



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-03-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

AS No. 284 of 2015

and

M.P.No.1 of 2015

K. Jayachandran
Kali Vettupati Maruthavalli Palayam Village,
Virinchipurma Vellore Taluk & District

..Appellant(s)

Vs

1. Kannan
2. K .Rajendiran
3. K Ravi
4. Vasantha

..Respondent(s)

Prayer: Appeal Suit filed under Section 96 of the Code of Civil Procedure, praying to set aside the Judgment and Decree dated 26.11.2014 made in O.S.No.56 of 2013 on the file of the Principal District Judge at Vellore.

For Appellant(s):	Mr.A.V.Arun For Mr.R.Sugumaran
For Respondent(s):	No appearance

JUDGMENT

The present appeal has been filed to to set aside the Judgment and Decree dated 26.11.2014 made in O.S.No.56 of 2013 on the file of the Principal District Judge at Vellore.

2. Heard Mr.A.V.Arun, learned counsel, represented Mr.R.Sugumaran, learned counsel for the appellant.



3. In spite of notice having been served on respondents 1 to 4, they are neither present nor represented through counsel. They are called absent and set *ex parte*.

4. The learned counsel for the appellant would submit that certain of the suit schedule mentioned properties are ancestral properties and from and out of the income earned from the said ancestral properties, certain properties were purchased by the first defendant as kartha of the family in his name and in the names of the second and third respondents. He would submit that as the properties are all ancestral in nature, the appellant and respondents 1 to 3 would each be entitled to 1/4th share in the suit schedule properties. He was denied his rightful share in the suit schedule properties.

5. The appellant had instituted a suit for partition of his 1/4th share in the suit schedule properties and also for an injunction, restraining the defendants 1 to 4 from creating any encumbrance over the suit schedule properties. He would submit that defendants 2 and 4 remained *ex parte* during the suit and the suit was contested only by the first and third defendants. He would submit that the first defendant had filed a written statement, contending that the suit schedule properties were not ancestral properties and that the properties had been purchased by him.



6. He would further submit that the first defendant had categorically admitted that various extents of land had been in possession and enjoyment of the respective parties, namely the plaintiff and defendants 1 to 3, in respect of the suit schedule properties. He would submit that the trial court, without considering the admission made by the appellant in his written statement, had dismissed the suit by holding that the appellant had failed to prove the suit property as ancestral property. It had further held that the suit schedule properties had been purchased in the names of defendants 1, 2 and 3 and hence not ancestral properties. He would contend that when the first defendant himself had admitted that the shareholders were enjoying the ancestral properties continuously, at least with regard to the appellant holding of certain properties and enjoying the same, he would be entitled to partition of the same. Hence, to that extent, he seeks indulgence of this Court.

7. I have considered the submissions made by the learned counsel appearing for the appellant and perused the materials placed on record.

8. The trial Court had framed a solitary issue as to whether the plaintiff, who is the appellant herein, would be entitled to the relief as prayed for. Adverting to the said issue, the trial Court had categorically held that the suit schedule properties had been purchased by the first defendant and that the suit



properties cannot be said to be ancestral properties for grant of the relief as sought for by the appellant.

9. However, the first defendant in his written statement, had categorically admitted that there were ancestral properties, which were in the nature of agricultural lands. He had also claimed that certain of the suit properties had been purchased by him from his self-earnings, which did not arise out of the ancestral properties. He had also categorically admitted that the respective shareholders were enjoying the properties of the suit schedule and had also detailed the properties, which were in possession of the appellant himself, first, second and third respondents.

10. When there is a categorical admission by the first defendant that the appellant has been in enjoyment of the property as a shareholder, this Court is of the view that at least the properties mentioned in the written statement, which are in possession of the appellant, the suit ought to have been decreed in his favour. It is also to be noted that the third defendant had adopted the written statement filed by the first defendant.

11. For better appreciation, the relevant paragraphs, where the first defendant had indicated the shareholdings of the respective parties is scanned below:



WEB COPY

(10) This defendant humbly submits that the shareholders are enjoying the said properties continuously till this date as per the details given below:-

(a) The Plaintiff Mr. Jayachandran

- (1) Land - S.No: 437 -- Extent - 0-10 cents -item No: 3 in the plaint
- (2) Land - S.No: 422/1- Extent - 0-47 cents -item No: 4 in the plaint
- (3) Land - S.No:422/1B- Extent - 0-60 cents -item No: 5 in the plaint
- (4) Land - S.No:422/1i- Extent - 0-20 cents -item No: 6 in the plaint
- (5) Land - S.No:422/1G- Extent - 0-20 cents -item No: 7 in the plaint
- (6) Land - S.No:422/1H- Extent - 0-04 cents -item No: 8 in the plaint
- (7) Land - S.No:166/4-- Extent - 0-11 cents - item No:12 in the plaint
- (8) New house in S.No: 422/1C
- (9) House in S.No: 422 /1H
- (10) Terrace house ½ share in S.No: 419.

The first defendant Mr. Kannan

- (1) Land - S.No: 162/2 -- Extent - 0-47 cents -item No: 10 in the plaint
- (2) Land - S.No: 163/1 -- Extent - 0-05cents -item No: 11 in the plaint

(b) The second defendant Mr. Rajendiran

- (1) Land - S.No: 419/1 - Extent - 0-40 cents -item No: 1 in the plaint
- (2) Land - S.No: 419 -- Extent - 0-26 cents -item No: 2 in the plaint
- (3) Land - S.No: 419/1- Extent - 0-20 cents -item No: 4 in the plaint
- (4) Land - S.No: 422/1H- Extent - 0-04 cents -item No: 8 in the plaint
- (5) Land - S.No: 419 -- Extent - 0-68 cents -item No: -- in the plaint
- (6) Land - S.No: 350/1-- Extent - 0-16 cents -item No: 19 in the plaint
- (7) Land - S.No: 350/2-- Extent - 0-10 cents -item No: 18 in the plaint
- (8) Land - S.No: 350/10- Extent - 0-19 cents -item No: 22 in the plaint
- (9) New house in S.No: 419
- (10) Terrace house ½ share in S.No: 419.

The third defendant Mr. Ravi

- (1) Land - S.No: 162/1 - Extent - 0-56 cents -item No: 9 in the plaint
- (2) Land - S.No: 162/2 - Extent - 0-32 cents -item No:10 in the plaint
- (3) Land - S.No: 163/1 - Extent - 0-25 cents -item No:11 in the plaint



WEB COPY

- (4) Land - S.No: 165/3 - 1/5 share in the well-item No:13 in the plaint
(5) Land - S.No: 166/2A- Extent - 0-30 cents -item No: 14 in the plaint
(6) Land - S.No: 166/4A - Extent - 0-22 cents -item No: 15 in the plaint
(7) Land - S.No: 166/6B - Extent - 0-18 cents -item No: 16 in the plaint
(8) House in S.No: 166/6B.

12. In view of the same, this Court is of the view that the trial Court erred in dismissing the suit and holds that the appellant would be entitled for a preliminary decree of partition as admitted to by the first defendant and adopted by the third defendant.

13. In fine, the judgment and decree dated 26.11.2014 made in O.S.No.56 of 2013 on the file of the Principal District Judge, Vellore is set aside and a preliminary decree of partition, as admitted to by the first defendant in Paragraph No. 10 of his written statement as extracted supra, is ordered. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

02-03-2026

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



To

1. The Principal District Judge,
Vellore.

2. The Section Officer,
VR Section,
High Court, Madras.



WEB COPY

AS No. 284 of 2



K.KUMARESH BABU, J.

kak

AS No. 284 of 2015

02-03-2026