



WEB COPY

AS Nos. 75, 111 & 112 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-03-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

AS Nos.75, 111 and 112 of 2011

A.S.No.75 of 2011

Karthikeyan

..Appellant

Vs

1. Kumar
2. Jayashankar (died)
3. Thirunavukkarasu
(R3 died during pendency of suit and
no claim against R3. Memo is recorded by
order of the court dated 16.03.2026)

4. Arjunan
5. Kalaiselvan
6. Selvakumar
7. Devakumar
8. Ramalingam
9. Prakash
- 10.Kala
- 11.Yogeswaran
- 12.Yashwanth

(R2 Died. R10 to R12 are brought on record as
LRS of deceased R2 vide court order dated
03.03.2026 made in CMP.No.17250/2018

..Respondents

Appeal Suit filed under Section 96 of CPC against the judgment and
decree dated 9.11.2010 made in O.S.No.7 of 2006 on the file of the Additional
District Court (Fast Track Court No.2) Cuddalore.



WEB COPY

For Appellant:

Mr.T.Dhanyakumar

For Respondents:

Mr.T.S.Baskaran for R5

Ms.G.Sumitra for RR6 And 7

No appearance for RR1, 4, 8 & 9

A.S.No.111 of 2011

Karthikeyan

Appellant

vs.

1. Kumar

Aswathaman (died)

2. Jayashankar (deceased)

3. Revathy

4. Arjunan

5. Kalaiselvan

6. Selvakumar

7. Devakumar

8. Kala

9. Yogeswaran

10. Yashwanth

(R8 to R10 brought on record as
LRs of the deceased R2 vide
order dated 23.04.2021 in CMP
No.17251 of 2018)

Respondents

Appeal Suit filed under Section 96 of CPC against the judgment and decree dated 9.11.2010 made in O.S.No.10 of 2006 on the file of the Additional District Court (Fast Track Court No.2) Cuddalore.

For appellant

: Mr.T.Dhanyakumar

For respondents

: Mr.T.S.Baskaran for R5

Ms.G.Sumitra for RR6 and 7

No appearance for R1, R3 and R4

A.S.No.112 of 2011

Karthikeyan

Appellant



VS.

Aswathama Reddiar (died)

1. Kumar

2. Jayashankar (died)

3. Revathy

4. Devakumar

5. Selvakumar

6. Kala

7. Yogeswaran

8. Yashwanth

(R2 died. R6 to R8 are brought on record
as LR's of the deceased R2 vide
order dated 03.03.2026 in CMP
No.17252 of 2018)

Respondents

Appeal Suit filed under Section 96 of CPC against the judgment and decree dated 9.11.2010 made in O.S.No.11 of 2006 on the file of the Additional District Court (Fast Track Court No.2) Cuddalore.

For appellant : Mr.T.Dhanyakumar

For respondents : Ms.G.Sumitra for RR4 and 5
No appearance for R3

COMMON JUDGMENT

(Judgment of the Court was delivered by C.V.Karthikeyan J.)

There are three Appeal Suits. A.S.No.75 of 2011 had been filed by the plaintiff Karthikeyan in O.S.No.7 of 2006 on the file of the Fast Track Court No.2, Cuddalore aggrieved by the judgment and decree dated 9.11.2010. A.S.No.111 of 2011 has been filed by the third defendant, Karthikeyan in O.S.No.10 of 2006 on the file of the Fast Track Court 2, Cuddalore aggrieved by the judgment and decree dated 9.11.2010. A.S.No.112 of 2011 had been filed



by the plaintiff Karthikeyan in O.S.No.11 of 2006 on the file of the Fast Track Court 2, Cuddalore aggrieved by the judgment and decree dated 9.11.2010.

WEB COPY

2. O.S.No.7 of 2006 had been filed by the plaintiff Karthikeyan seeking a preliminary decree for partition and separate possession of his 1/3 share in the suit property. He claimed that the other two shares would fall to the first and second defendants. O.S.No.10 of 2006 had been filed by Kumar, who is the brother of Karthikeyan, the plaintiff in O.S.No.7 of 2006, again seeking partition and separate possession of his 1/4 share in schedule 1 property and 1/3 share in schedule 2 property. O.S.No.11 of 2006 had been filed by Karthikeyan seeking partition and separate possession of 1/4 share in the suit schedule property. The second and third defendant therein are the brothers of the plaintiff A.Karthikeyan while the fourth defendant therein is their sister.

3. In the pleadings, it had been contended that the suit properties, as described in O.S.No.7 of 2006, originally belonged to one Vengalakshmi Ammal, paternal grandmother of the plaintiff and defendants 1 and 2. She had purchased the same by a registered sale deed dated 24.05.1941 executed by one Muthu Narayana Reddiar. She had also purchased the properties through another sale deed dated 20.12.1944 executed by one Subbarayalu Chettiar. She had also obtained further properties from Muthu Narayana Reddiar through a Release Deed dated 27.4.1948. She enjoyed all the properties by paying kist



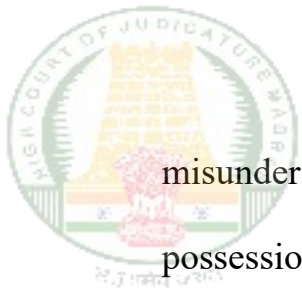
and other statutory dues to the revenue authorities and had also obtained patta.

