



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-06-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

SA No. 624 of 2020

A.Manimaran
S/o. Arjunan, Neelmangalam Village,
Kallakuruchi Taluk and District.

..Appellant(s)

Vs

1. Saroja, W/o. Adhimoolam,
Neelamangalam Village,
Kallakuruchi Taluk and District.
2. Dhanapal
S/o. Arjunan, Neelamangalam Village,
Kallakuruchi Taluk and District.
3. Amaravathi
W/o. Ranganathan, Neelamangalam Village,
Kallakuruchi Taluk and District.
4. Thirumavalavan
S/o. Ranganathan, Neelamangalam Village,
Kallakuruchi Taluk and District.
5. Ezhilarasi
D/o. Ranganathan, Neelamangalam Village,
Kallakuruchi Taluk and District.
6. Alexander
S/o. Ranganathan, Neelamangalam Village,
Kallakuruchi Taluk and District.
7. Anbukarasi
D/o. Ranganathan, Neelamangalam Village,
Kallakuruchi Taluk and District.



8. Mangayarkarasi
D/o. Ranganathan, Neelamangalam Village,
Kallakuruchi Taluk and District.

9. Kalaiarasi
D/o. Ranganathan, Neelamangalam Village,
Kallakuruchi Taluk and District.

10. Thiruvenkadam
S/o. Ponnusamy, Neelamangalam Village,
Kallakuruchi Taluk and District.

..Respondent(s)

Prayer: Second Appeal filed under Section 100 of CPC to set aside the Judgement and Decree of the First Appellate Court on the file of the Subordinate Judge Court, Kallakurichi dated 12.12.2019 in AS.No.91/2015, confirming the Judgement and Decree of the trial Court on the file of the III Additional District Munsiff, Kallakurichi dated 17.06.2015 in OS No.957/2007.

For Appellant(s): Mr. S.Srinath

For Respondent(s): Mr.L.Baskaran for R10

No appearance for R4

R1 to R3 exparte vide E.B.

R5 to R9 exparte vide E.B.



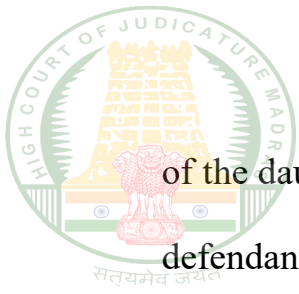
JUDGMENT

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The unsuccessful plaintiff is the appellant. He filed a suit for partition claiming 1/5th share in the suit property. The said suit was dismissed by the trial court and the findings of the trial court were also affirmed by the first appellate court. Challenging the concurrent findings of the courts below, the plaintiff has filed the present second appeal.

2. According to the appellant/plaintiff, the suit property was purchased by his father, Arjunan under a registered sale deed dated 27.06.1956 out of income from the ancestral properties. The defendants 1 and 2 are siblings of the plaintiff. The defendants 3 to 9 are legal heirs of Ranganathan and the said Ranganathan is one of the brothers of the plaintiff. The 10th defendant is legal heir of sister of the plaintiff, namely Periammal. It is the case of the plaintiff that after death of Arjunan, the plaintiff is entitled to 1/5th share in the suit property and hence, he filed the suit for partition.

3. The defendants 1 and 4 filed a written statement, denying the claim made by the plaintiff, as if the suit property was ancestral property. According to the defendants, the suit property was self acquired property of Arjunan and he sold half of the suit property, namely 38 cents in favour of first defendant on 05.05.1986 and remaining half share to the mother of 10th defendant, who is one



of the daughters of Arjunan on 05.05.1986. From the date of purchase, the first defendant and Periammal have been enjoying the suit property as their exclusive property. Subsequently, the said Periammal settled 38 cents purchased by her in favour of the 10th defendant on 03.02.2005, who in turn, sold the same in favour of the first defendant on 23.04.2008. Thus, the first defendant has been enjoying the suit property as his exclusive property from 23.04.2008 onwards. Later the first defendant settled the said property in favour of one Ramesh on 22.09.2009. Since the plaintiff's father Arjunan alienated the suit property, even during his life time, the defendants sought for dismissal of the suit.

4. Before the trial court, the plaintiff was examined as PW1 and one Balan was examined as PW2. On behalf of the plaintiff, 5 documents were marked as Ex.A1 to Ex.A5. On the side of the defendants, the 4th defendant was examined as DW1 and two other witnesses were examined as DW2 and DW3 and 22 documents were marked as Ex.B1 to Ex.B22.

