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A.S.No.169 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.02.2026

PRONOUNCED ON : 07.08.2026

CORAM:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

A.S.No.169 of 2021

Kannammal,
W/o Sokkaiyan,
Main Road, Rottu Maruvai,
Maruvai Post,
Kurinjipadi Taluk

..Appellant/
Plaintiff

..VS..

1. Kannan,
S/o Thangarasu,
Valayamadevi Kilpadhi,
Chidambaram Taluk, Cuddalore District.
2. The State of Tamil Nadu,
Rep. By the Collector,
Having his Office at
Collectorate Office, Cuddalore
3. The Special Tahsildar, (Land Acquisition),
Neyveli Township,
Cuddalore District.

Respondents/
...Defendants

PRAYER: Appeal Suit filed under Section 96 read with Order XLI Rule 1-A of the Code of Civil Procedure, 1908 against the Judgment and Decree passed in



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O.S.No.97 of 2011 on the file of 1st Additional District & Sessions Judge,(PCR)
Cuddalore, dated 04.03.2020 and allow the appeal.

For Appellant : Mr.S.Rajavelan

For Respondents : Mr.S.Suresh for R-1

Mr.M.Murali, Government Advocate
For RR 2 & 3

J U D G M E N T

This appeal challenges the judgment and decree dated 04.03.2020 in O.S.No.97 of 2011, by which the I Additional District and Sessions Judge, Cuddalore, dismissed the plaintiff's suit for partition and separate possession of an alleged one-half share in seven items of property, a corresponding share in future income, and consequential reliefs.

2. The appellant is the plaintiff, and the respondents are the defendants. For convenience, the parties are referred to by their rank before the trial court. The dispute is between a sister and her brother. Defendants 2 and 3, the acquisition authorities, were impleaded because one suit item was acquired for the Neyveli project, and a dispute arose over entitlement to compensation.

3. The plaintiff, Kannammal, and the first defendant, Kannan, are the daughter and son of Thangarasu and Chinnaponnu Ammal. Thangarasu



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predeceased Chinnaponnu Ammal, who died on 11.07.2010. Thangarasu and Chinnaponnu Ammal had another daughter, who predeceased her mother.

4. The suit properties comprise seven items of agricultural land in Valayamadevi Kilpadhi Village, totalling 2.97 acres as per the plaint schedule. The plaintiff claimed a one-half share for each sibling following the mother's death.

5. Plaintiff's case: The plaintiff pleaded that Thangarasu and Chinnaponnu Ammal's principal occupation was breeding and selling pigs and piglets; that the children also contributed labour; that the family maintained a substantial number of animals; that this generated surplus income; and that Thangarasu used the surplus to purchase the suit properties in his wife's name.

6. According to the plaintiff, Chinnaponnu Ammal's name in the title documents was merely formal; the properties were acquired for the family's benefit, treated as family property, and enjoyed by the parents and children as a single estate. She did not seek partition during her parents' lifetimes, having been assured that her legitimate share would be given to her.



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7. The plaintiff alleged that the first defendant took advantage of Chinnaponnu Ammal's advanced age and failing faculties to procure a settlement/gift deed covering the properties, which the mother neither understood nor executed voluntarily, and which she did not intend to confer the whole estate exclusively on him. In her reply statement dated 09.07.2019, she described the Settlement Deed dated 28.08.1991 as untrue, invalid, and fabricated, and denied being present at its registration.

8. One suit, Item No. 4, was acquired for the Neyveli project. The plaintiff alleged that the first defendant, relying on the settlement deed, sought to claim the entire compensation. She issued a legal notice dated 13.06.2010, which was received on 14.06.2010, asserting her share and requesting that the entire amount not be disbursed to him.

9. At the time of the notice, Chinnaponnu Ammal was alive, and the plaintiff claimed one-third. After the mother's death on 11.07.2010, the plaintiff claimed that the share had increased to one-half. The compensation dispute was later referred to Court and assigned L.A.O.P.No.30 of 2018.



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10. The plaintiff sought a preliminary decree for her one-half share, separate possession, future income, liberty to apply for a final decree, and costs.

11. Defendant's case: The first defendant resisted the suit as unjust, vexatious and not maintainable, pleading that the plaintiff had sought neither cancellation nor declaration of the Settlement Deed dated 28.08.1991, and that a challenge nearly two decades after its execution was time-barred.

12. On title, the first defendant pleaded that the properties were Chinnaponnu Ammal's absolute, separate properties, purchased with stridhana jewels and money received from her parents, with later acquisitions funded by income from lands already in her name. He denied that Thangarasu supplied the consideration or that any acquisition was intended for a joint family.

