



A.S.(MD)No.86 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.10.2025

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**A.S.(MD)No.86 of 2013
and
C.M.P.(MD)No.312 of 2024**

Srinivasan @ Karuppaiah

... Appellant / Plaintiff

-VS-

Kalyanasundaram Chettiar (Died)

1.Ulagammai Achi
2.Avudaya Shanmuganathan
3.Selvasubramanian
4.Amuthavalli
5.Ahilandeswari

... Respondents / Defendants

[R2 name is corrected as per the order
of this Court dated 15.10.2025]

PRAYER: Appeal Suit filed under Section 96 C.P.C. against the judgment and decree dated 15.02.2013, made in O.S.No.346 of 2004, on the file of the II Additional District and Sessions Court, Tiruchirappalli.

For Appellant : Mr.C.Mahadevan

For R2 and R3 : Mr.P.Vinoth
for Mr.N.C.Ashok Kumar

For R4 : No Appearance



A.S.(MD)No.86 of 2013

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JUDGMENT

(Judgment of the Court was made by **C.V.Karthikeyan, J.**)

Aggrieved by the judgment and preliminary decree dated 15.02.2013, the plaintiff in O.S.No.46 of 2004 on the file of the II Additional District and Sessions Court, Tiruchirappalli, has preferred the present Appeal Suit.

2. The suit in O.S.No.346 of 2004 had been filed seeking partition of the suit schedule properties into three equal shares and for allotment of one such share to the plaintiff. The plaintiff also sought past and future profits, along with a prayer for permanent injunction. The plaintiff and the third and fourth defendants are brothers. The fifth and sixth defendants are their sisters. The first and second defendants are their parents.

3. The suit was tried along with O.S.No.40 of 2009, which had been independently filed seeking a permanent injunction restraining disconnection of the electricity connection in the suit property and also for permanent injunction. In the joint trial, the suit for partition was

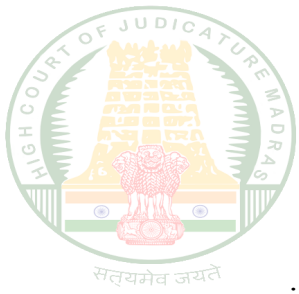


A.S.(MD)No.86 of 2013

treated as the lead suit. The learned Trial Judge passed a preliminary decree declaring that the plaintiff was entitled to 1/4 undivided share in the first item of the 'A' Schedule property alone and dismissing the suit in respect of the remaining properties. Aggrieved by such dismissal, the plaintiff has preferred the present appeal.

4. It is also to be noted that, apart from the first item in the 'A' Schedule, the said schedule also contains another item. Additionally, properties are described under Schedules B, C, D, E, F, and G.

5. We appreciate the efforts of the learned counsels, who have successfully persuaded the parties that it would be in their best interest to arrive at a compromise regarding the division of the properties. The preliminary decree declaring the plaintiff's entitlement to 1/4 share in the first item of the 'A' Schedule property is hereby maintained. However, with respect to the remaining items of the suit properties, the plaintiff and the third and fourth defendants (who are the second and third respondents herein) have entered into a compromise, the terms of which have been reduced to writing as follows:-



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"a) The appellant and respondents 2 and 3 admit that the six settlement deeds bearing Doc. Nos. 1298/2017, 1299/2017, 1300/2017, 1301/2017, 1326/2017 and 1327/2017 and the release deed bearing Doc. No.1325/2017, executed on 06.09.2017, by Ulagammai Achi and the respondents 2 and 3, to be validly executed documents, and the same is binding on them.

b) The appellant and respondents 2 and 3 admit that each one of the appellant and respondents 2 and 3 is entitled to an undivided 6/20 share in the 1st item of 'A' schedule properties. They further admit that each one of the respondents 4 and 5 is entitled to an undivided 1/20 share in the 1st item of the 'A' schedule properties. The appellant and the respondents 2 to 5 are at liberty to file a final decree application to divide their share in the above property.

c) As per the Will dated 17.09.2003, the respondents 2 and 3 succeeded the 2nd item of 'A' schedule property on the demise of Ulagammai Achi, and they became the absolute owners. The appellant admits the right, title and possession of the respondents 2 and 3 in respect of the 2nd item of the 'A' schedule property.

d) The appellant and respondents 2 and 3 admit that each one is entitled to an undivided 1/3rd share in the 'B' schedule and 'E' schedule properties. The appellant and the respondents 2 and 3 are at liberty to file a final decree application to divide their share in the above property.



