



AS. No.48 of 2026

THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.04.2026

CORAM

THE HONOURABLE MR. JUSTICE P.B.BALAJI

AS. No.48 of 2026

and

C.M.P.Nos.1411 and 5759 of 2026

K.Buvaneswari
rep. By her General Power of Attorney
Ms.K.Gajalakshmi

... Appellant/st1 Respondent/
Plaintiff

Vs.

1.J.Jegajothi
2.J.Selva Prakash
3.M.Selvi
4.Minor.M.Logesh

(Minor rep. by mother and natural guardian

M.Selvi) ... Respondents 1-4 /Petitioners / Defendants 1 to 4

5.A.Kalavathi
6.A.Meenakshi
7.K.Narmatha alias Asha
8.Senthil Kumar

9.Manimegalai ... Respondents 5-9 /Petitioners / Defendants 6 to 10

10.Saravanan

11.Mala

1/40



AS. No.48 of 2026

12.Devi

13.Jamuna

... Respondents 10-13/Petitioners / Defendants 11-13

14.N.Subramani ... 14th Respondent /Petitioners /20th Defendant

15.S.Varalakshmi ... 15th Respondent /Respondent/5th Defendant

16.Manjula

17.T.Sundaramoorthy

18.Vimala ...Respondents 16-18 /Respondents/ Defendants11-13

Palaniappan (Died)

Pushpa (Died) ...Respondents /Respondents/ Defendants 18&19

19.The District Collector,
Chengalpattu District,
Chengalpattu.

20.The Special Thasildar,
Land Acquisition,.
Chrompet,
Chennai. ...Respondents 19&20/Respondents/
Defendants 21 & 22

21.Ravi

22.Girija ... Respondents 21&22/Respondents/
Defendants 23 & 24

PRAYER in A.S :- Appeal Suit filed under section 96 of Civil Procedure Code, to set aside the fair and decreetal order dated 08.12.2025 in
2/40



AS. No.48 of 2026

I.A.No.25 of 2025 in O.S.No.233 of 2021 on the file of the Principal District Court at Chengalpattu.

Prayer in C.M.P.(MD)No.5759 of 2026: To permit the additional grounds in A.S.No.48 of 2026 before this Court.

For Appellant : Ms.Gajalakshmi
party-in-person

For Respondents : Ms.Vijayalakumari Natarajan, for R6, R7 & R8

: Mr.G.Nanmaran
Special Government Pleader

ORDER

This matter is listed under the caption “for being mentioned”.

Heard the appellant-Party in person as well as Ms.Vijayakumari Natarajan, learned counsel appearing for the contesting respondents.

2. The learned counsel for the contesting respondents would submit that in the prayer portion instead of **O.S.No.253 of 2021**, it was wrongly mentioned as O.S.No.233 of 2021.

3. In paragraph No.2.2., “Jayavel also died in the year 2019”, it is to be corrected as **2013**; In paragraph No.2.4. Instead of **Madhurandhagam**, it is wrongly mentioned as Madhuragham.



AS. No.48 of 2026

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4. In paragraph No. 2.7, instead of **Gandeeban Vedhachalam**, it was wrongly typed as Ganiban Vekatachalam .

5. In paragraph No.2.8., sixth line instead of **Muthuraj**, it was wrongly mentioned as Muthurajendra; and in 15th line instead of **defendants 7 to 9**, it was wrongly mentioned as defendants 5 to 7.

6. In paragraph Nos.3.6., instead of **defendants 7 to 9**, it was wrongly mentioned as defendants 1 to 4. in paragraph No.4, heading instead of **defendants 7 to 9**, it was wrongly mentioned as defendants 1 to 4 and in 10th line instead of **6th defendant**, it was wrongly mentioned as Her father and also in the last line of this para, instead of **defendants 7 to 9**, it was wrongly mentioned as defendants 1 to 4.

8. The learned counsel would state that the above said corrections may be carried out in the judgment.



AS. No.48 of 2026

9. Ms.K.Gajalakshmi, party-in-person mentioned that instead of

C.M.P.No.1411 of 2026 it was wrongly mentioned as CMP.No.1141 of 2026 and the same to be rectified.

10. Certain typographical errors have been pointed out by both the party-in-person as well as the learned counsel appearing for the contesting respondents. The parties do not have any objection with regard to the said corrections, which are only inadvertent and typographical in nature, relating to dates, case numbers as well as ranks of the parties.

12. Registry is directed to carryout the above said corrections and upload the corrected judgment in the website forthwith.

15.04.2026

LS

Note: Issue order copy on **21.04.2026**

TO

1. The Principal District Judge,
Chengalpattu.

2.The District Collector,
Chengalpattu District,
Chengalpattu.

