



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-06-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

S.A.No. 351 of 2026

V.R.Mani,
S/O. Late Rangasamy,
Velappan Kovil,
Kakkapalayam Post,
Vembadithalam Way,
Kanagagiri Village,
Sankari Taluk,
Salem District.

..Appellant/
Appellant/Plaintiff

Vs

Parvathi (died),
W/o.Late Vadivel

Yuvaraj (died),
S/o.Late Vadivel

1. Sarasu,
W/o. Late Sadayan,

2. Seenivasan,
S/o.Late Loganathan

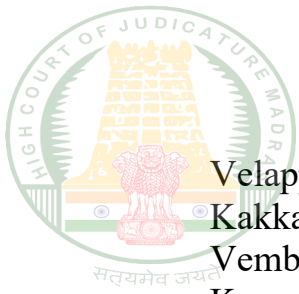
Respondents 1 and 2 are residing at
Velappan Kovil,
Kakkapalayam Post,
Vembadithalam Way,
Kanagagiri Village,
Sankari Taluk,
Salem District.

3. The Tahsildar,
Office of The Tahsildar,
Sankari.



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4. The Revenue Divisional Officer,
Sankari,
Office of the Revenue Divisional Officer,
Sankari.
5. The District Collector,
Salem District.
6. Latchumi,
W/o. Late Yuvaraj,
Velappan Kovil,
Kakkapalayam Post,
Vembadithalam Way,
Kanagagiri Village,
Sankari Taluk,
Salem District.
7. Minor Varshini,
D/o. Late Yuvaraj,
rep. by their next friend/mother/guardian
Ms.Latchumi,
Velappan Kovil,
Kakkapalayam Post,
Vembadithalam Way,
Kanagagiri Village,
Sankari Taluk,
Salem District.
8. Minor Jesanthini,
D/o. Late Yuvaraj,
rep. by their next friend/mother/guardian
Ms.Latchumi,
Velappan Kovil,
Kakkapalayam Post,
Vembadithalam Way,
Kanagagiri Village,
Sankari Taluk,
Salem District.
9. Minor Saravana Kumaran,
S/o. Late Yuvaraj,
rep. by their next friend/mother/guardian
Ms.Latchumi,



Velappan Kovil,
Kakkapalayam Post,
Vembadithalam Way,
Kanagagiri Village,
Sankari Taluk,
Salem District.

..Respondents/
Respondents/Defendants

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure, 1908, praying to set aside the Judgment and Decree passed in A.S.No.18 of 2022 dated 29.08.2025 on the file of the learned Principal District Judge, Salem, confirming the Judgment and Decree in O.S.No.180 of 2010 on the file of the learned Subordinate Judge, Sankari, dated 22.12.2021.

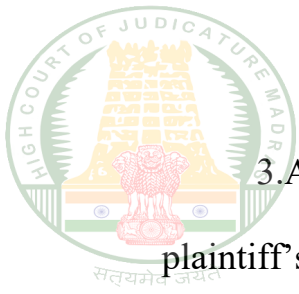
For Appellant(s) : Mr.C.Kulanthaivel

For Respondent(s): Mr.B. Karthikeyan,
Government Advocate
for R3 to R5

JUDGMENT

The unsuccessful plaintiff is the appellant before this Court. He filed a suit for partition to divide the suit properties into two equal shares and also for mandatory injunction directing the defendants 5 to 7 to cancel the patta and allot a joint patta in the name of the plaintiff and the defendants 1 and 2 and for other reliefs.

2.The suit was dismissed by the Trial Court and findings of Trial Court were confirmed by the First Appellate Court. Aggrieved by the concurrent findings, the plaintiff has come forward with this Second Appeal.



3. According to the plaintiff, the suit property was purchased by the plaintiff's father late Rangasamy under a Sale Deed dated 06.12.1954 out of joint family funds. The defendants 1 and 2 are the wife and son of the plaintiff's brother late Vadivel. The 3rd defendant is the sister of the plaintiff. The 4th defendant is the son of another deceased sister of the plaintiff. The defendants 5 to 7 are the revenue officials. According to the plaintiff, the sisters of the plaintiff was married long back and they were given sridhana at the time of marriage. Hence, they relinquished their shares in the suit property in favour of their parents and brothers. It is also claimed that the plaintiff's father died in the year 1991 and his mother died in 2006. The plaintiff's parents died intestate leaving behind the plaintiff and the defendants 1 and 2 to succeed the suit properties. Hence, the suit was filed seeking half-share in the suit properties.

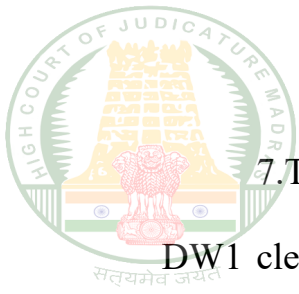
4. The defendants 1 and 2 filed their written statement and resisted the suit mainly on the ground that the suit properties were purchased by Rangasamy out of his self-earned funds and, therefore, the same cannot be treated as ancestral or joint family properties. According to the defendants, Rangasamy, during his lifetime, executed a Will dated 15.10.1990 bequeathing the suit properties among his legal heirs. As per the said Will, certain properties were allotted to the plaintiff and certain other properties were allotted to the defendants. Subsequently, Rangasamy died. After his demise, the parties took possession of and enjoyed their respective properties in accordance with the recitals contained



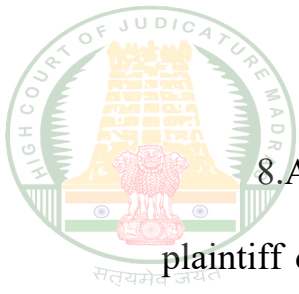
in the Will. The first defendant, acting upon the Will, put up a tiled house in the first item of the suit property and has been in exclusive possession and enjoyment thereof. Therefore, the defendants contended that the plaintiff is not entitled to seek partition of the suit properties. Accordingly, they prayed for dismissal of the suit.

