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C.S.No.32 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.11.2025

CORAM:

THE HON'BLE Mr.JUSTICE **P.DHANABAL**

**C.S.No.32 of 2022 &
O.A.No.63 of 2022**

1. Juliet Santhana Mary (Deceased)
2. Pushparani
3. Sampooram

... Plaintiffs

Vs.

1. Punitha kumari
2. Santhana Kumar
3. E.SureshBabu
4. Elizabeth Paulin
5. C.Milton Madhanraj
6. C.Samson Rajkumar
7. Glaxton
8. Santhosh Roy
9. Srinivasan
10. W.R.Amuthavalli
(Defendants 9 & 10 are brought on record
as Legal Heirs of deceased 1st plaintiff,
as per order dated 04.03.2025 in
A.No.880 of 2025]

... Defendants

Prayer:

The Civil Suit filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of Civil Procedure Code, 1908 to pass a Judgment and Preliminary decree holding that the plaintiffs are entitled to 1/5th share each in the suit schedule property and to allot 1/5th share each in the suit property after dividing the suit property by metes and bounds, to award the cost of the suit and for further orders.



C.S.No.32 of 2022

For Plaintiffs : Mr.S.Patrick

For Defendants : Mr.S.Prakash Raj for D1
Mr.S.Vishnukumar for D4 to D8
D2, D3, D9 and D10- set exparte

J U D G M E N T

This suit has been filed by the plaintiffs to pass Judgment and Preliminary Decree by dividing the suit properties into five equal shares and allot one such share to the plaintiffs and for costs.

2. The brief averments of the plaint are as follows:-

(i) The suit property originally belonged to one Kandan and the said Kandan had two sons, namely, Perumal and K.N.Narayanasamy @ K.N.Edward. The legal heirs of Perumal and K.N.Narayanasamy @ K.N.Edward are the joint owners of the suit properties. While so, Anbu Ammal, who is none other than the daughter-in-law of the said Kandan and wife of Perumal had settled the entire property measuring a total extent of 0.45 cents to and in favour of her sons, namely, Chandran and Santhalingam through registered settlement deed dated 21.04.1976. In fact, the said Anbu Ammal had no right or title or interest to execute settlement deed in respect of the entire property to her sons, when the property jointly belong to legal heirs of K.N.Narayanasamy @ K.N.Edward and Perumal. Thereafter, the legal heirs of



C.S.No.32 of 2022

K.N.Narayanasamy @ Edward approached this Court by way of C.S.No.305 of 2005. During the pendency of the suit, the matter has been amicably settled between the parties and the property was divided by the legal heirs of K.N.Narayanasamy @ Edward and sons of Perumal, namely, Chandran and Santhalingam and through the said compromise, the legal heirs of K.N.Narayanasamy @ K.N.Edward had been allotted 25.5 cents out of the 0.45 cents and remaining extent of 19.5 cents was allotted to legal heirs of Perumal.

(ii) The said Perumal died intestate leaving behind his wife, two sons, viz., Chandran, Santhalingam and four daughters, viz., Gnanasoundari, Juliet Santhanamarri (1st plaintiff), Pushparani (2nd plaintiff), Sampooram (3rd plaintiff). The said Santhalingam died without any issues and thereafter, his wife also died. The said Punitha Kumari, Santhanakumar and Suresh Babu / defendants 1 to 3 are the legal heirs of late Gnanasoundari, who is the daughter of said Perumal and the plaintiffs 1 to 3 are daughters of Perumal and without their presence, the suit in C.S.No.305 of 2005 has been filed and a compromise has been arrived. The plaintiffs are not parties to the said suit. The defendants 3 to 8 had fraudulently and surreptitiously denied the legal rights and entitlement to the plaintiffs by without giving respective share in the ancestral property. Therefore, the plaintiffs are



C.S.No.32 of 2022

entitled to the share over the property. The plaintiffs 1 to 3 each are entitled to 1/5th share. The defendants 1 to 3 are together entitled to 1/5th share and the defendants 4 to 8 are together entitled for 1/5th share. The suit property is in joint possession and enjoyment of the defendants 4 to 8 and the defendants, being legal heirs of Chandran are receiving rent from the lessees, who are in the lease in the schedule property, therefore, the defendants are liable to share the mesne profits received from the lessees.