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e) *Since the appellant and the respondents 2 and 3 have jointly sold 'C' schedule property and 'F' schedule property, they do not have any claim over the same.*

f) *The appellant and the 3rd respondent admit the right, title and possession of the 2nd respondent in respect of 'G' schedule property.*

g) *The respondents 2 and 3 admit the right, title and possession of the appellant in respect of shops bearing Door Nos.9D and 9E of South Vaniyar Street in the 'D' schedule property. The appellant admits the right, title, and possession of respondents 2 and 3 in respect of Door Nos.9B, 9C, 10, 10/1 & 10/2 of South Vaniyar Street in the 'D' schedule property. Each one of the appellant and the respondents 2 and 3 is entitled to an undivided 1/3rd share in land measuring 1160-1/4 sq.ft. with building and 10251 sq.ft. of vacant land in 'D' schedule property. The appellant and the respondents 2 and 3 are at liberty to file a final decree application to divide their share in the above property.*

h) *Under Ex.B10 sale deed dated 29.07.2002, Ulagammai Achi conveyed 65 cents in 'D' schedule property with specific four boundaries along with pathway rights, and it is located in S.Nos.31 & 32 of Thathaiangarpettai Village. But by mistake, Ulagammai Achi mentioned the S.No.31 alone.*

i) *If alienees make any claim in respect of the land covered under Ex.B10, the respondents 2 and 3 alone are answerable for the same.*



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j) *The appellant and the respondents 2 and 3 admit the existence of a 4-foot-wide pathway between Door Nos.9B, 9C, 9D and 9E of 'D' schedule property. The said pathway is to be enjoyed by both the appellant and the 3rd respondent.*

k) *Similarly, the vacant land existing behind the Door Nos. 9B, 9C, 9D and 9E of 'D' schedule property are to be divided by the appellant and the 3rd respondent alone, as the same was settled in favour of the appellant and the 3rd respondent jointly vide Doc.Nos.1301/2017 and 1300/2017, respectively.*

l) *There exists a pathway between 9B, 9C, 9D and 9E. The said pathway is to be enjoyed commonly by Appellant and Respondent No.3.*

m) *The rental amounts from the tenants in respect of Door Nos.9 and 9A in 'D' Schedule property are being deposited in the bank account held by the mother, viz., the 1st respondent. The available rental deposits in the account of Ulagammai Achi are to be divided equally by the appellant and respondents 2 and 3 (1/3 share each)."*

6. This compromise has been signed by the appellant and by the second and third respondents, as well as by their respective counsels. A preliminary decree is hereby passed in accordance with the terms of the compromise. The parties are at liberty to apply for a final decree before the trial Court in the manner known to law.



A.S.(MD)No.86 of 2013

7. The joint compromise memo dated 15.10.2025 shall form part of the decree.

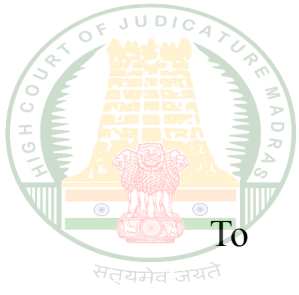
8. In the result, the Appeal Suit is allowed, and the judgment and decree of the trial Court are modified in terms of the joint compromise memo. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

9. A representation has been made by the learned counsel for the respondents 2 and 3 that the name of the second respondent is Avudaya Shanmuganathan and not Avudaya Shanmugasundaram. However, the name Avudaya Shanmugasundaram appears consistently in the trial Court records. To substantiate the correct name, a memo dated 15.10.2025, along with a copy of the Aadhaar Card, has been produced before us. The said memo is recorded accordingly.

10. In view of the above, while drafting the decree, the name of the second respondent shall be corrected from Avudaya Shanmugasundaram to Avudaya Shanmuganathan, and copies of the decree shall be issued in that name.

NCC : Yes / No
Index : Yes / No

[C.V.K., J.] [R.V., J.]
15.10.2025



A.S.(MD)No.86 of 2013

To

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- 1.The Additional District and Sessions Judge,
Tiruchirappalli.
- 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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A.S.(MD)No.86 of 2013

C.V.KARTHIKEYAN, J.
and
R.VIJAYAKUMAR, J.

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A.S.(MD)No.86 of 2013

15.10.2025