5/40



AS. No.48 of 2026

3.The Special Thasildar,
Land Acquisition,
Chrompet, Chennai.

4.The Section Officer,
VR Section,
Madras High Court,
Chennai.



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AS. No.48 of 2026

P.B.BALAJI,J.

LS

A.S.No.48 of 2026

15.04.2026

THE HIGH COURT OF JUDICATURE AT MADRAS

7/40



AS. No.48 of 2026

Reserved On : 27.02.2026

Delivered on : 30.03.2026

CORAM

THE HONOURABLE MR. JUSTICE P.B.BALAJI

**AS. No.48 of 2026
and
C.M.P.Nos.1411 and 5759 of 2026**

K.Buveneswari
rep. By her General Power of Attorney
Ms.K.Gajalakshmi

... Appellant/st Respondent/
Plaintiff

Vs.

1.J.Jegajothi
2.J.Selva Prakash
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M.Selvi) ... Respondents 1-4 /Petitioners / Defendants 1 to 4
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13.Jamuna ... Respondents 10-13/Petitioners / Defendants 11-13
14.N.Subramani ... 14th Respondent /Petitioners /20th Defendant



AS. No.48 of 2026

15.S.Varalakshmi ... 15th Respondent /Respondent/5th Defendant
16.Manjula
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18.Vimala ...Respondents 16-18 /Respondents/ Defendants11-13

Palaniappan (Died)

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19.The District Collector,
Chengalpattu District,
Chengalpattu.

20.The Special Thasildar,
Land Acquisition,.
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...Respondents 19&20/Respondents/
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22.Girija ... Respondents 21&22/Respondents/
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PRAYER in A.S :- Appeal Suit filed under section 96 of Civil
Procedure Code, to set aside the fair and decreetal order dated 08.12.2025
in I.A.No.25 of 2025 in O.S.No.233 of 2021 on the file of the Principal
District Court at Chengalpattu.

Prayer in C.M.P.No.5759 of 2026: To permit the additional grounds in
A.S.No.48 of 2026 before this Court.

For Appellant : Ms.Gajalakshmi
party-in-person

For Respondents : Ms.Vijayalakumari Natarajan, for R6, R7 & R8

: Mr.G.Nanmaran
Special Government Pleader



AS. No.48 of 2026

JUDGMENT

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The appellant is the plaintiff in a suit for partition, aggrieved by rejection of plaint in I.A.No.25 of 2025, has preferred the present first appeal. After arguments and judgment was also reserved in the appeal, the appellant came out with an application in C.M.P.No.5759 of 2026 for raising additional grounds in the appeal and hence, the appeal suit was reopened and further arguments were heard on 27.02.2026. The Civil Miscellaneous Petition filed seeking permission to raise additional grounds is taken up along with the main Appeal.

2.Pleadings:

The plaint in brief:

2.1. The Plaintiff is the daughter of Ekambara Mudaliar, who owned the schedule mentioned properties. He was married to Anjalakshi Ammal and they blessed with a son Jayavel. After the demise of his wife Anjalakshi Ammal, in 1948, the said Ekambara Mudaliar married the plaintiff's mother Kullammal, who is none else than the own younger sister of his wife, Anjalakshi Ammal. Ekambara Mudaliar and Kullammal were blessed with one son and 3 daughters, namely, Alagesan, 10/40



AS. No.48 of 2026

Varalaxshmi-5th defendant, Kalavati -6th defendant and Buvaneswari -plaintiff. The said Ekambara Mudaliar died in 1990; his son Alagesan also died subsequently in the year 1994; Kullammal also died in the year of 2002. Alagesan died leaving behind his wife 7th defendant, daughter 8th defendant and son 9th defendant.

2.2. The son Jayavel born to first wife, Anjalakshi Ammal died in the year 2013, leaving behind his wife Amirthavalli, sons Jagajothi, Selva Prakash viz., defendants 1 and 2 and another son Manikkavasagam. The said Manikkavasagam also died, leaving behind his mother Amirthavalli and wife and son viz., defendants 3 and 4 respectively. Amirthavalli died in the year 2019; Jayavel also died in the year 2019.

2.3. The father Ekambara Mudaliar had ancestral property at Kinnar Village, which were agricultural lands under cultivation by Ekambara Mudaliar. He also had a vegetable business, from and out of the said income as well as income from the agricultural properties, he purchased several properties.

11/40



AS. No.48 of 2026

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2.4. One such property purchased by Ekambara Mudaliar is comprised in survey No. 294, of extent of 1 acre 65, cents together with 3 HP electric motor at Kinnar Village, Madhuragham Taluk. The property was purchased in the name of his wife Anjalakshi Ammal for the benefit of family. Anjalakshi Ammal was a housewife with no independent income to purchase the said property; the sale deed standing in the name of Anjalakshi Ammal is only a sham and nominal document and does not get exempted under the provision of the Benami Transactions (Prohibition) Act, 1988 therefore, the property belonged only to Ekambara Mudaliar.