5.Before the Trial Court, the plaintiff examined himself as P.W.1 and examined two other witnesses as P.W.2 and P.W.3. On the side of the plaintiff, Exs.A1 to A6 were marked. On the side of the defendants, the first defendant was examined as D.W.1 and two other witnesses, namely, Subramaniam and Muthusamy, were examined as D.W.2 and D.W.3 respectively. Exs.B1 to B12 were marked on the side of the defendants. Apart from the oral and documentary evidence adduced by the parties, Exs.X1 to X3 were also marked through Court.

6.The Trial Court on appreciation of oral and documentary evidence dismissed the Original Suit filed by the plaintiff. Aggrieved over the same, the plaintiff preferred an appeal in A.S.No.18 of 2022 before the learned Principal District Judge, Salem. On appeal, the First Appellate Court confirmed the findings rendered by the Trial Court and dismissed the Appeal Suit. Challenging the concurrent findings of the Courts below, the plaintiff has filed this Second Appeal.



7. The learned counsel appearing for the appellant/plaintiff submitted that DW1 clearly admitted that the suit 2nd item of the property was purchased by Rangasamy out of funds generated in the business involving plaintiff, Rangassamy and his wife. Hence, according to the learned counsel for the appellant, the suit item-2 of the properties should have been treated as ancestral properties. The learned counsel also submitted that as per Ex.B.5 – Will, the said Rangasamy bequeathed only 2074 sq.ft. of lands to the 1st defendant. Hence, the Courts below were not justified in non-suiting the plaintiff in respect of entire properties. It is seen from the typed set of papers, Rangasamy purchased Items 1 and 2 of the suit properties under Ex.A.1 and Ex.A.2 – Sale Deeds dated 06.12.1954 and 04.03.1960. In the Plaint, the plaintiff mentioned his date of birth as 55 years (in the year 2010). Therefore, the plaintiff should have born in the year 1955. The 1st item of the suit property was purchased under Ex.A.1 even prior to the birth of the plaintiff. The 2nd item of the suit property was purchased by the plaintiff's father Rangasamy in the year 1960, when the plaintiff was just five years old. Therefore, absolutely there is no possibility for the plaintiff to contribute in the business. By no stretch of imagination it can be stated that the suit properties were purchased jointly by the plaintiff and his father. The properties purchased in the name of Rangasamy when the plaintiff was five years old should be treated as Rangasamy's separate properties. I do not find any error with regard to the finding of the Courts below that suit properties are self acquired properties of Rangasamy.



8. A perusal of the description of the properties would indicate that the plaintiff does not give any survey number of the items described in the Plaint schedule. It is seen from the recitals of Ex.B.5 – Will and evidence of DW3 attestsor that Rangasamy bequeathed the suit properties in faovur of his widowed daughter-in-law the 1st defendant. The properties sold to his daughter 3rd defendant Sarasu and the properties allotted to the plaintiff were excluded and only rest of the properties were bequeathed to the 1st defendant. It is seen from description of property found in the Will, the property bequeathed to the 1st defendant lies on the West of the property allotted to his son (plaintiff) towards his share. Hence, it is clear already some of the properties were allotted to the plaintiff (his son). Another property sold to the 3rd defendant Sarasu. Hence, the testator has not given any undue preference to the 1st defendant. Further, the 1st defendant is a widowed daughter-in-law and she had no support. Hence, bequest was made in her favour. DW3, the testator of the Will clearly deposed about the mental status of the testator at the time of execution of the Will. He also deposed that Rangasamy bequeathed the properties in favour of the 1st defendant, except the proprieties allotted to the plaintiff and the properties sold to the 3rd defendant also. Therefore, it is clear that taking into consideration the death of the 1st defendant's husband and there was no support to the 1st defendant, Rangasamy bequeathed the suit properties to the 1st defendant excluding the properties sold to Sarasu and the properties allotted to the plaintiff. Even though it is stated by the appellant that there is no

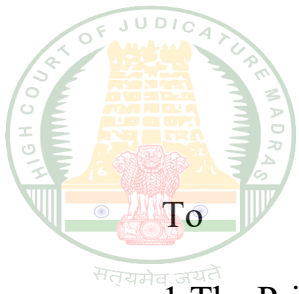


justification for executing the Will in favour of the 1st defendant, recitals in Will would establish that the 3rd defendant was given some property and the plaintiff was also allotted some property and only the rest of the properties were bequeathed in favour of the 1st defendant. There is no suspicious circumstances in giving the house property to the widowed daughter-in-law. In the light of discussion made earlier, this Court finds that both the Courts below have rightly come to a conclusion that the execution of the Will by Rangasamy was proved and the plaintiff had no share in the suit properties. Since this Court has come to this conclusion that the plaintiff is not entitled to the primary relief of Partition, he is not entitled to consequential reliefs of mandatory injunction and permanent injunction as prayed for.

9. In these circumstances, I find no ground, much less any substantial question of law, to interfere with the concurrent findings of the Courts below. The Second Appeal is liable to be dismissed and accordingly, the same is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

08-06-2026

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



To

1.The Principal District Judge,
Salem.

2.The Subordinate Judge,
Sankari.

3.The Section Officer,
V.R. Section,
Madras High Court.



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S.SOUNTHAR J.

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