



S.A.No.328 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 11.06.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.328 of 2026
and C.M.P.No.11033 of 2026

Senthil

... Appellant

VS.

1.Rajendiran

Muthusamy Padaiyatchi (Died)

2.Sumathi

3.Senthamilselvi

4.Thangarasu

5.Bhanumathi

6.Neelavathi

7.Rajakumari

8.Selvarani

9.Annakili

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the Judgment and Decree passed in A.S.No.17 of 2023 dated 27.10.2025 on the file of Principal District and Sessions Court, Ariyalur confirming the Judgement and Decree made in O.S.No.25 of 2014 dated 30.11.2021 on the file of the Principal Subordinate Court, Ariyalur.



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For Appellant : Mr.D.Lakshmipathy

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J U D G M E N T

The 10th defendant is the appellant. The 1st respondent herein filed a suit seeking partition of his 1/2 share in the suit properties. The suit was partly decreed by the Trial Court by granting 1/2 share in all the suit items except Items 19 and 29. The Trial Court passed decree allotting 51 cents and 65 cents in Items 19 and 29 respectively instead of 1/2 share. Aggrieved by the same, the 10th defendant in the suit namely the appellant herein filed first appeal. The appeal filed by the 10th defendant was partly allowed. The First Appellate Court modified the judgment and decree passed by the Trial Court in so far as Item-19 is concerned. The First Appellate Court allotted 25 ½ cents to the plaintiff in Item-19. In respect of other items, the Trial Court's judgment and decree were confirmed. Aggrieved by the said judgment and decree, the 10th defendant has come before this Court.

2. It is the case of the 1st respondent/plaintiff that his mother-Chellammal and 1st defendant's wife-Neelavathy, who is the sister of said Chellammal, lived together for more than 60 years as a joint family and out of the joint efforts, properties were purchased in the name of plaintiff and



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1st defendant. Though the properties were purchased separately in the name of the plaintiff and 1st defendant, since it was purchased out of joint efforts, the properties were enjoyed as tenants in common. Later, difference arose between the family of the plaintiff and 1st defendant, therefore, there was a Panchayat in the Village and a Partition Agreement was entered into under Ex.A1, dated 10.12.2010. The plaintiff and 1st defendant signed in the said Partition Arrangement. However, the 1st defendant failed to take steps to partition the properties pursuant to the said arrangement. Hence, the plaintiff issued a notice to the 1st defendant on 27.03.2011. The same was replied by the 1st defendant with false averments. In these circumstances, the above suit was filed seeking partition of 1/2 share in the suit properties.

3. The 1st defendant filed written statement and denied allegation in the plaint as if, the plaintiff's mother-Chellammal and her sister-Neelavathy lived together for 60 years. The allegation in the plaint that both the families enjoyed the suit properties as tenants in common was also denied. The Partition Arrangement dated 10.12.2010 pleaded by the plaintiff was also denied in the written statement. The 1st defendant further stated that some of the properties mentioned in the plaint were purchased in the name of 1st defendant and plaintiff had no right over the same. It was further stated that



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the 1st defendant was made to sign in a document, taking advantage of his illiteracy and he signed the document without knowing the contents. It is also stated that the 1st defendant's son-Senthil was also made to sign by showing the 1st defendant's signature. On these pleadings, the 1st defendant sought for dismissal of the suit.

4. The 10th defendant filed additional written statement and denied the allegation in the plaint. It was stated that he also signed in the Partition Arrangement without knowing the contents of the said document. It is further stated that the suit properties were purchased by 1st defendant separately, hence, the plaintiff and his mother have no right over the same.

5. Pending suit, the 1st defendant died and defendants 6 to 10 were brought on record as legal representatives. The defendants 2 to 5 remained *exparte*.

6. Before the Trial Court, the plaintiff was examined as PW.1 and attesor to Ex.A1-Partition Arrangement was examined as PW.2. On behalf of the plaintiff, 10 documents were marked as Exs.A1 to A10. The 1st defendant was examined as DW.1 and 10th defendant was examined as



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DW.2. Though the 1st defendant filed his proof affidavit, thereafter he died, hence, he was not cross examined. On behalf of the defendants, no documents were marked.

7. The Trial Court on appreciation of oral and documentary evidence available on record, came to the conclusion that Ex.A1-Partition Arrangement relied on by the plaintiff was genuine and based on that, granted a decree for 1/2 share in respect of all the suit properties except Items 19 and 29. As far as Items 19 and 29 are concerned, the plaintiff was allotted with 51 cents and 65 cents respectively by the Trial Court. Aggrieved by the same, the 10th defendant filed an appeal in A.S.No.17 of 2023 on the file of the Principal District and Sessions Court, Ariyalur. The First Appellate Court, as mentioned earlier, modified the decree by allotting 25 ½ share in Item 19 and in respect of other items, the findings of the Trial Court were affirmed by the First Appellate Court. Aggrieved by the same, the 10th defendant, has come before this Court.