2.5. While so, the plaintiff in the year 2018 came in possession of a photostat copy of a partition deed in and whereby Ekambara Mudaliar during his lifetime along with the brothers of the plaintiff Jayavel, Alagesan had entered into a partition and divided ancestral properties. The partition deed is a bogus document not binding on the plaintiff Ekambara Mudaliar was himself not a beneficiary to any property under the partition deed dated 13.12.1985. The plaintiff received a certified

12/40



AS. No.48 of 2026

copy of the document only in the year 2014 and the plaintiff, being a legal heir, entitled to share, has been kept away from legitimate share in the joint family property.

2.6. The father also purchased lands in old TS No. 553/ 1A 1B, New TS No.553/5, sub divided as T.S.No.553/5A. The plaintiff's brother filed a Writ petition in the year 1994 and against the order of Writ Court, the 7th defendant filed a Writ appeal, in W.A.No.1503 of 2000 and the same was dismissed. However in a review application in R.A. No.129 of 2002, the review application was allowed by order dated 23.04.2004, setting aside land acquisition proceedings initiate against the lands in TS No : 553/5A, which were sought to be acquired by the Housing Board. However, behind the back of the plaintiff the Housing Board issued No -objection certificate on 14.06.2010 and patta was transfer led in the names of defendants 7, 8 and 9 suppressing the existence of other legal heirs including the plaintiff

2.7. The father, Ekambara Mudaliar also owned property at Chengalpattu in old survey No. 437 / 1A4 (New TS No : 1169), which

13/40



AS. No.48 of 2026

was purchased by him, even prior to starting his vegetable business. He constructed a residential house and lived there till his death. The property has been assessed in his name in Door No.9/32, Ganiban Venkatachalam Street, Chengalpattu. However, even in respect of this property, the defendants 7,8,9 have played fraud and changed the patta in their names.

2.8 Ekambara Mudaliar also a purchased shop at Bazaar Street, Chengalpattu, with service connection in the year 1957. This property has also been mutated in the names of the defendants 7 to 9, by playing fraud and suppressing the existence of the their legal heirs. Similarly, the defendants 7 to 9 also mutated the records pertaining to property purchased by Ekambara Mudaliar from Muthurajaendra Vaigaiyara in the year 1974 and from Ramaswamy Pillai in the year 1976. All the properties were purchased by Ekambara Mudaliar only out of income that accrued from ancestral properties. Subsequent to the demise of Ekambara Mudaliar, the properties have been sold to third parties, who are arrayed as defendants 10 to 20. The said alienations are not binding on the plaintiff. The plaintiff, as a class I legal heir, is entitled to $1/5^{\text{th}}$ a share in the suit property. In in respect of acquisition proceeding initiated by the

14/40



AS. No.48 of 2026

Highways Department, compensation was directed to be paid in defendants 5 to 7, without including the plaintiff's name and hence, the plaintiff approached the Hon'ble Supreme Court in Special Leave Petition in SLP No: 18841 of 2019, and the same was dismissed, by granting liberty to the plaintiff to file a civil suit. Hence, the suit.

th
3. Written statement filed by the 9th defendant, briefly:

The plaint allegations are denied. Ekambara Mudaliar did not have any ancestral property in Kinnar Village and all the allegations that several properties were purchased by him, from and out of the nucleus of the ancestral property are false. Ekambara Mudaliar started his business by working in a vegetable shop in Chengalpattu and thereafter, started his own vegetable shop with his sons viz., Jayavel and Alagesan who joined him and all three carried on vegetable Mandi business which was the only source of income to the family. The schedule properties were purchased by Ekambara Mudaliar only from and out of the income from the vegetable Mandi business. The daughters Varalakshmi, Kalavathi, and Buvaneswari were married during the lifetime of the father and they were given substantial Sreethana. The suit properties were self acquired

15/40



AS. No.48 of 2026

properties of Ekambara Mudaliar, which were purchased from and out of income from the business run by him and his sons, Jayavel and Alagesan.

All the three, entered into a registered partition deed 13.12.1985 to the knowledge of the daughters Varalakshmi, Kalavathi and Buvaneswari, the plaintiff. Infact the husband of one of the daughters, Kalavati, the 5th defendant attested the partition deed. In lieu of the promise by the sons that they would look after their father, Ekambara Mudaliar did not choose to retain any property for himself and under the partition deed, all properties were given to the sons. The allegation made by the plaintiff that the partition deed is bogus forged manipulated and created suspiciously are all totally false. The self serving averment that the plaintiff came to know about the partition deed only in 2018 is false and made only for the purpose of saving limitation for filing the suit. Even in 1983, when the family partition was entered into, all family members, including the plaintiff had full knowledge the partition deed and it is valid in binding on the plaintiff. The pursuant notices issued claiming partition was suitably replied to. The plaintiff is not entitled to challenge the partition deed after 36 years and the suit is hopelessly barred by limitation.