3. The brief averments of the Written Statement filed by the 4th defendant and adopted by the defendants 5 to 8 are as follows:-

(i) The defendants denied all the averments and allegations in the plaint except those that are specifically admitted in the written statement. There is no cause of action to the plaintiffs to file the present suit and the suit is barred by limitation. The marriage of the plaintiffs and mother of the defendants 1 to 3 were solemnised by their brothers, viz., Chandran and Santhalingam and at the time of marriage, their mother, Anbuammal explained the plaintiffs about the settlement in favour of the male children, namely, Chandran and Santhalingam. The said Anbuammal executed settlement deed of the suit property dated 21.04.1976 in favour of Chandran and Santhalingam, who are brothers of the 1 to 3 plaintiffs.



C.S.No.32 of 2022

(ii) Thereafter, the said Santhalingam and Chandran partitioned their properties through a partition deed dated 12.09.1985 and thereafter, the said Narayanasmy @ Edward's legal heirs filed the suit in C.S.No.305 of 2005 claiming rights over the suit property. During the pendency of the said suit, they amicably settled the matter between them and the suit property out of 0.45 cents, 22.5 cents were allotted legal heirs of K.N.Narayanasamy @ Edward and the remaining 19.5 cents were allotted to Chandran and Santhalingam.

(iii) The above said partition of the suit and the compromise arrived at between the parties are also very well known to the plaintiffs 1 to 3 and the mother of the defendants 1 to 3. The property originally belong to Perumal, who is the absolute owner of the property and after his demise, his wife, Anbuammal had become the absolute owner of the property and executed the settlement deed dated 21.04.1976 in favour of her sons. The marriage of the plaintiffs and the mother of the defendants 1 to 3 were solemnised by Anbuammal through the income of the said Chandran and Santhalingam. The plaintiffs are all aware that they have no rights in the suit property because their mother, viz., Anbuammal already explained about the settlement deed.



C.S.No.32 of 2022

(iv) Further, the plaintiffs issued a legal notice dated 27.02.2021

and the said notice clearly shows fraudulent intention to file this suit and to harass the defendants 4 to 8. The plaintiffs have not raised any objections in respect of the settlement in favour of the said Chandran and Santhalingam. The 3rd plaintiff, Sampooranam got married with P.G.Unnikrishnan and he was running a business of plastic molding workshop and due to want of further improvement of the said workshop, he requested plaintiffs' brothers, viz., Chandran and Santhalingam to give one shop and they also permitted him to occupy one shop and EB connection was also obtained in the name of Unnikrishnan in the year 1986 and thereafter, he closed the shop and handed over the possession to the said Santhalingam and Chandran. The plaintiffs have no right over the share of Chandran and Santhalingam and therefore, the suit is liable to dismissed.

4. The defendants 1 to 3 filed written statement along with counter claim wherein it is averred as follows:

(i) It is admitted that the suit schedule mentioned property belonged to Kandan and he had two sons, Perumal and K.N.Narayanasamy @ K.N.Edward. The said Anbuammal, being daughter-in-law of Kandan and wife of Perumal, had no right over the property to execute settlement deed and she executed settlement deed



C.S.No.32 of 2022

in respect of the entire property, where she had no right to execute the said settlement deed. The legal heirs of co-owner K.N.Narayanasamy @ Edward had filed C.S.No.305 of 2005 and the matter has been compromised between the parties and 25.5 cents was allotted to legal heirs of K.N.Narayanasamy @ K.N.Edward and the remaining 19.5 cents was allotted to the legal heirs of Perumal. The said Perumal died intestate leaving behind his wife Anbuammal, Chandran and Santhalingam and daughters viz., Gnanasundari, Juliet Santhana mary, Pushparani and Sampooram. The defendants 1 to 3 are legal heirs of Gnanasundari and they are jointly entitled to 1/3 share over the property and the said Santhalingam died without any issue and his wife also died, therefore, the plaintiffs and the defendants being legal heirs of deceased Perumal are equally entitled to the suit property.