13. He stated that Thangarasu's earnings went towards household maintenance, marriages, jewellery, seervarisai and other family expenses, and relied on Thangarasu's own attestation of the settlement deed, contending that a true beneficial owner would not attest a document by which his wife settled the properties on their son.



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14. He denied deception, incapacity, want of understanding, coercion and undue influence, pleading that Chinnaponnu Ammal voluntarily executed and registered the Settlement Deed dated 28.08.1991 during her husband's lifetime, that the settlement was accepted, that he entered into possession and enjoyment, and that pattas and kist were thereafter maintained in his name.

15. In his first additional written statement, the first defendant pleaded that Meenatchi Ammal, elder sister of the plaintiff and the defendant also attested the Settlement Deed alongside Thangarasu, and that the plaintiff, the first defendant, both parents, and Meenatchi Ammal were all present at the registration office. He alleged that the plaintiff knew about the Settlement Deed from its inception but never questioned it during the mother's lifetime.

16. The first defendant further alleged that, after the settlement, he purchased 15 cents at Rottu Maruvai village in the plaintiff's name for Rs.15,000/- meeting the Rs.2,000/- registration expense by selling ten pigs and pledging his wife's jewels; that NLC later acquired five cents; that the plaintiff received about Rs.5,00,000/- in compensation; and that she had borrowed Rs.50,000/- from him under a promissory note. In her reply statement, the plaintiff denied these allegations and claimed that the Rottu Maruvai property was purchased with her own funds.



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17. In a further written statement, the first defendant stated that the third defendant invited objections to the acquisition on 10.11.2010, that none were received in time, and that the plaintiff filed the partition suit solely to obstruct or appropriate the compensation, relying on the acquisition report and his pleading in L.A.O.P.No.30 of 2018. The official defendants claimed no independent title, their role being confined to the acquisition and disbursement of compensation.

18. In her reply dated 11.02.2020, the plaintiff reiterated her objection to paying the entire compensation to the first defendant, noted that the Land Acquisition Officer had referred the dispute to Court, filed a copy of her claim statement in L.A.O.P. No. 30 of 2018, and maintained her entitlement to one-half of the compensation. The rival pleadings thus present the L.A.O.P. as a reference on apportionment and entitlement, not a simple claim for enhancement.

19. On the pleadings, the Trial Court framed the following original issues:

- (i) Whether the Suit property was purchased in the name of Chinnaponnu Ammal with the funds derived by rearing of pigs?



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- (ii) Whether the Suit is not maintainable due to lack of prayer for setting aside the Settlement Deed dated 28.09.1991?
- (iii) Whether the Plaintiff is entitled to a 1/2 Share in the Suit Property?
- (iv) To what relief is the Plaintiff entitled?

An additional issue was framed on 07.08.2019 :

- (i) Whether the Settlement Deed dated 28.08.1991 is true and valid?

20. The plaintiff examined herself as P.W.1 and Ramamoorthy as P.W.2. Exs.A1 to A9 were marked for the plaintiff. Ex.A1 is the certified copy of a registered Will dated 16.06.1966. Exs.A2 to A5 are certified copies of registered sale deeds dated 03.06.1966, 16.08.1971, 13.06.1974 and 03.09.1984, respectively. Ex.A6 is the certified copy of the disputed settlement/gift deed dated 28.08.1991, executed by Chinnaponnu Ammal in favour of Kannan. Ex.A7 is the plaintiff's legal notice dated 13.06.2010 regarding compensation for Defendants 1 and 2; Ex.A8 is the postal acknowledgement of its receipt by the Collector, Cuddalore; and Ex.A9 is the legal-heir certificate dated 28.02.2011, issued by the Tahsildar, Chidambaram.



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21. The first defendant examined himself as D.W.1, Arumugam as D.W.2, and Kamalapadham as D.W.3. Exs.B1 to B5 were marked. Ex.B1, the principal title document relied on by the first defendant, is the original registered settlement/gift deed dated 28.08.1991, registered as Document No.749 of 1991 in the office of the Sub-Registrar, Kammapuram. Ex.B2 is the land acquisition proceedings report dated 16.03.2018, issued by the Special Tahsildar, Land Acquisition No.5, Neyveli. Ex.B3 is a Xerox copy of the claim pleading filed in L.A.O.P. No. 30 of 2018 before the Principal District Court, Cuddalore. Ex.B4 comprises three pattas, and Ex.B5 comprises two kist receipts in Kannan's name.

