



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 834 of 2021 & CMP.No.16066of 2021

Gnanasekaran

S/o. Late Ponnusamy Gounder, Ottapalayam,
Thamburettipalayam Post, Ghanapathipalayam
Village, Kangayam Taluk

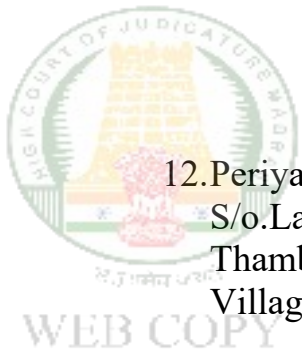
..Appellant(s)

Vs

1. Sivanmalai Gounder (died)
1. Gunasekaran, S/o. Sivanmalai Gounder,
Nallipalayam, Arasampalayam Post, Sivanmalai
Village, Kangayam Tk, Presently Near
Senniyappa Theatre, Valarmathimavu Mill
Street, Tiruppur Road, Kangayam Tk, Tiruppur
District
2. Maheswari
D/o.Sivanmalai Gounder, Olapalayam,
Vettaikarankovil Post, Gobichettipalayam Tk,
Erode District Muthusamy Gounder (died)
3. Palanisamy
S/o.Muthusamy, Bhavani Eswarankovil
Shopping Complex, Athani Road,
Sathyamangalam Tk, Erode Dist.
4. JAGANATHAN(died)
S/o.Muthusamy, Bhavani Eswarankovil
Shopping Complex, Athani Road,
Sathyamangalam Tk, Erode Dist.
5. Sumathi
W/o.Arjunan, Ottapalayam,
Thambuchettipalayam Post, Ganapathi
Palayam Village, Kangayam Tk



6. PONAMMAL(died)
W/O.LATE PONNUSAMY GOUNDER,
OTTICHIMEDU, VAIKKALMEDU,
VILAKKETHI POST, ERODE DIST.
PRESENTLY NALLIPALAYAM,
ARASAMPALAYAM POST, SIVANMALAI
VILLAGE, KANGAYAM TK, TIRUPPUR
DISTRICT.
r6 died, sole appellant and r7 already on record
are recorded as lrs of the deceased r6 memo
recorded (usr no.39222)vide court order dated
23/10/2024 made in sa no 834 of 2021(rsvj)
7. Maragatham
W/o.Vijayakumar, Ottichimedu, Vaikkalmedu,
Vilakkethi Post, Erode District, Presently Nal
Road, Chickarasampalayam Via, Sivanmalai,
Tiruppur Road, Kangayam Tk
8. Balasubramaniyan
S/o.V.Muthusamy, Arasampalayam,
Sivanmalai Village, Kangayam Tk, Erode
Dist. Now Tiruppur Dist.
9. M.Palanisamy
S/o.V.Muthusamy, Arasampalayam Post,
Sivanmalai Village, Kangayam Tk, Tiruppur
District
- 10.Poovathal
W/o.Muthysamygounder, Nallipalayam,
Arasampalayam Post, Sivanmalai Village,
Kangayam Tk, Presently Bhavani
Eswarankovil Shopping Complex, Athani
Road, Sathyamangalam Tk, Erode District
Govindammal (died)
- 11.Arunachalam
S/o.Late Palanisamy Gounder, Ottapalayam,
Thambuchettipalayam Post, Ganapathipalayam
Village, Kangayam Tk



12. Periyasamy

S/o.Late Palanisamy Gounder, Ottapalayam,
Thambuchettipalayam Post, Ganapathipalayam
Village, Kangayam Tk

13. Shanmugam

S/o.Late Palanisamy Gounder, Ottapalayam,
Thambuchettipalayam Post, Ganapathipalayam
Village, Kangayam Tk

14. P.Sagadevan

S/o.Late Palanisamy Gounder, Ottapalayam,
Thambuchettipalayam Post, Ganapathipalayam
Village, Kangayam Tk

15. P.Arjunan

S/o.Late Palanisamy Gounder, Ottapalayam,
Thambuchettipalayam Post, Ganapathipalayam
Village, Kangayam Tk

16. Panneerselvam

S/o.Late Palanisamy Gounder, Ottapalayam,
Thambuchettipalayam Post, Ganapathipalayam
Village, Kangayam Tk

17. Krishnaveni

W/o. Palanisamy, Ottapalayam,
Thambuchettipalayam Post, Ganapathipalayam
Village, Kangayam Tk Presently Bhavani
Eswaran Kovil Shopping Complex, Athani
Road, Sathyamangalam Tk, Erode Dist.