(ii) The defendants 1 to 3 are the daughters of Gnanasundari, either their mother or defendants 1 to 3 are not parties to the suit in C.S.No.305 of 2005, therefore, the defendants 1 to 3 are entitled to 1/5th share of the properties, thereby pleaded to pass preliminary decree in respect of the share of the 1 to 3 defendants.

5. Based on the above said pleadings and on hearing both sides and perusing documents, this Court framed the following issues:-

7/27



C.S.No.32 of 2022

“1. Whether the mother of the plaintiffs Anbuammal have the right to settle the whole of the suit property in favour of the father of the defendants 4 to 8 by name Chandran and Santhalingam, who are the sons of Anbuammal?

2. Whether the plaintiffs are entitled to get 1/5th share each in the suit property?

3. Whether the compromise decree obtained in C.S.No.305 of 2005 can impact the legal entitlement of the plaintiffs in the suit property?

4. Whether the 1st defendant is entitled to get 1/3rd out of 1/5th share in the suit property, as alleged by him in the counter claim?

5. Whether the plaintiffs are entitled to get preliminary decree as prayed for?

6. Whether the first defendant is entitled to get preliminary decree as prayed for?”

6. The learned counsel appearing for the plaintiffs would submit as follows:-

(I) The suit property and other property originally belong to one Kandan, who had two sons, namely, Perumal and K.N.Narayanasamy @ Edward. The plaintiffs 2 to 3 and the mother of the defendants 1 to 3, namely, Gnanasundari, Chandran, who is the husband of 4th defendant



C.S.No.32 of 2022

and father of defendants 5 to 8 and one Santhalingam and Anbuammal, are the legal heirs of deceased Perumal. The said Perumal died intestate leaving behind his legal heirs to succeed his estate. Thereafter, the said Anbuammal without any right over the property, executed the settlement deed in favour of her sons in respect of the properties of Kandam through settlement deed dated 21.04.1976. In fact, the said Perumal and his brother viz., Narayanasamy are each entitled to half share over the property, but the said Anbuammal, who is the wife of Perumal had executed settlement deed in favour of her sons, Chandran and Santhalingam for the entire property of 0.45 cents. Thereafter, the legal heirs of K.N.Narayanasamy @ Edward had filed the suit before this Court in C.S.No.305 of 2005, as against the said Santhalingam and Chandran, who are sons of Perumal without impleading daughters of Perumal. Wherein the parties in the suit entered into compromise and out of 0.45 cents, 20.5 cents were allotted to the legal heirs of Narayanasamy @ Edward and remaining 19.5 cents were allotted to the sons of Perumal, namely, Chandran and Santhalingam.

(ii) Before filing of the above said suit, the sons of Perumal, namely, Chandran and Santhalingam had entered into partition over the property through a partition deed dated 12.09.1985, in that partition deed also, the daughters of the said Perumal are not parties to the



C.S.No.32 of 2022

partition deed. Originally, the properties are self acquired properties of the grand father of the plaintiffs, namely, Kandan, through a sale deed dated 27.05.1912. Since the property is a self acquired property of the grand father of the plaintiffs 1 to 3, the mother of the defendants 1 to 3 and legal heirs of Chandran, defendants 4 to 8 are equally entitled to the property. The said Santhalingam died without any issues and his wife also died thereafter and hence the property has to be divided into five equal shares and therefore, the plaintiffs each are entitled to 1/5 share and defendants 1 to 3 jointly entitled to 1/5 share and defendants 4 to 8 are jointly entitled to 1/5 share. In order to prove the case of the plaintiffs, they examined P.W.1 and marked Exhibits P.1 to P.11. On the side of the defendants, they have examined D.W.1 and D.W.2 and marked Exhibits.D.1 to D.3.