22. The Trial Court held that the plaintiff failed to prove that the properties were purchased from a family nucleus or pig-rearing surplus, noting that the title instruments were in Chinnaponnu Ammal's name, that P.W.1 lacked direct knowledge of the earlier consideration, and that P.W.2's evidence of deception was hearsay. It further held that the plaintiff had not established that the suit properties were treated as joint family properties.



23. On Ex.B1, the Trial Court held the settlement deed valid. It acted upon it, relying on the original registered instrument, D.W.3's evidence, the attestation by the father and elder daughter, and the subsequent revenue records. It rejected the contention that every attestor must sign in the presence of every other attestor, holding that the statutory attestation requirements were met.

24. It further held that the plaintiff had not established fraud, lack of capacity, want of understanding, coercion or involuntariness, treating Exs.B4 and B5 as corroborative evidence that the settlement had been acted upon, rather than as independent sources of title.

25. Since the plaintiff was not an executant of Ex.B1, the Trial Court held that a prayer for cancellation in the form required of an executant was not indispensable. Nevertheless, it dismissed the suit on the merits, finding that Chinnaponnu Ammal was the owner and that Ex.B1 had validly transferred the properties to the first defendant. It directed the parties to bear their own costs.



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26. Aggrieved by the judgment and decree of the Trial Court, the plaintiff has preferred the present appeal. In the memorandum of appeal, the plaintiff contends that the judgment and decree of the Trial Court are contrary to law, the evidence on record, and the probabilities of the case, and that the suit was dismissed without proper consideration of the oral and documentary evidence. According to the appellant, the Trial Court ought to have held that she is entitled to a half share in the suit properties and erred in finding that she had failed to establish her case on satisfactory evidence. It is further contended that the Trial Court failed to properly appreciate the appellant's case that the suit properties were purchased in the name of her mother, Chinnaponnu Ammal, out of the joint family funds.

27. The plaintiff also challenges the finding regarding the settlement deed, contending that there was no satisfactory evidence from the attesting witnesses to prove its due execution and attestation, and that Chinnaponnu Ammal was unaware that she was executing a settlement deed and did not do so voluntarily. The Trial Court is also said to have erred in presuming that the settlement deed had been acted upon merely because the patta stood transferred in the name of the first respondent, since the mere issuance or transfer of patta does not confer title. On these grounds, the appellant submits



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that the evidence adduced by her was brushed aside and that the impugned judgment and decree are liable to be set aside.

28. Learned counsel for the appellant/plaintiff contended that the seven suit items, totalling 2.97 acres, were purchased in Chinnaponnu Ammal's name using income earned by Thangarasu and the family from pig rearing. As the acquisitions predated the Benami Transactions (Prohibition) Act, 1988, the plaintiff was entitled to prove the real source of consideration and the intention behind the purchases, relying on *C. Gangacharan v. C. Narayanan*, reported in (1999) Supp (5) SCR; *Maria Francis v. M. Varghese @ Maria Varghese*, reported in 2017 (1) CTC 374; and *Shanthi v. M. Masanam*, reported in 2015 (3) CTC 316. The admitted family occupation and the plea that the father's earnings went towards marriages and maintenance demonstrated the availability of family income. In contrast, the first defendant failed to prove that the purchases were made from the mother's stridhana.

29. The learned counsel further submitted that, once Ex.A6/Ex.B1 was specifically disputed, the burden lay on the first defendant, as propounder and beneficiary, to prove due execution and statutory attestation under Section 68



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of the Indian Evidence Act, 1872. He relied on ***Venkatesan v. Shanthi and others***, S.A.No.861 of 2015, dated 09.12.2025. D.W.3 did not satisfactorily establish that he saw the donor execute or acknowledge the instrument as required by law; the deed did not explain the exclusion of the daughters; and registration alone could not prove execution. Reliance was placed on ***Jitendra Singh v. State of Madhya Pradesh***, reported in 2021 SCC OnLine SC 802, and ***P. Kishore Kumar v. Vittal K. Patkar***, reported in 2023 INSC 1009, for the proposition that mutation and revenue entries do not confer title. The non-production of the alleged promissory note and the absence of proof that the first defendant funded the Rottu Maruvai purchase were also emphasised. On maintainability, it was submitted that the Trial Court's finding that a separate prayer to set aside Ex.B1 was unnecessary had not been challenged by a cross-objection under Order XLI Rule 22 CPC, relying on ***Shingara Singh v. Daljit Singh and another***, reported in 2024 INSC 770, and the Venkatesan's case decision above.