It is contended that she had executed a settlement deed on 9.9.1959 in favour of her son, Aswathama Reddiar, viz., the father of the plaintiff and defendants 1 and 2. 'A' schedule property was settled in favour of Aswathama Reddiar and 'B' schedule property was settled in favour of the male issues of Aswathama Reddiar. The plaintiff, therefore, contended that he was entitled to a share in the property as son of Aswathama Reddiar.

4. The grievance of the plaintiff was that defendants 1 and 2 had sold some of the properties to various third parties. It was also contended that Vengalakshmi Ammal had also executed a Will dated 09.09.1989. The Will came into force on the death of Vengalakshmi Ammal. Claiming that the plaintiff was entitled to 1/3 share alongwith the two brothers, the suit had been filed.

5. O.S.No.11 of 2006 had been instituted by the same plaintiff, Karthikeyan with the same pleadings and further contending that after the death of his father Aswathama Reddiar, under the settlement deed, his sister, the fourth defendant was entitled to a share.

6. O.S.No.10 of 2006 filed by one of the brothers of Karthikeyan viz., Kumar again stating about the flow of title and contending that there was a



misunderstanding among the sharers and therefore, sought partition and separate possession but since there was denial for such partition, the suit had been instituted.

7. It is thus seen that the parties claimed that the properties were possessed by the paternal grandmother Venkagalakshmi, who executed settlement deed in favour of her son/father of the plaintiff and defendants 1 and 2 in respect of one property and settling another property to the male issues of her son viz., the plaintiff and defendants 1 and 2. She had also executed a registered Will. The suit properties were in exclusive possession of the parties and they were vacant land.

8. The Trial Court, after framing necessary issues and examining the oral and documentary evidence, had decreed the suit and directed as follows:-

i) The plaintiff in O.S.No.10 of 2006 and second and third defendant were entitled to 1/4 share in the first item of property and entitled to 1/3 share in the second item of property.

ii) O.S.No.7 of 2006 was decreed that the plaintiff and defendants 2 and 3 were entitled to an undivided 1/3 share each in the second item of suit property.

iii) O.S.No.11 of 2006 was decreed that the plaintiff and defendants 2 to 4 would be entitled to undivided 1/4 share in the suit schedule property.



9. Challenging the above judgment and decree, these three Appeals have been filed, not questioning the ratio by which the properties have been divided, but, raising a substantial grievance that the defendants in the suit had dealt with the properties even during the pendency of the suit and valuable properties had been sold to the detriment of the appellant herein. This fact was also brought to the knowledge of the learned Trial Judge, who held that the interest of the bona fide purchasers could be examined while passing the final decree, and division of properties could be made to the extent to which the purchasers had purchased the properties and those shares could be allotted to them. In the Appeals, the purchasers have also been impleaded as respondents and they are represented by learned counsels.

10. The learned counsel for the appellant very fairly stated that there is no dispute over the manner in which the properties were divided or over the ratio by which the division of the properties was ordered in the preliminary decree. However, he contended that his brothers viz., first and second defendant in O.S.No.7 of 2006 and O.S.No.11 of 2006 had sold some of the properties and that therefore, the court should examine that particular aspect. Even if the sale deeds or lease deeds had been executed without leave of the court during the pendency of the suit, the plaintiff could have impleaded the purchasers and sought that the decree was binding on them during the course of pendency of



the suit. The specific finding given by the Trial Court was that the interest of the bona fide purchasers would be protected and could be examined while passing the final decree. There is no appeal against such finding of the Trial Court. Once the appellant abides by the division, then opportunity must be given to the bona fide purchasers during the final decree proceedings to work out the physical division of the properties.

11. The apprehension of the appellant is that the suit properties having been alienated during the pendency of the suit, there may not be equity in the allocation of the shares and that his interest might not be protected. The purchasers have purchased only undivided share and therefore, naturally, the interest of all the parties including the appellant and the bona fide purchasers will be protected during the final decree proceedings.

12. We find no reason to interfere with the judgment and decree of the Trial Court. The Appeals are disposed of with the above observation. No costs.

13. During the pendency of the Appeal Suits, the learned counsel for the appellant had filed similar memos dated 20.12.2013 and 24.01.2017 contending that the third respondent in A.S.No.75 of 2011 had died during the pendency of the suit itself, but that no relief was claimed against him. The said memo is recorded. Office is directed to carry out necessary amendments in the cause



title recording the death of the third respondent in A.S.No.75 of 2011 before
issuing the copy of the order.

WEB COPY

(C.V.K.,J.) (K.R.S.,J.)
16-03-2026

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

To

Additional District Judge,
(Fast Track Court No.2)
Cuddalore.



WEB COPY

AS Nos. 75, 111 & 112 of 2



**C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.**

ssk

AS Nos.75, 111 and 112 of 2011

16-03-2026