(iii) P.W.1 has categorically deposed about the entitlement of share by the plaintiffs and the defendants, also admitted the relationship between the parties and the only defence is settlement deed executed by Anbuammal in favour of Chandran and Santhalingam and the partition between Santhalingam and Chandran and also compromise arrived between the parties in the suit in C.S.No.305 of 2005 are known to the plaintiffs and the mother of the 1 to 3 defendants, hence they have not taken any steps immediately. Since the suit is for partition and



C.S.No.32 of 2022

the plaintiffs are not parties to the settlement deed and the partition deed and the suit in C.S.No.305 of 2005, they have no knowledge about the said proceedings, therefore, the plaintiffs are entitled to partition as prayed for in the plaint.

7. The learned counsel appearing for the defendants 1 to 3 would submit that they already filed counter claim and they are also entitled to 1/5th share over the property, since the mother of the defendants 1 to 3 is also one of the legal heir of Perumal, their mother is also entitled to 1/5 share. Since their mother died, the defendants 1 to 3 are jointly entitled to 1/5 share over the property. Therefore, they filed counter claim and the counter claim has to be allowed.

8. The learned counsel appearing for the defendants 4 to 8 would submit that originally the suit property belong to Kandan and the said Kandan had two sons, namely, Perumal and **Santhalingam**. The plaintiffs and the defendants are legal heirs of Perumal and mother of the plaintiffs and grand mother of 5 to 8 defendants after the demise of the said Perumal had settled the property in favour of father of defendants 5 to 8, namely, Chandran and Santhalingam, through settlement deed dated 21.4.1976. Thereafter, the said Chandran and Santhalingam had been in possession and enjoyment of the properties and they partitioned their properties through partition deed dated



C.S.No.32 of 2022

12.09.1985. While so, legal heirs of K.N.Narayanasamy @ Edward had filed a suit in C.S.No.305 of 2005 and the said suit was amicably settled between the parties and as per the compromise, 21.5 cents was allotted to the legal heirs of Narayanasamy and remaining 19.5 cents was allotted to Santhalingam and Chandran. The said Santhalingam died without any issues. The said Chandran constructed the suit property by incurring his expenses and the plaintiffs and mother of defendants 1 to 3 have knowledge about the settlement deed, partition between Chandran, Santhalingam and the suit in O.S.No.305 of 2005, therefore, they cannot claim right over the property and the claim is barred by limitation.

8.1 That apart, the learned counsel for the defendants 4 to 8 would also submit that the 3rd plaintiff, viz., Sampooram got married with one Unnikrishnan and the said Unnikrishnan requested to run his business in one shop, which was constructed by Chandran and Santhalingam and the same was also allotted to him. The said Unnikrishnan also obtained EB connection in his name in the year 1986 and thereafter, in the year 1988, he handed over the said shop to Chandran and Santhalingam. Further, the said Unnikrishnan applied Encumbrance Certificate in respect of the properties in the year 1985, therefore, he came to the knowledge about the settlement deed and the



C.S.No.32 of 2022

partition between Chandran and Santhalingam, but they have not taken any steps. Thereafter, the family of Narayanasamy sold the property to Dev Apartment through sale deed in the year 2006. The 1st plaintiff, Juliet – sold her self acquired property to third party in the year 2006. D.W.1 also admitted the case filed by Narayanasamy and did not approach the Court after knowing the same. Therefore, they had knowledge about the suit filed by the legal heirs of Narayanasamy. The plaintiffs have not claimed any share during the lifetime of their mother, Anbuammal and the said Anbuammal died in the year 2005 and the 1st defendant mother also died in the year 2005. Chandran died in the year 2014 and Santhalingam died in the year 2015. After a long period, the plaintiffs have filed this suit only to harass the defendants 4 to 8, therefore, the suit is liable to be dismissed.