30. Learned counsel for the first respondent/first defendant supported the Trial Court's judgment, submitting that every title document was in Chinnaponnu Ammal's name; that no vendor, account, receipt or witness to a transaction was produced to show payment of consideration by Thangarasu;



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and that the suit was filed only after the mother's death and the acquisition dispute arose. P.W.1 admitted knowledge of the settlement deed and the father's attestation, while D.W.3, an attesting witness, proved its execution and attestation. It is further submitted that, relying on the decision of the Hon'ble Supreme Court in *H. Venkatachala Iyengar & others v. B.N. Thimmajamma*, reported in **AIR 1959 SC 443**, the Trial Court concluded that the settlement deed was duly proved, genuine and valid, and held that the plaintiff is not entitled to $\frac{1}{2}$ share in the suit properties. Therefore, he prayed for dismissal of the first appeal.

31. The following points arise for consideration:

1. Whether the suit properties are the joint family properties of Thangarasu, father of the plaintiff and defendant?
2. Whether the settlement deed dated 28.08.1991, Ex. A6 = Ex B1, is valid?
3. Whether the plaintiff is entitled to partition as prayed?
4. Whether the Judgment and decree of the trial court are liable to be set aside?



Point No. 1:

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32. The relationship between the parties as brother and sister is admitted. It is also undisputed that the suit properties were purchased under various registered sale deeds between 1966 and 1984, in the name of their mother, Chinnaponnu Ammal. According to the plaintiff, although the sale deeds are in her mother's name, the consideration for the purchases was provided by her father, Thangarasu, from the family's income, and the properties were acquired in her mother's name for the family's benefit. The plaintiff further claims that both she and the defendant contributed to the acquisition of the properties and, on that basis, seeks partition. The defendant emphatically denies these contentions.

33. Admittedly, the registered sale deeds for the suit properties are in the name of Chinnaponnu Ammal alone. Therefore, the apparent state of affairs is that she was the purchaser and owner of the properties. Consequently, the initial burden rests upon the plaintiff, who asserts otherwise, to establish that, notwithstanding the title deeds standing in the mother's name, the properties were in fact acquired from joint family funds and possessed the character of joint family properties.



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34. It is well settled that there is no presumption that a property is joint family property merely because the family was joint. The person asserting such character must first establish the existence of a joint family nucleus capable of yielding sufficient income to make the acquisition. Only upon proof of an adequate nucleus would the burden shift to the person asserting that the acquisition was separate.

35. In the present case, the plaintiff has not established that, before the earliest acquisition in 1966, the family possessed any ancestral property or a joint family business generating income sufficient to form a nucleus for the subsequent acquisitions. Nor has she produced satisfactory evidence to establish the income allegedly derived therefrom, the family expenditure during the relevant period, the availability of surplus funds after meeting such expenditure, or the utilisation of such surplus for the purchase of any particular suit property.

36. The plaintiff's contention that the mother had no independent income does not, by itself, advance her case. On the contrary, it is not denied that Chinnaponnu Ammal was also engaged, along with her husband, in pig-rearing activities. More importantly, even assuming that Thangarasu had



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provided the whole or a substantial part of the consideration, that circumstance alone would not necessarily render the properties joint family properties. The plaintiff must further establish that the intention underlying the acquisitions was that the properties should enure for the benefit of the joint family and that Chinnaponnu Ammal was not intended to hold them as her own properties. The plaintiff has not adduced convincing evidence in this regard. Likewise, her assertion that she and the defendant had contributed to the purchases remains unsupported by sufficient evidence establishing the amounts, sources, and specific acquisitions to which such contributions were allegedly directed.

37. The subsequent conduct of the parties is also significant. In 1991, Chinnaponnu Ammal executed a registered settlement deed in favour of the defendant. In that document, she described the properties as “**எனக்கு கிரயம் பாத்தியமான சொத்துக்களை**”, meaning her properties acquired by purchase, and dealt with them as her own.

38. Significantly, Thangarasu was alive at the time of the settlement deed's execution, and he himself served as one of its attesting witnesses. Indeed, mere attestation of a document does not, by itself, amount to an



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admission of the truth of every recital contained therein. Nevertheless, this circumstance assumes considerable evidentiary significance in the present case. If, as contended by the plaintiff, Thangarasu had purchased the properties out of joint family funds in his wife's name only for the family's benefit, his conduct in attesting a document by which his wife asserted that the properties were her purchased properties and settled them upon the defendant is inconsistent with the plaintiff's case. This conduct, when considered together with the fact that the registered sale deeds throughout stood exclusively in the name of Chinnaponnu Ammal, lends substantial support to the defendant's case.