16/40



AS. No.48 of 2026

3.2. The plaintiff has suppressed material facts and has not come to Court with clean hands. For the first time, the plaintiff started making a claim only when suit property item No. 9, house site was sought to be acquired by the Highways authorities and compensation was about to be disbursed. The plaintiff's claims were rejected and when final award was about to be passed, the plaintiff has filed the present suit.

3.3. In so far as the acquisition, the Housing Board, pursuant to an order in R.A.No.129 of 2002 in W.A.No.1503 of 2000, handed over lands to the defendants 7 to 9 and patta was also changed in their names. In respect of the State Highways, acquisition in the year 2011, for construction of a bridge, though possession was taken and award not be passed, the defendants 7 to 9 filed a writ petition in W.P.No.22664 of 2014 seeking directions to pass an award; the plaintiff filed M.P.No.1 of 2015 seeking to implead herself in the said Writ Petition. The plaintiff contended that the partition deed dated 13.12.1985 is invalid, however the plaintiff's impleading application was dismissed.

3.4. The plaintiff filed a separate writ petition in W.P. No. 38501 of 17/40



AS. No.48 of 2026

2016, again alleging the partition deed to be invalid and to include her name in the Land Acquisition Proceedings. The said writ petition was dismissed on merits by order dated 12.06.2017. Yet another Writ petition was filed by the plaintiff in W.P.No.27761 of 2017 seeking to quash the land acquisition in Award No.6 of 2017 dated 13.04.2017 and the said writ petition also came to be dismissed on 13.03.2018, where the writ Court has held that the plaintiff continues to waste the time of the Court in seeking to set at naught the partition deed despite having come to know about partition deed even the year 2000. A writ appeal was filed along with delay in W.A SR No.108670 of 2018 and the Hon'ble Division Bench of this Court, by order dated 12.02.2019, dismissed the condone delay application and rejected the writ appeal.

3.5. As against the same the plaintiff moved the Hon'ble Supreme Court and SLP was also dismissed, at the admission stage itself. All these attempts having failed, the plaintiff also moved the Revenue authority for cancellation of patta. The Revenue Divisional Officer, by a detailed order dated 08.03.2018, dismissed the plaintiff's petition and hence, a revision was filed before the District Revenue Officer, Kanchipuram and the



AS. No.48 of 2026

revision was also dismissed by order dated 28.09. 2018. The present suit is a frivolous case, suppressing earlier litigation and filed only with mala fide intention to harass the true owners, namely, defendants 7 to 9.

Therefore, the 9th defendant sought for dismissal of a suit.

3.6. An application in IA.No. 25 of 2025 was filed by the defendants 1 to 4 under Order V11 Rule 11 of the Code of Civil Procedure, seeking rejection of the plaint in O.S.No.253 of 2021, on the ground that the suit is barred by the limitation.

IA.No. 25 of 2025:

4. The case of the defendants 1 to 4 as petitioners:

4.1. The partition was effected in the year 1985, to the knowledge of the plaintiff. The plaintiff contended that she came to know about the document recently. The plaintiff's husband was a tenant under Alagesan and paid monthly rent, till his demise. After his demise, no rents were paid and, the plaintiff's husband, stopped paying rents and the 7th defendant, wife of Alagesan filed R.C.O.P.No.6 of 2000 for eviction. In 19/40



AS. No.48 of 2026

the said Rent Controller Petition, the plaintiff's husband took a stand that his, wife is entitled to share in the property. At that juncture, the plaintiff

sent a lawyer's notice on 15.7.2002 claiming $1/5^{\text{th}}$ share in the properties of Ekambara Mudaliar. Her father replied to the said notice, by reply notice dated 26.07.2002 stating that the properties are self acquired properties of Ekambara Mudaliar and the properties have been divided amongst Ekambara Mudaliar and two sons Jayavel and Alagesan in and by a registered partition deed dated 13.12.1985, which was also within the knowledge of all his daughters, including the plaintiff. It was also

contended that the husband of 6^{th} defendant infact attested the partition deed and even in subsequent exchange of lawyer's notices dated 02.04.2009 and 05.08.2014, the plaintiff has alleged the partition deed to be farged document and both the notices were suitably replied to. Even in R.C.O.P.No. 6 of 2000 the plaintiffs husband's defence was rejected and eviction was ordered as earlier as in November 2002. The suit is therefore hopelessly barred by limitation, with the defendant having knowledge of the prohibited atleast in the year 2002. The plaint has been filed as if the plaintiff got knowledge only in the year 2018, which is invented for the

20/40



AS. No.48 of 2026

purpose of the case and bringing the suit within period of limitation. The defendants 1 to 4, therefore, prayed for rejection under the plaint.