9. Heard the learned counsels on either side and perused the entire documents placed on record.

10. Answers for Issue No.(1) “1. *Whether the mother of the plaintiffs Anbuammal had the right to settle the whole of the suit property in favour of the father of the defendants 4 to 8 by name Chandran and Santhalingam, who are the sons of Anbuammal?*”



C.S.No.32 of 2022

(a) It is an admitted fact that originally property belong to Kandan, who is the grand father of the plaintiffs and maternal grand father of defendants 1 to 3. The said Kandan had two sons, namely, Perumal and K.N.Narayanasamy @ Edward. The plaintiffs and defendants are the legal heirs of deceased Perumal. The mother of the plaintiffs, who is the wife of Perumal, after the demise of Perumal had executed a settlement deed in favour of her sons, namely, Chandran and Santhalingam on 21.04.1976 for the entire properties. The said execution of the settlement has not been denied by the plaintiffs and defendants 1 to 3. However, according to them, the said Anbuammal had no any right to execute settlement deed for the entire property. There is no dispute that the grand father of the plaintiffs purchased the property to an extent of 0.45 cents and his two sons, namely, Perumal and K.N.Narayanasamy @ Edward are equally entitled to half share of the property. Therefore, Anbuammal had no right to execute settlement deed for the entire property.

(b) Moreover, after the settlement deed, the said Chandran and Santhalingam, who are sons of Perumal and Anbuammal had partitioned the properties through Partition Deed dated 12.09.1985. Thereafter, the legal heirs of K.N.Narayanasamy @ Edward had filed the suit in C.S.No.305 of 2005 as against the sons of Perumal and either the plaintiffs or the mother of the defendants 1 to 3 are parties to



C.S.No.32 of 2022

that suit. In the said suit, they entered into compromise and as per the compromise, the properties were divided between legal heirs of K.N.Narayanasamy and sons of Perumal, namely, Chandran and Santhalingam. The said Chandran and Santhalingam after admitting the right and entitlement of the share of K.N.Narayanasamy @ Edward over the properties entered into compromise by dividing the properties. Therefore, they admitted that Anbuammal had no right to execute settlement deed in respect of the entire properties. After demise of Kandan, the properties of Kandan have to be divided between his sons, namely, Perumal and K.N.Narayanasamy @ Edward. The said Perumal had died intestate leaving behind his wife, Anbuammal, sons, Chandran and Santhalingam and daughters 1 to 3 /plaintiffs and mother of 1 to 3 defendants as his legal heirs. The said Anbuammal being the wife of Perumal is entitled to 1/7 share in the property of Perumal. In view of the same, this Court can safely come to the conclusion that the mother of the plaintiffs, Anbuammal had no right to settle the entire properties of Kandan in favour of the father of the defendants 4 to 8, namely, Chandran and Santhalingam, thus, the Issue No.1 is answered.

11. Answers for Issue No.(3) “3.*Whether the compromise decree obtained in C.S.No.305 of 2005 can impact the legal entitlement of the plaintiffs in the suit property?*”



C.S.No.32 of 2022

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(a) It is also an admitted fact that the legal heirs of Narayanasamy @ Edward had filed the suit in O.S.No.305 of 2005 as against the said Chandran and Santhalingam, wherein they entered into a compromise and divided the properties. In the said compromise, 19.5 cents out of 0.45 cents have been allotted to Chandran and Santhalingam. Admittedly, either the plaintiffs or the mother of the defendants 1 to 3 are not parties to the said suit in C.S.No.305 of 2005. Therefore, the said suit has no any impact to the legal entitlement of the plaintiffs in the suit property. Even in the said suit, the property was divided into two parts and one part was allotted to the legal heirs of K.N.Narayanasamy @ Edward and another part was allotted to legal heirs of Perumal, namely, Chandran and Santhalingam. Now this Suit is filed in respect of the properties allotted to the sons of Perumal, namely, Chandran and Santhalingam. The plaintiffs have not claimed any right over the properties allotted to the heirs of Narayanasamy @ Edward. Therefore, the abovesaid decree cannot impact the legal entitlement of the plaintiffs over suit property. Thus Issue No.3 is answered.