39. Thus, the plaintiff has failed to establish either the existence of an adequate joint family nucleus from which the suit properties could have been acquired or that the consideration for the respective acquisitions was derived from such joint family funds. She has also failed to establish that the acquisitions made in the name of Chinnaponnu Ammal were intended to benefit the joint family.

40. Accordingly, this court holds that the plaintiff has failed to prove that the suit properties are the joint family properties of Thangarasu and his



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family. Accordingly, Point No. 1 is answered against the plaintiff.

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Point No. 2:

41. The plaintiff has questioned the validity of the settlement deed dated 28.08.1991, marked as Ex.A6 on her side and as Ex.B1 on the defendant's side, executed by her mother, Chinnaponnu Ammal, in favour of the defendant. The plaintiff is admittedly not an executant of the said document. Therefore, she is not required to seek cancellation of the document in the same manner as an executant. Nevertheless, since she seeks partition by disputing the title derived by the defendant under Ex.B1, the validity and binding nature of the settlement deed necessarily fall for consideration. The distinction between the remedies available to an executant and a non-executant has been explained by the Supreme Court in *Suhrid Singh @ Sardool Singh v. Randhir Singh*, reported in (2010) 12 SCC 112.

42. The plaintiff's case is that the defendant, taking advantage of the plaintiff's mother's old age, obtained the settlement deed in his favour, and that their mother executed the document without knowing its nature and effect. Significantly, the plaintiff does not specifically deny that her mother executed the document. Her challenge is essentially directed against the voluntary and



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conscious nature of the execution, alleging that the document was procured by taking advantage of the mother's old age.

43. Ex.B1 is a registered settlement deed. The proviso to Section 68 of the Indian Evidence Act dispenses with the need to call an attesting witness to prove the execution of a registered document, other than a Will, unless the execution by the person by whom it purports to have been executed is specifically denied. In the present case, the plaintiff has not specifically denied the execution of Ex.B1 by her mother; rather, she contends that the execution was procured by taking advantage of her mother's old age. Therefore, the mere non-examination of all the attesting witnesses would not, by itself, render Ex.B1 unproved.

44. Be that as it may, the defendant has examined D.W.3, one of the three attesting witnesses to Ex.B1. The other two attesting witnesses were Thangarasu, the father of the parties, and Meenakshi, their sister, both of whom had died before the suit was instituted. D.W.3 has spoken to his participation in executing the document and to his signature thereon, along with those of the other attesting witnesses. Thus, the defendant has, in fact, examined the only surviving attesting witness.



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47. The allegation that the defendant took advantage of the mother's old age also remains to be considered. Old age, by itself, does not establish undue influence, fraud or want of understanding. The plaintiff must establish circumstances from which it could reasonably be inferred that Chinnaponnu Ammal was incapable of understanding the nature of the transaction, or that the defendant dominated her will and procured the settlement by undue influence. No satisfactory evidence of such circumstances has been adduced.

48. Thus, neither the alleged defect in attestation nor the plea of undue influence or lack of conscious execution has been established. Ex.B1 was executed by Chinnaponnu Ammal, who, as found under Point No.1, is the owner of the properties covered by it and therefore competent to deal with them. Accordingly, Ex.A6 = Ex.B1, the settlement deed dated 28.08.1991, is held to be true, valid, and binding. Point No.2 is answered in favour of the defendant and against the plaintiff.

Points Nos. 3 and 4:

49. In light of the findings on Points Nos. 1 and 2, the plaintiff is not entitled to the relief of partition. Consequently, the judgment and decree of the



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Trial Court dated 04.03.2020, passed in O.S. No. 97 of 2011, on the file of the

I Additional District and Sessions Judge, Cuddalore, are liable to be confirmed, and the appeal is dismissed. Given the close blood relationship between the parties, no order as to costs shall be made. Consequently, the miscellaneous petitions, if any, shall stand closed.

07.08.2026

sts

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

To:

1. 1st Additional District & Sessions Judge,
(PCR) Cuddalore.
2. The Collector,
Collectorate Office, Cuddalore
3. The Special Tahsildar,
(Land Acquisition),
Neyveli Township,
Cuddalore District.



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DR.A.D.MARIA CLETE, J.

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Judgment made in
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Dated:
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