5. Counter affidavit filed by the plaintiff:

The plaintiff came to know about the partition deed only in the year 2014 and immediately thereafter, commencing from 2014 and upto 2019. The plaintiff has taken several steps including filing Writ Petitions, Appeals to Revenue authorities to establish her rights. The Hon'ble Supreme Court gave liberty to the plaintiff to file a civil suit. Hence, the question of limitation does not arise and the application for rejection of plaint has to be necessarily dismissed.

6. Decision of the Trial Court:

On enquiry, the trial Court found that the plaintiff had knowledge of the partition deed and did not choose to challenge the same within the statutory period of limitation, viz., 3 years and consequently, allowed the reject the plaint application and thus, dismissed the suit.

7. Present appeal:

The plaintiff, challenging the rejection of plaint, has preferred the



AS. No.48 of 2026

present first appeal.

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8. I have heard Ms.K.Gajalakshmi power agent and daughter of the plaintiff /appellant, Ms.Buvaneswari party-in-person and Ms.Vijaya kumari Natarajan, learned counsel for the respondents 6,7,and 8 as well as Mr.G.Nanmaran, learned Special Government Pleader for the respondents 19 and 20. I have also gone through the records as well as the decisions on which reliance has been placed by the party-in-person as well as the learned counsel for the respondents 6 to 8 and 19 and 20.

Arguments of the appellant (party-in-person):

The power agent party-in-person of the appellant, Ms.K.Gajalakshmi, contended that the learned Principal District Judge has failed to take note of the order of the Hon'ble Supreme Court granting liberty to the appellant to file a civil suit to vindicate her rights and in such circumstances, the Principal District Judge, the trial Court should not have accepted the case of the defendants and proceeded to reject the plaint. It is her specific contention that when the Hon'ble Supreme Court has permitted the appellant / plaintiff to file a Civil Suit, it would imply that the suit will have to be tried in normal course and can not been

22/40



AS. No.48 of 2026

dismissed at the threshold, that to, invoking the provision under Order 7

Rule 11 CPC.

9. The party-in-person would further state that the plaintiff has raised serious contentions and issues, including the veracity and legality of the alleged partition, and unless the parties lead evidence it would not be possible for the Court to adjudicate the said issues in an effective manner. She would also state that even though the partition deed is dated 13.12.1985, in the reply notice sent by the contesting defendants, there has been no mention about details, especially for a passing a reference to the alleged partition deed and that the defendants did not provide a copy of the same to the plaintiff. It is therefore the contention of the plaintiff appellant, that the cause of action for filing a suit arose only in the 2018, when the plaintiff came to know about that acts of fraud and forgery in bringing about the alleged partition. She would further state that the suit is in fine in terms of Article 59 of the Limitation Act, as only in 2018, the plaintiff was in a position to obtain a copy of the partition deed.

10. In relation to the additional grounds raised, the party-in-person would state that, in an enquiry before the DRO, Kanchipuram, for the 23/40



AS. No.48 of 2026

first time on 14.08.2018, the plaintiff was put on notice about the partition deed and immediately on receipt of a photostat copy, the suit has been filed and it is well within the period of limitation, computing the starting point of limitation from the date of knowledge. She would refer to the additional grounds and take me through, the same supplementing her earlier arguments that the plaintiff was not having a copy of the partition deed until the enquiry before the DRO, Kanchipuram. She would also submit that the partition deed has been registered as Document No. 1 of 1986 and was executed on non-judicial stamp paper of value Rs. 8,300/- and that only a photostat copy of the said document on Rs. 12/- non-judicial stamp paper was furnished to the plaintiff / appellant and this is a serious suspicion with regard to genuineness of the partition deed itself. Even otherwise, according to the party-in-person, the copies of the partition deed furnished to the plaintiff / appellant did not contain proper seal or endorsement and in such circumstances she would contend that the suit cannot be thrown out on the ground of limitation.