8. The learned counsel appearing for the appellant would submit that the plea raised by the plaintiff that both the plaintiff and 1st defendant's family lived together and the suit properties were enjoyed as tenants in



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common, has not been proved by satisfactory evidence and notwithstanding the said fact, both the Courts below have committed serious error in partly decreeing the suit. The learned counsel further submitted that Ex.A1-Partition Arrangement filed by the plaintiff was denied by the defendants and therefore, the Courts below ought not have placed reliance on Ex.A1, while considering the claim of the plaintiff.

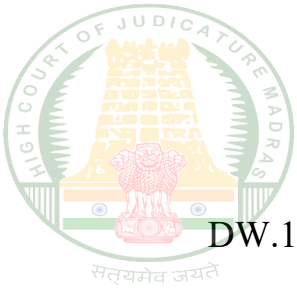
9. It is seen from the typed-set of papers in order to prove the plea that suit properties were enjoyed as tenants in common, the plaintiff examined himself as PW.1 and he deposed as per the averment found in the plaint. To establish common enjoyment of the suit properties, the plaintiff heavily relied on Ex.A1-Partition Arrangement entered into between the plaintiff and 1st defendant. In the written statement, 1st defendant denied Ex.A1-Partition Arrangement. However, he contended that taking advantage of his illiteracy, his signature was obtained in the document and by showing his signature, the signature of his son namely the 10th defendant was also obtained in the document. Therefore, as per the pleadings, the signature of the 1st defendant as well as 10th defendant, who attested the document as one of the witness has been admitted by the defendants.



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10. A perusal of Ex.A1-Partition Arrangement would indicate that there is a clear recital in the said document that the suit properties were enjoyed as common properties by the family of the plaintiff and 1st defendant and they agreed to partition the same in the presence of Village Panchayatars. The plaintiff and 1st defendant affixed their signatures to the said document. The first witness signed in the document is the appellant herein namely the 10th defendant in the suit. Apart from the 10th defendant, there are other witnesses, one of such witness-Sekar was examined as PW.2. He deposed about due execution of Ex.A1. The 10th defendant was examined as DW.2. When Ex.A1 was shown to him, he admitted his father's signature in Ex.A1. He also admitted his signature in Ex.A1. He further deposed that the document was prepared by his maternal uncle-Kaliyaperumal. He also deposed that he signed in Ex.A1 as requested by his father.

11. When the signatures of the 1st defendant and 10th defendant are clearly admitted by DW.2 in Ex.A1-Partition Arrangement, it is not open to them to say that they put their signatures without knowing the contents of the same. In order to substantiate the said plea, the defendants have not examined any independent witnesses. The 1st defendant was examined as



DW.1 and though he filed his proof affidavit, even before cross examination he passed away. In such circumstances, except the evidence of DW.2, there is no other evidence available on record to suggest the 1st defendant and 10th defendant signed the document without knowing its contents. Therefore, the said plea raised by the defendants is liable to be rejected in light of the evidence of PW.2 and the admission of DW.2.

12. Though Ex.A1-Partition Arrangement is unregistered document still it can be relied on to access the character of the suit properties, which is only collateral purpose to the document. The recital in Ex.A1 clearly establish that the suit properties were enjoyed by the plaintiff and 1st defendant as common properties and later, they decided to partition them. Both the Courts below by rightly placing reliance on Ex.A1 came to the conclusion that the suit properties were enjoyed by 1st defendant as tenants in common and partly decreed the suit filed by the plaintiff.

13. As far as items 19 and 29 are concerned, both the Courts below allotted a lesser extent to the plaintiff by placing reliance on the agreement reached between the parties under Ex.A1 and the same need not be disturbed in the absence of any separate appeal filed by the plaintiff.



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14. In the light of the discussion made earlier, the submissions made by the learned counsel appearing for the appellant are not appealable to this Court. I do not find any substantial question of law arising for consideration in this second appeal.

15. **In Nutshell:-**

- (i) The Second Appeal stands dismissed.
- (ii) Consequently, the connected civil miscellaneous petition is closed.
- (iii) In the facts and circumstances of the case, there will be no order as to costs.

11.06.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

1.The Principal District and Sessions Court,
Ariyalur.

2.The Principal Subordinate Court,
Ariyalur.



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S.SOUNTHAR, J.

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