12. Answers for Issue Nos.(2) and (4) “2. *Whether the plaintiffs are entitled to get 1/5th share each in the suit property?* 4.*Whether the 1st defendant is entitled to get 1/3rd out of 1/5th share in the suit property,*



C.S.No.32 of 2022

as alleged by him in the counter claim?

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(a) The plaintiffs sought for partition of 1/5 share and the defendants 1 to 3 also filed counter claim for their 1/5 share. There is no dispute that the plaintiffs, Santhalingam, Chandran, Anbuammal and mother of defendants 1 to 3 are legal heirs of Perumal. The said Anbuammal died and thereafter, the mother of defendants 1 to 3 also died and Santhalingam also died without any issues. Further, the said Chandran died leaving behind 4 to 8 defendants as legal heirs.

(b) The properties originally belonged to Kandan and Edward Narayanasamy through sale deed dated 27.05.1912. The said Kandan died intestate leaving behind his two sons namely, Perumal and Narayanasamy @ Edward as his legal heirs. Already the legal heirs of Narayanasamy got their shares through partition in C.S.No.305 of 2005. Through the said compromise decree, the sons of Perumal also allotted shares. Now the suit is only for the properties allotted to the sons of Perumal through partition in C.S.No.305 of 2005. While so, the legal heirs of Perumal each are equally entitled to the properties. However, after demise of Perumal, his wife, mother of the plaintiffs, executed a settlement deed in favour of her sons Chandran and Santhalingam. The said Santhalingam also died intestate but no documents produced to prove the same. In the absence of any evidence in respect of the share



C.S.No.32 of 2022

of Santhalingam, the apportionment of share is not possible. Further, according to the 4 to 8 defendants, there is a super structure available in the property, but the plaintiffs failed to mention about the super structure available in the suit property. While so, without including the super structure it is not appropriate to decide the quantum of share. There is no evidence on the plaintiffs side about the super structure available in the property and who raised the said superstructure. Therefore, only after including the super structure in the suit property and after adducing evidence in respect of the super structure the Court can decide the quantum of share to the parties. However, the plaintiffs and the defendants being legal heirs of the said Perumal are entitled to share over the property of deceased Perumal, but there is no sufficient evidence as to what are all the properties belonged to Perumal. Therefore, the plaintiffs and the defendants are entitled to share over the estate of the deceased Perumal and the quantum cannot be arrived without proper evidence.

(c) Though the defendants 4 to 8 have raised the plea of limitation, no issue has been framed by this Court and as far as limitation is concerned, mere knowledge by the husband of 3rd plaintiff about the encumbrance over the property is not sufficient to decide the limitation and the plaintiffs are not parties either to the settlement deed



C.S.No.32 of 2022

or to the partition deed between Santhalingam and Chandran or in the suit filed by the legal heirs of Narayanasamy @ Edward. Even assuming that plaintiffs have knowledge about settlement deed, the said Santhalingam and Chandran themselves have consented for partition and therefore, the defendants cannot take a plea of limitation and in the said previous suit, the plaintiffs are not parties, therefore, there is no evidence to show that the plaintiffs are aware of the suit proceedings in C.S.No.305 of 2005.