11. Ms.K.Gajalakshmi would also rely on the decision of the Hon'ble Supreme Court in ***Daliben valjibhai vs Prajapati Kodarbhai Kachrabhai case*** reported in ***2024 SCC OnLine SC 4105*** to argue that



AS. No.48 of 2026

when fraud is alleged, limitation should be computed from the discovery, of frauds. She also states that the plaintiff had filed on interlocutory application in I.A.No. 5 of 2021 in very same suit, seeking disbursement of compensation amount in the land acquisition and proceedings C.M.A. came to be filed against the dismissal of said application in C.M.A.No.2432 of 2022 and the said CMA is pending before this Court. She would also state an that application I.A.No.8 of 2021also been filed for sending the disputed signatures in the partition deed for comparison. She also states that this trial Court has failed to consider the decision of the Division Bench of this Court in Writ Appeal No. 783 of 2025 which directed the respondents 6 to 8 to deposit Rs. 35 lakhs to credit of the suit and in such circumstances the party-in-person state that the suit could not have been summarily rejected, citing limitation, when so many interveing factors are present and necessarily to be decided. She would also rely on the order passed by this Court in W.P.No.27082 of 2022 filed by the respondent 6 to 8, where also the writ Court took note of the fact that the Hon'ble Supreme Court has directed the parties to approach the civil Court to establish title and subsequently, the suit was also filed. She would, however, state that in the writ petition, taking note of the rejection



AS. No.48 of 2026

of the plaint, the writ petition was disposed directing the Respondent 6 to 8 to seek disbursement of the balance compensation amount after production of a copy of the decree in O.S. No. 253 of 2021.

12. Arguments of learned counsel for the contesting respondents :

12.1. Per contra, Ms.Vijayakumari Natarajan, learned counsel appearing for the contesting respondents 6 to 8 would state that the plaintiff / appellant has been in the habit of filing one case after the other, in order to prevent the lawful enjoyment of the suit properties by the true owners. The learned counsel would further state that the plaintiff has also been in the habit of suppressing material facts and circumstances from the Court and of making false statements in various Courts of law. She would further state that even though written statement has been filed by the 9th defendant, the defendants were always at liberty to take our as application for rejection of plaint under Order VII Rule 11 CPC. The learned counsel would further state that the trial Court has rightly taken note of the grounds on which rejection of the plaint was sought, and even though limitation is normally a mixed question of law and fact, when there is strong material to establish that the suit is hopelessly barred by

26/40



AS. No.48 of 2026

limitation, the Court is not precluded from rejecting the plaint on the ground of limitation.

12.2. The learned counsel for the respondents 6, 7 and 8, Ms.Vijayakumari Natarajan, would further state that it has been borne out by records, and infact it is admitted even in the plaint that the plaintiff was aware of the partition entered into between her father, Ekambara Mudaliar, and his two sons, Jayavel and Alagesan, even though the reply notice sent on 26.07.2002. The learned counsel would state that the plaintiff did not take any steps to challenge the partition deed, until the present suit was filed in the year 2021. The learned counsel would therefore state that the suit is hopelessly barred by limitation and the trial Court has rightly invoked the powers under Order VII Rule 11 CPC, to reject the plaint, warranting no interference in this appeal suit.

12.3. The learned counsel for the respondents has relied on the following decisions:

1. ***B.Baleeshwari V.J.Gunavathy Babu & another***, reported in ***2020-2-MWN(Civil)435***

2. ***Raghwendra Sharan Singh V. Ram Prasanna Singh***, reported 27/40



AS. No.48 of 2026

in **2019-2-CTC-823(SC)**

3. ***K.Murali V. M.Mohamed Shaffir***, reported in **2020-1-CTC-38**

4. ***Dahiben V. Arvindbhai Kalyanji Bhanusali (Gajra) & others***,
reported in **2020-5-CTC-471**

5. ***Rajeev Gupta & others V. Prashant Gard & others***, reported in
2025-3-CTC-730(SC)

6. ***B.Revathy V. Hariraj & others***, reported in **2025-3-CTC-705**

7. ***Uma Devi & others V. Hariraj & others***, reported in **2025-5-
SCC-198**

8. ***Nikhila Divyang Mehta and Hitesh P Sanghi & others***,
reported in **2025-SCC Online(SC)779**

13. I have carefully considered the submissions advanced by the appellant party-in-person as well as Ms.Vijayakumari Natarajan, learned counsel for the respondents 6 to 8 and Mr.G.Nanmaran, learned Special Government Pleader for the respondents 19 and 20.

14. Point for consideration:

On consideration of the submissions made by the learned counsel
28/40



AS. No.48 of 2026

on either side, I frame the following point for consideration:

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(i). Whether the suit for the relief of declaration and consequently partition, filed by the appellant, seeking a declaration to nullify the partition deed dated 13.12.1985 and several subsequent documents flowing from the said partition deed, has been filed within the statutory period of limitation or not; and if not, whether the plaint is liable to be rejected under Order 7 Rule 11 CPC?