18. J.Nirmala

W/O. LATE.JAGANATHAN No. 21,
URUMANAYAKAR STREET,
THIPUSULTHAN ROAD,
VADUKKUPETTAI, SATHYAMANGALAM

19. Poorani

D/O. LATE.JAGANATHAN
No. 21, URUMANAYAKAR STREET,
THIPUSULTHAN ROAD,
VADUKKUPETTAI, SATHYAMANGALAM



20. Leelavathi

D/O. LATE. JAGANATHAN
No. 21, URUMANAYAKAR STREET,
THIPUSULTHAN ROAD,
VADUKKUPETTAI, SATHYAMANGALAM

21. Divya

D/O. LATE. JAGANTHAN W/O. SRIDHAR,
OTTAPALAYAM,
THAMBUCHETTIPALAYAM POST,
GANAPATHIPALAYAM VILLAGE,
KANGAYAM TK. r4 died, rr18 to 21 are
brought on record as lrs of the deceased r4 vide
court order dated 30/01/2026 made in
cmp.nos.1011,1012 and 1014 of 2025 in
sa.no.834 of 2021(tvtsj)

..Respondent(s)

Prayer : Second Appeal filed under section 100 of Code of Civil Procedure to set aside the Judgment and Decree dated 21.11.2019 made in AS No.82/2017 on the file of the Subordinate Judge, Kangayam reversing the Judgment and preliminary Decree dated 05.04.2016 made in OS No.331/2005 on the file of the District Munsif Court, Kangayam and allow the above Second Appeal.

For Appellant(s): Mr.S.Senthil Kumar

For Respondent(s): Mr.P.Navaneethakrishnan FOR R11 TO R17
Mr.M.Guruprasad R8 AND R9

JUDGMENT

Challenging the reversal finding of the first appellate Court, the 10th defendant has filed the present Second Appeal.



2. Originally, the first plaintiff filed the suit in O.S.No.331 of 2005 for partition stating that the property belongs to her father, Marappa Gounder and other than the plaintiff, the said Marappa Gounder had three sons viz., Ponnusamy Gounder, Muthusamy Gounder and Sivanmalai Gounder and the said Sivanmalai Gounder is the first defendant in the suit and the defendants 2 and three are his children. Muthusamy Gounder is the fourth defendant and the defendants 5 to 7 are his children. Since the fourth defendant died during the pendency of the suit, his wife has been impleaded as the 13th defendant in the suit. Ponnusamy Gounder died long back and his wife and children are defendants 8 to 10. Subsequent to the death of the father of the first plaintiff, the first plaintiff along with defendants 1 to 7 have sold a portion of her share to the defendants 11 and 12 and in respect of the remaining share, the first plaintiff had executed a settlement deed in favour of the plaintiffs 2 to 8 and the same was accepted and acted upon. Therefore, claiming 1/12 share in the suit property, the first plaintiff had filed the suit.

3. Whereas, it is the case of the 10th defendant, who is the contesting defendant, that since the first plaintiff along with the defendants 1 to 7 had already sold her share in the property to the 11th and 12th defendants, the plaintiffs are estopped from claiming any share in the suit property. The contention of the 11th and 12th defendants is that since they had purchased the

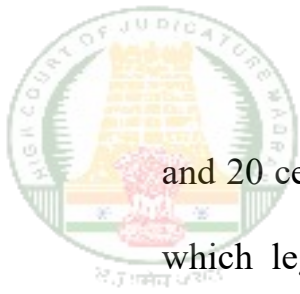


property even prior to the suit and they are bonafide purchasers of the suit property, their right have to be protected.

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4. The trial Court after considering entire evidence, both oral and documentary held that as the first plaintiff along with the defendants 1 to 7 had sold the property to the defendants 11 and 12, the first plaintiff has no subsisting right in the property and that the settlement deed has been executed by the first plaintiff in favour of the plaintiffs 2 to 8 during the pendency of the suit, dismissed the suit. Aggrieved over the same, the plaintiffs have filed an appeal in A.S.No.82 of 2017. The first appellate Court holding that as the first plaintiff and her three brothers have only sold their 2/3 share in the property, had granted preliminary decree for division of the suit property into 36 equal shares and allotted one such share to the plaintiffs 2 to 8 together and for separate possession. Challenging the same, the 10th defendant has filed the present Second Appeal on the ground that the first plaintiff and the defendants 1 to 7 have already sold their share in the property to the 11 and 12 defendants and hence, they are not entitled for any share in the suit property.

5. When the matter is taken up today, the appellant is present before this Court. The appellant is the legal heir of Ponnusamy Gounder. He is challenging the shares allotted by the first appellate Court. Though the nature of the property is not disputed, it is his contention that he is entitled to 7 acres



and 20 cents. The entire extent of the property comes to around 28.75 acres, in which legal heir of Ponusamy is entitled to 1/4th share. When this Court suggested for amicable settlement, the parties are now inclined to divide the property before the final decree proceedings. The 11th and 12th defendants purchased 19.20 acres, which is not in dispute. The appellant is entitled to 7.14 acres approximately. All the parties are directed to work out their share in the final decree proceedings. The trial Court is directed to dispose of the final decree proceedings within a period of three months from the date of receipt of a copy of this Order.

6. With the above directions, this Second Appeal is disposed of. Consequently, connected miscellaneous petition is closed.

26-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

vrc

1. The Subordinate Judge,
Kangayam.
2. The District Munsif,
Kangayam.
3. The Section Officer,
VR Section, High Court, Madras.



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T.V.THAMILSELVI, J.

VRC

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