13. Answers for Issue Nos.(5) and (6) “5. *Whether the plaintiffs are entitled to get preliminary decree as prayed for?* 6. *Whether the first defendant is entitled to get preliminary decree as prayed for?*”

(a) The plaintiffs have filed a suit for 1/5 share over the property and 1 to 3 defendants have also filed their counter claim by claiming their right 1/5th share derived from their deceased mother. There is no dispute that the property belong to sons of Kandan and they are entitled to the property and the property also divided between the male heirs of Perumal and all the heirs of K.N.Narayanasamy. Now the suit is filed in respect of the property of Perumal.

(b) In order to prove the case of the plaintiffs, they have examined witness P.W.1 and marked exhibits ExP.1 to P.11. On the



C.S.No.32 of 2022

side of the defendants, they have examined witnesses D.W.1 and D.W.2 and marked Exhibits, D.1 to D.3. The suit property described in the plaint is situated in Old Survey No.136, new Survey No.136/2 and 136/3 with an extent of 8493.42 Square feet (19.5 cents) at Gandhi Road, Velachery Village. The Ex.P.11 is the certified copy of the sale deed purchased in the name of Kandan and Edward Narayanasamy dated 27.05.1912. Wherein in the said sale deed it is mentioned as Velachery Village, Survey No.136, 2.40, in which eastern side is 0.45 cents land and in the settlement deed, Ex.D.1, the property was described as Punjai Aurvey No.136/2, 0.45 cents. Ex.D.2, Partition Deed also referred as Survey No.136/2, velacherry village. Ex.D.3, entire property of 0.45 cents has been described as 'A' schedule, where old survey number was mentioned as 136 and new survey number was mentioned as 136/2 and 136/3. In the compromise deed, Ex.D.3, 'B' schedule property was allotted to Perumal's sons, namely, Chandran and Santhalingam and there also the old survey number is mentioned as 136 and new survey number is mentioned as 136/2 and 136/3 and 19.5 cents were allotted to the share of Perumal's family.

(c) The 'C' schedule property mentioned in the compromise memo was allotted to legal heirs of K.N.Narayanasamy @ Edward and there also new survey nos.136/2 and 136/3 are mentioned, Velachery village. Now, the problem would arise about the identification of the properties.

20/27



C.S.No.32 of 2022

As per the sale deed, in the year 1912, the old Survey Number mentioned as 136, Ex.D.1. In the Ex.D2, partition deed, it is mentioned as Survey No.136/2, whereas in the Ex.D.3, the suit schedule property described the property as Survey Nos.136/2 and 3, therefore, there is no clarity in respect of the identification of property. As per Ex.D.1 the property was purchased in Survey No.136 and thereafter, it was sub-divided as 136/2, as per Ex.D2, while so, how sub-division Survey No.136/3 came into picture in the compromise deed has to be explained by the parties, but there is no explanation to that regard.

(d) Even assuming that the property is situated in both the sub-Division Survey Nos.136/2 and 3, how much of the properties, in which subdivision number was allotted to the legal heirs of K.N.Narayanasamy @ Edward and what is the extent and which subdivision number was allotted to Santhalingam and Chandran. Even in the plan annexed with Ex.D.3, there is no mention about the sub division numbers and they only mentioned the measurement in the property. Therefore, there is no proper identification of the property and without exact identification of the property, it is not appropriate to identify the property and to pass preliminary decree.



C.S.No.32 of 2022

(e) The plaintiffs also admitted that they are not parties to the previous suit in C.S.No.305 of 2005, while so, they ought to have included the entire property of 0.45 cents, but they have not included the entire property. During the arguments, the learned counsel appearing for the plaintiffs would submit that the plaintiffs are satisfied with the share allotted to the heirs of Perumal through compromise in the previous suit and therefore, they are seeking partition of the properties of the said Perumal. Though the learned counsel appearing for the plaintiffs argued that they are satisfied with the available share allotted to the said Perumal through compromise in the partition suit in C.S.No.305 of 2005, the available parental documents of the suit property shows that the property was purchased by Edward Narayanasamy and Kandan, while so, the said Edward Narayanasamy and Kandan are equally entitled to the property. **However, the heirs of Narayanasamy @ Edward already filed the suit and they compromised.**

