setting out the details as regards the properties, which he is in actual possession and enjoyment.

6. In compliance with the aforesaid direction dated 20.04.2026, the learned counsel for the first respondent filed an affidavit before this Bench on 20.07.2026 inter alia stating that final decree passed in O.S.No.304 of 1995 has attained enforceability, and he continue to retain and remain in lawful possession and enjoyment of the property allotted as per the Final Decree dated 23.04.2014.

7. Thereafter, the case came up before us and has been incessantly argued and during the course of such hot contest, the



learned counsel for the appellants suggested that the issue can be given a quietus, and the parties would be satisfied if the Suit is disposed of based on the actual allotment of share in the final decree proceedings, as such course would be win-win situation for both the parties. Further, it is stated that the clients (viz., the appellants and the respondents) are not inclined to procrastinate the proceedings any further and they want to relish the benefit of the order even during their lifetime, as, from the date of initiation of the proceedings, the clients are suffering from age-related ailments. Acceding to such request, the matter has been adjourned to today.

8. Accordingly, when the matter is taken up today, Mr.V.Raghavachari, the learned Senior Counsel for the appellants filed a Memo dated 29.07.2026, inter alia stating that they are willing to pay the required Court fee and pleaded that orders may be passed in accordance with the final decree without any change in allotment of shares as has been made in the final decree proceedings. The said Memo dated 29.07.2026 is recorded.”

8. In pursuance of the order passed by this Court on 29.07.2026, the appellants have filed a Memo along with requisite court fee and seeks for partition as per the final decree passed by the Court below. The learned counsel appearing for the respondents prays to grant liberty to file a requisite court fee for allotment of shares as allotted in the final decree proceedings.



9. Considering the submissions made by the learned counsel appearing for the respective parties, and the earlier order passed by this Court dated 29.07.2026, since the appellants had filed requisite court fee and pleaded that orders may be passed in accordance with the final decree passed by the trial Court, without any change in the allotment of shares as has been made in the final decree proceedings, this Court finds no reason to interfere with the final decree passed by the court below. The parties are at liberty to file a requisite court fee to get the final decree without any change in the allotment of shares as has been made in the final decree proceedings within a period of four weeks from the date of receipt of a copy of this order.

10. Accordingly, this Appeal Suit is dismissed. There shall be no order as to costs.

ssb

(N.S.K.,J.) (M.J.R.,J.)
06.08.2026



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A.S.No.298 of 2



**N.SATHISH KUMAR, J.
AND
M.JOTHIRAMAN, J.**

ssb

To

1. The Principal District Court, Thiruvarur.
2. The Section Officer
VR Section
Madras High Court

A.S.No.298 of 2016

06.08.2026