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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

SA Nos. 615 of 2012, 796 OF 2016 & 797 OF 2016

AND

CMP.Nos.15072 & 15073 of 2016 & 29125 of 2025

1.J.Perumal Udayar(died)

S/o Late Jayarama Udayar, Bommarajapuram
Village, Ayyapakkam Post, Kalpakkam,
Kancheepuram Dt

2.J.Alagesan

S/o Late Jayarama Udayar, No.27/11, Muniappan
St, Old Washermenpet, Chennai 21

3.P. Samundeeswari(died)

W/o. J. Perumal Udayar, 2 to 5 are LR's of
deceased 1 st appellant at No.5, Pillayar Koil St,
Bommaraiapuram Village, Ayyappakkam Post,
Kalpakkam, Kanchipuram Dt.

4.P. Prabavathi

D/o. J. Perumal Udayar, at No.5, Pillayar Koil St,
Bommaraiapuram Village, Ayyappakkam Post,
Kalpakkam, Kanchipuram Dt.

5.T. Kalaiselvi

D/o. J. Perumal Udayar, at No.5, Pillayar Koil St,
Bommaraiapuram Village, Ayyappakkam Post,
Kalpakkam, Kanchipuram Dt.

6.P. Sharmila

D/o. J. Perumal Udayar,at No.5, Pillayar Koil St,
Bommaraiapuram Village, Ayyappakkam Post,
Kalpakkam, Kanchipuram Dt.

a1 died, A3 to 6 are LR's of deceased 1 st appellant
vide court order dated 22/09/2022 made in cmp no
1212 of 2022 in sa no 615 of 2012(krj).



MEMO DATED 23/09/2025(USR.NO.38175)
A3 DIED, A4 TO 6 ALREADY ON RECORD
ARE RECORDED AS LRS OF THE DECEASED
A3 .MEMO RECORDED VIDE COURT ORDER
DATED 25/09/2025 MADE IN SA.NO.615 OF
2012(PDBJ)

..Appellant(s)

Vs

1.Rajeswari
W/o Rajendran, Plot No.74, Ayyavoo Nagar,
Mettukkuppam Road, Maduravoil , Chennai 95
2.Pushpa
W/o Late Sivalingam

3.J.Arumugam
S/o Late Jayarama Udayar, Both 2 & 3 Are At
Bommarajapuram Village, Ayyapakkam Post,
Kalpakkam, Kancheepuram Dt

4.Mangayarkarasi(died)
W/o Palanivel, No.9/5a, Pattinathar Koil St,
Thiruvaottiyur, Chennai 19

5.Maheswari
W/o Ravi, No.37/14, Mayor Basudev St, Old
Washermenpet, Chennai 21

6.Munusamy(died)
Memo Dated 22/09/2025(usr.No.38175)r6 Died,
R7 And R8 Already On Record Are Recorded As
Lrs Of The Deceased R6.Memo Recorded Vide
Court Order Dated 25/09/2025 Made In Sa.No.615
Of 2012(pdbj)

7.Bharathi

8.M.Dinakaran
Rr6 To 8 Are At No.34/17, Sastri Nagar,
M.M.Colony, Manali, Chennai 58



9.Palanivelu

S/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

10.Priyadharshini

D/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

11.Hemalatha

D/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

12.Yuvaraj

S/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

R4 DIED, RR9 TO 12 ARE BROUGHT ON
RECORD AS LRS OF THE DECEASED R4
VIDE COURT ORDER DATED 25/09/2025
MADE IN CMP.NOS.689,693 AND 694 OF 2025
IN SA.NO.615 OF 2012(PDBJ)

..Respondent(s)

For Petitioner : Mr. G.Harikrishnan

For R1,2,3,5,7&8: Mr.D.Murugan

R4 and R6 : Died

PRAYER in SA.No.615 of 2012: This Second Appeal is filed under Section 100 of the CPC to set aside the Judgment and Decree of the V Additional City Civil Court, Chennai dated 15.12.2010 made in AS.No.351 of 2007 and also the Judgment and Decree made in OS.No.1477 of 2004 dated 11.01.2007.

For Appellants: Mr.G.Harikrishnan

For Respondents: Mr.D.Murugan for R1, R2, R3, R5, R7 & R8

Died - R4 & R6

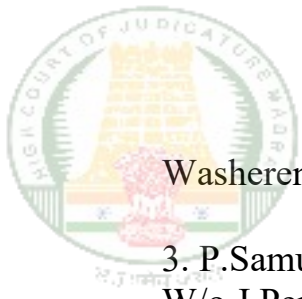
In SA No. 796 of 2016

1. J.Perumal Udayar(died)

S/o Late Jayarama Udayar, Bommarajapuram Village, Ayyappakkam
Post, Kalpakkam, Kanchipuram Dist

2.J.Alagesan Udayar

S/o Late Jayarama Udayar, No. 27/11, Muniappan St , Old



Washerenpet, Chennai -21

3. P.Samundeeswari(died)

W/o.J.Perumal Udayar, Lrs Of Deceased 1st Appeilant
Bommarajapuram Village, Ayyappakkam Post, Kalpakkam,
Kanchipuram Dist.

4. P.Prabavathi

D/o.J.Perumal Udayar, Lrs Of Deceased 1st Appeilant
Bommarajapuram Village, Ayyappakkam Post, Kalpakkam,
Kanchipuram Dist.

5. T.Kalaiselvi

D/o.J.Perumal Udayar, Lrs Of Deceased 1st Appeilant
Bommarajapuram Village, Ayyappakkam Post, Kalpakkam,
Kanchipuram Dist.