15. Discussion:

15.1. The plaintiff, claiming to be the daughter of Ekambara Mudaliar, contends that the suit properties are the ancestral properties of Ekambara Mudaliar and stakes a claim for a 1/5th share in the same. The suit claim is sought to be resisted on the ground that the properties are not ancestral properties, but only self-acquired properties of the said Ekambara Mudaliar, which were acquired with the active assistance and involvement of his two sons, Jayavel and Alagesan. Further even during lifetime of Ekambara Mudaliar, in and by registered partition deed dated 13.12.1985, the father and two sons have already divided the properties and the sons have been in separate possession and enjoyment of their respective entitlements, ever since. In this background, the application for 29/40



AS. No.48 of 2026

rejection of the plaint has been filed contending that the plaintiff was aware of the partition deed dated 13.12.1985 as early as in 2002, and in such circumstances ought to have approached the Court within a period of three years and filed the suit even in 2005; however, the present suit has been filed only in the year 2021, way beyond the statutory period of limitation.

15.2. It is settled law that in an application for rejection of plaint under Order VII Rule 11 CPC, the Court has to look only into the plaint averments, allegations and the documents filed along with the plaint, and examine the plaint. In the present case, I find that even in paragraph No. 5 of the plaint, the plaintiff has admitted that the seventh defendant sent a reply notice dated 26.07.2002, not only stating that the properties are not ancestral properties, but self-acquired properties of Ekambara Mudaliar, but also that, under a registered partition deed dated 13.12.1985, to the knowledge of the daughters, including the plaintiff, the properties of Ekambara Mudaliar had already been divided. Further, the plaintiff goes on to refer to subsequent notices issued by her to her brother Jayavel on 02.04.2009 and to Meenakshi, her sister-in-law, wife of her brother Alagesan, on 05.08.2014. The plaintiff has averred that in the said notices

30/40



AS. No.48 of 2026

also, she alleged that the partition deed is forged and concocted, and has also admitted that reply notices were sent to both these notices contending that the partition deed is genuine. Thus, there is a clinching admission in the plaint that the plaintiff was aware of the partition deed dated 13.12.1985, even as contended, at least from July 2002, if not earlier, as contended by the defendants, who have asserted that the plaintiff knew about the partition deed even at the time of its execution in the year 1985. The suit has admittedly not been filed within the period of three years, challenging the partition deed.

15.3. The party-in-person contended that there was some foul play with regard to the stamp paper on which the partition deed had been prepared, and that though reference was made to the partition deed during the exchange of notices, a copy of the partition deed had not been served on the plaintiff to enable her to file the suit. I do not see any merit in the said contentions. The plaintiff herself has admitted that in the reply notices, the 7th defendant had taken a stand claiming rights under the registered partition deed, and that was in 2002. The plaintiff did not choose to take any steps until 2009, when she sent a notice to her brother Jayavel, wherein she alleged that the partition deed is a forged document.

31/40



AS. No.48 of 2026

The same allegation was made in the notice issued to the 7th defendant five years later, on 05.08.2014, as well. When the plaintiff is able to allege forgery and that the document is concocted, it is, at the outset, not believable that the plaintiff did not have the benefit of a copy of the deed. Even otherwise, the partition deed is a registered document, and on gaining knowledge of the said partition deed, it was for the plaintiff to take diligent steps to apply for a certified copy of the same and challenge it in the manner known to law, within the period of limitation. The plaintiff, having come to know about the registered partition deed at least in the year 2002, left the matter unattended and, after a lapse of 19 years, has filed the present suit. The fact that the plaintiff was approaching the revenue authorities and also the writ Court for various directions cannot enlarge the period of limitation. The clock started ticking the moment the plaintiff came to know of the partition deed coming in her way to claim her right in the properties of her father, Ekambara Mudaliar. Therefore, without traversing outside the plaint averments and allegations, it is clearly discernible that the plaint is hopelessly barred by limitation. The trial Court has rightly taken note of these material factors to allow the application under Order VII Rule 11 CPC and consequently reject the



AS. No.48 of 2026

plaint. I do not see any infirmity in the findings rendered by the trial Court.

15.4. Coming to the decisions, that have relied on by the party-in-person and, Ms. Vijayakumari Natarajan appearing for the contesting respondents in ***Daliben Valjibhai's (2024 SCC OnLine SC 4105)*** case, the Hon'ble Supreme Court was concerned with a sale deed that was executed on 04.12.2004 and suit having been filed after a period of 13 years on 10.4.2017, The Trial court had rejected the plaint, invoking the power under Order VII Rule 11 CPC, on the ground that suit was barred by limitation. However, on appeal, the Principal District Judge, set aside the order of the trial Court and restored the suit to file; the High Court allowed the second appeal and thereby, restored the order of rejection of the plaint. On facts that Hon'ble Supreme Court found that High Court had drawn inferences that were possible only after trial. The Hon'ble Supreme Court clearly held that the relevant factor would be whether the plaintiff had knowledge of the execution of sale deed and when it was the case of the plaintiff that they came to know about the same only when the Deputy Collector had issued notices to them in March 2017, and that for the first time they came to know about the execution of the sale deed and



AS. No.48 of 2026

therefore the suit was in time, the Apex Court found that the order of rejection was not based on the plaint averments and had also reckoned limitation from the date of registration of the document instead of from the date of knowledge. This decision, though relied on by the party-in-person, in fact, does not advance her case. The ratio laid down therein only runs contrary to the appellant's case. As held by the Hon'ble Supreme Court, for deciding limitation, (i) the Court is to be confined only to the plaint averments, and (ii) the date of knowledge of the document challenged would be the relevant factor.