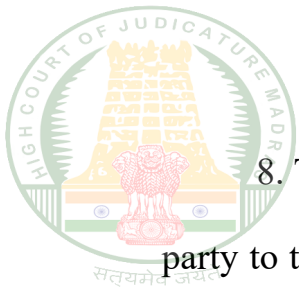
5. The trial court, on appreciation of oral and documentary evidence available on record, came to the conclusion that the suit property was a self acquired property of Arjunan and he sold the same even during his life time under Ex.B3 and Ex.B4 and hence, dismissed the suit. Aggrieved by the same, the plaintiff filed an appeal in A.S.No.91 of 2015 on the file of Subordinate



Judge, Kallakurichi and the first appellate court, affirmed the findings of the trial court. Challenging the concurrent findings of the courts below, the plaintiff has come before this court by filing the instant second appeal.

6. The learned counsel for the appellant/plaintiff would submit that the plaintiff's father Arjunan had possessed vast extent of income earning properties. Therefore, according to him, the suit property was purchased in the year 1956 only out of income from the ancestral properties, but, however, the trial court, taking an erroneous view, came to the conclusion that the suit property was a self acquired property of Arjunan. The learned counsel for the appellant also submitted that at the time of purchase, Arjunan was employed as a lower grade servant in the Railway department and hence, the salary received by him may not be sufficient to purchase the suit property.

7. It is seen from the typed set of papers and other documents that the suit property was purchased on 27.06.1956 under Ex.A1 in the name of plaintiff's father Arjunan. Ex.A5 is the partition deed dated 02.04.1983 entered in the family of the plaintiff and the defendants. The plaintiff's father Arjunan and plaintiff were party to the said document. A perusal of Ex.A5 would indicate that the ancestral properties of the family had been divided under the said document, however the suit property has not been included in the said partition deed Ex.A5.



8. The plaintiff, who was examined as PW1 clearly admitted that he was a party to the said Ex.A5 partition deed and the ancestral properties of the family have been partitioned under the said document. He also admitted that there was a clause in Ex.A5 stating that no other ancestral properties were available in the family for partition, except the properties mentioned in the document. The plaintiff signed the Ex.A5, admitting the said clause. Therefore, it is clear that the suit property, which was purchased in the name of Arjunan was not at all treated as joint family property and hence, it has not been included in Ex.A5 partition deed. The plaintiff, having admitted the said clause in Ex.A5 that no other ancestral property was available for partition, is not entitled to turn around and say that the suit property is an ancestral property, and was purchased by his father Arjunan out of ancestral income.

9. The plaintiff (PW1) in his evidence clearly admitted that he did not know about the purchase of the suit property by his father Arjunan in the year 1986 and he was not even born at that point of time. He also admitted that the suit property was purchased in the name of his father. Therefore, the PW1 is not a competent witness to depose that the suit property was purchased out of joint family income. The PW2, in his evidence deposed that the suit property was not at all purchased by Arjunan and the same was his ancestral property. However, Ex.A1 sale deed shows that the suit property was purchased in the name of Arjunan. The PW2 also deposed that he did not know about the suit



property. Therefore, the evidence of PW1 and PW2 is not at all useful to show that Arjunan had a sufficient joint family nucleus at the time of purchase of the suit property and the same was purchased only out of surplus income from the joint family nucleolus.

10. In order to prove that Arjunan worked as an employee in the Railways, an officer from the Railway Department was examined as DW3 and he produced the service register of Arjunan and the same was marked as Ex.B22. A perusal of evidence of DW3 and Ex.B22 would indicate that Arjunan was appointed as permanent employee of Railways on 26.02.1947 and he retired from service on 30.06.1982. Therefore, it is clear that Arjunan had independent source of income and he was employed in Railways and he could have purchased the suit property out of the salary income. Further, the suit property was not included, when the ancestral properties were divided under Ex.A5. The specific clause in Ex.A5 also establish that except the properties settled under Ex.A5, no other ancestral properties were available for partition at that point of time. The plaintiff was a party to the said Ex.A5 partition deed. Taking into consideration all these aspects, the courts below came to the conclusion that the suit property was not the ancestral property and the same was a self acquired property of Arjunan. It is seen from Ex.B3 and Ex.B4 that Arjunan sold the suit property to the first defendant and his daughter Periammal, even during his life time. When the suit property was alienated by



Arjunan, during his life time itself, the plaintiff is not entitled to claim right over the same. Both the courts below, based on proper appreciation of oral and documentary evidence available on record, came to the conclusion that the suit property was a self acquired property of Arjunan and he sold away the entire suit property, even during his life time and hence, dismissed the suit. I do not find any perversity or misreading of evidence in the said conclusion reached by the court below. I find no substantial question of law arising for consideration in the second appeal.

11. Accordingly, the second appeal is dismissed. There shall be no order as to costs.

02-06-2026

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

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To

1. The Subordinate Judge, Kallakurichi.
2. The III Additional District Munsif,
Kallakurichi.



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S.SOUNTHAR, J.

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