(f) When the property is situated in Survey No.136/2, then how the Survey No.136/3 is included in the suit has to be explained and there are no documents to show that what is the extent available in Survey No.136/3 and what extent of property is available in Survey



C.S.No.32 of 2022

No.136/2 has to be explained. Further, there are no details in the compromise deed about the identification of the properties allotted to both the parties. In which sub division number, what extent of property allotted to each of the parties has to be explained by the parties but no proper explanation to that regard. Moreover as per evidence of DW2 superstructure is available in the suit property and the said Chandran and Santhalingam constructed the building and the same was also not denied by the plaintiffs. However, in the plaint schedule no mention about the buildings and the plaintiffs have failed to include the building as suit property. Without including the buildings and superstructure the valuation cannot be done for passing of preliminary decree. Therefore, it is not appropriate to grant preliminary decree to the suit properties without any proper identification, in the absence of buildings and documents for S.F.No.136/3. Therefore, the plaintiff are not entitled to the preliminary decree through this suit without proper identification. Since the suit is for partition, the parties are at liberty to file a fresh suit by describing the correct survey numbers of the suit property with correct particulars and documents. Thus the issues are answered.

In view of the above said discussions and the answers to the issues, the plaintiffs are not entitled to decree for partition and the suit is



C.S.No.32 of 2022

dismissed with liberty to file a fresh suit with proper identification of the properties. The counter claim is also dismissed. Consequently, O.A.No.63 of 2022 filed by the plaintiffs to grant an order of Interim Injunction, is closed. No costs.

12.11.2025

Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
ssd



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C.S.No.32 of 2022

1)List of Witness Examined on the side of the Plaintiffs:-

1. P.W.1 – Pushparani

2)List of Exhibits Marked on the side of the Plaintiffs:-

Exhibits	Date	Description
Ex.P.1	'23.01.1957	Computer generated death certificate of Mr.Perumal, who died on 23.01.1957
Ex.P.2	20.08.2005	Computer generated death certificate of Gnanasoundari, who died on 20.08.2005
Ex.P.3	'11.05.2005	Computer generated death certificate of Anbamal, who died on 11.05.2005
Ex.P.4	'07.08.2006	Photocopy of the legal heir certificate of Anbamal
Ex.P.5	24.02.2014	Computer generated death certificate of P.Chandran, who died on 24.02.2014
Ex.P.6	29.08.2015	Computer generated death certificate of P.Santhalingam, who died on 29.08.2015
Ex.P.7	'08.11.2020	Computer generated death certificate of Esime, who died on 08.11.2020
Ex.P.8	'27.02.2021	Office copy of the legal notice sent by the plaintiff to the defendant
Ex.P.9	'26.10.2021	Computer generated legal heir certificate of Perumal
Ex.P.10	-	Printout of the EB connection entries for the schedule property along with 65B certificate
Ex.P.11	27.05.1912	Certified copy of the sale deed dated 27.05.1912

3)List of Witnesses Examined on the side of the defendants:-

D.W.1 – Punithakumari



C.S.No.32 of 2022

D.W.2 – C.Samson Rajkumar

WEB COPY

4)List of Exhibits Marked on the side of the defendants:-

Exhibits	Date	Description
Ex.D.1	'21.04.1976	Settlement deed executed by Late Anbuammal in favour of her sons, Chandran and Santhalingam
Ex.D.2	'12.09.1985	Photocopy of the partition deed dated 12.09.1985
Ex.P.3	'08.08.2005	Copy of the Judgment in C.S.No.305 of 2005

12.11.2025

To

The Sub Assistant Registrar,
O.S.Section,
High Court, Madras



WEB COPY



C.S.No.32 of 2022

P.DHANABAL, J.

ssd

C.S.No.32 of 2022

12.11.2025