15.5. In the present case, as already discussed, the plaintiff herself has admitted that she had knowledge of the partition deed as early as in 2002, if not earlier. Therefore, even in terms of Article 59 of the Limitation Act, the suit has not been filed within the period of three years thereafter. Hence, this decision is of absolutely no assistance to the appellant.

15.6. The Division Bench of this court in *Balieshwari's* case held that when the plaintiff is aware of encumbrances in 2013 itself, a suit challenging the encumbrance in 2017 was barred by limitation and plaintiff was liable to be rejected under Order 7 Rule 11 CPC.

34/40



AS. No.48 of 2026

15.7. In ***Raghvendra Sharam Singh's*** case, the Hon'ble Supreme Court, referring to Article 59 on the Limitation Act, held that suit which is cleverly drafted to overcome the bar of limitation, can be noticed from averments in the plaint and the plaint can be rejected in exercise of powers and Order VII Rule 11 CPC.

15.8. In ***Dahiben vs Arvindbhai Kalyanji Bhanusali*** reported in ***2020 SCC Online SC 562***), the Hon'ble Supreme Court held that the sale deed of the year 2009 can not be challenged in the year 2014 and claim of the plaintiff that a copy of the index that was obtained only in November 2014, would not constitute a cause of action for filing a suit.

15.9. In ***Rajiv Gupta's*** case the Hon'ble Supreme Court held that limitation commenced from the date when the plaintiff first had knowledge of the sale deed and suit filed beyond 3 years, contemplated in Article 59 would be barred. In Revathi's case this court held that when the plaintiff was put on which of an earlier decree, declaring her sisters as legal heir, the suit filed after 8 years, after barring to knowledge, was barred by limitation.

35/40



AS. No.48 of 2026

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15.10. In ***Umadevi***'s cases the Hon'ble Supreme Court, applying Article 110 of the Limitation Act, held that suit by a person excluded from the joint family properties, limitation to enforce a right to a share therein, would commence from the date when exclusion becomes known to the plaintiff. This decision however, in my opinion, may not be relevant for purpose of the deciding the present appeal which arises only out of an application for rejection of plaint for which the determinative factors are entirely different.

15.11. In ***Nikhila Divyang Mehta***, the Hon'ble Supreme Court held that even as per the plaint averments, when it was clear that plaintiff acquired knowledge about the will and codicil in November 2007 and had filed a suit beyond the period of limitation, and though in the plaint it has been averred that the plaintiff came to know about the will and codicil in the first week of November 2017, when it was evident from the plaint averments the plaintiff had knowledge of the will and codicil even in the first of November 2014, the suit was hopelessly barred by limitation. Applying ratio laid down in above decision as well, the only point that

36/40



AS. No.48 of 2026

requires consideration is whether the plaintiff had knowledge of the partition deed dated 30.03.1985 even earlier in point of time as contended in the plaint to be in 2018, on the dated of enquiry before DRO. It is clear from the plaint averments, itself that the plaintiff was put notice about the partition deed in July 2002 itself. The plaintiff having not challenged the partition deed within a period of 3 years from the date of receipt of the said reply notice, the suit filed is clearly and hopelessly barred by law of limitation.

16. Result in CMP.No.5759 of 2026:

I do not find any new grounds raised in this petition, and all these grounds have already been raised in the first appeal. Hence, I do not see any merit in the Civil Miscellaneous Petition. In any Writ the additional grounds have also been taken into consideration. Accordingly, this Civil Miscellaneous Petition is dismissed.

17. Result in A.S:

I do not find any error committed by the trial court warranting interference in the first appeal. Hence, this Appeal suit is dismissed with
37/40



AS. No.48 of 2026

costs.

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30.03.2026

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

TO

1. The Principal District Judge,
Chengalpattu.
2. The District Collector,
Chengalpattu District,
Chengalpattu.
3. The Special Thasildar,
Land Acquisition,
Chrompet, Chennai.
4. The Section Officer,
VR Section,
Madras High Court,
Chennai.

38/40



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AS. No.48 of 2026

P.B.BALAJI,J.

Ls

**Pre- delivery Judgment made in
AS No.48 of 2026**



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AS. No.48 of 2026

30.03.2026