6. P.Sharmila

D/o.J.Perumal Udayar, Lrs Of Deceased 1st Appeilant
Bommarajapuram Village, Ayyappakkam Post, Kalpakkam,
Kanchipuram Dist.

A1 Died, A3 To 6 Are Brought On Record As Lrs Of The Deceased
A1 Vide Court Order Dated 29/11/2023 Made In Cmp Nos 1118 And
5331 Of 2022 In Sa No 797 And 796 Of 2016(kgtj).

Memo Dated 23/09/2025(usr.No.38170) A3 Died, A4 To 6 Already
On Record Are Recorded As Lrs Of The Deceased A3 .Memo
Recorded Vide Court Order Dated 25/09/2025 Made In Sa.No.796
Of 2016(pdbj) ..Appellant(s)

Vs

1.Rajeswari

W/o Rajendran Plot No. 74, Ayyavoo Nagar,
Mettukuppam Road, Maduravoyal, Ch -95,
Amsavalli(decs), Muniammal(decs)

2. Pushpa

S/o Late Sivalingam, Bommarajapuram Village,
Ayyappakkam Po, Kalpakkam, Kancheepuram
Dist

3. Arumugam Udayar

S/o Late Jayaramaudayar, Bommarajapuram



Village, Ayyappakkam Po, Kalpakkam,
Kancheepuram Dist

4.Mangayarkarasi(died)
W/o Palanivel, No. 9/5a, Pattinathar Koil St,
Thiruvottiyur, Ch-19

5.Mageswari
W/o Ravi, Res At 37/14, Mayor Basudev St, Old
Washermenpet, Chennai

6. L.Munusamy(died)
At 34/17, Sastri Nagar, M.M.Colony, Manali,
Chennai -58.
Memo Dated 23/09/2025(usr.No.38170)r6 Died,
R7 And R8 Already On Record Are Recorded As
Lrs Of The Deceased R6.Memo Recorded Vide
Court Order Dated 25/09/2025 Made In Sa.No.796
Of 2016(pdbj)

7. M.Bharathy
At 34/17, Sastri Nagar, M.M.Colony, Manali,
Chennai -58

8. M.Dinakaran
At 34/17, Sastri Nagar, M.M.Colony, Manali,
Chennai -58

9. Palanivelu
S/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

10.Priyadharshini
D/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

11. Hemalatha
D/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

12. Yuvaraj
S/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.



R4 DIED, R9 TO 12 ARE BROUGHT ON
RECORD AS LRS OF THE DECEASED R4
VIDE COURT ORDER DATED 25/09/2025
MADE IN CMP.NOS.704,708 AND 707 OF 2025
IN SA.NO.796 OF 2016(PDBJ)

For Appellants: M/s.H.Rajasekar
Mr.B.Manivannan

For Respondents: Mr.D.Murugan
for R1, to R3, R5, R7,R8, R9 to R12
Died - R4 & R6

..Respondent(s)

PRAYER in SA.No.796 of 2016: This Second Appeal is filed under Section 100 of the CPC to set aside the Judgment and Decree of the V Additional City Civil Court, Chennai dated 15.12.2010 made in AS.No.494 of 2007 in partly reversing the Judgment and Decree made in OS.No.1477 of 2004 dated 11.01.2007 of the XVIII Assistant Judge, City Civil Court, Chennai by decreeing the suit in respect of plaint 'B' schedule property.

For Appellants : Mr.H.Rajasekar
Mr.B.Manivannan

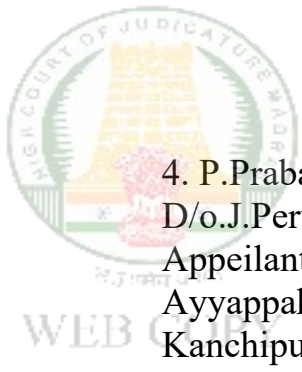
For Respondents : Mr.D.Murugan for R1 to R3, R5, R7, R8, R9 to R12
Died - R4 & R6

In SA No. 797 of 2016:

1. J.Perumal Udayar(died)
S/o Late Jayarama Udayar, Bommarajapuram
Village Ayyapakkam Post, Kalpakkam,
Kanchipuram Dist

2. J.Alagesan
S/o Late Jayarama Udayar No. 27/11 Muniappan
St, Old Washermenpet, Chennai 21

3. P.Samundeeswari(died)
W/o.J.Perumal Udayar, Lrs Of Deceased 1st
Appeilant Bommarajapuram Village,
Ayyappakkam Post, Kalpakkam,
Kanchipuram Dist.



4. P.Prabavathi

D/o.J.Perumal Udayar, Lrs Of Deceased 1st
Appeilant Bommarajapuram Village,
Ayyappakkam Post, Kalpakkam,
Kanchipuram Dist.

5. T.Kalaiselvi

D/o.J.Perumal Udayar, Lrs Of Deceased 1st
Appeilant Bommarajapuram Village,
Ayyappakkam Post, Kalpakkam,
Kanchipuram Dist.

6. P.Sharmila

D/o.J.Perumal Udayar, Lrs Of Deceased 1st
Appeilant Bommarajapuram Village,
Ayyappakkam Post, Kalpakkam,
Kanchipuram Dist.

A1 Died, A3 To 6 Are Brought On Record As Lrs
Of The Deceased A1 Vide Court Order Dated
29/11/2023 Made In Cmp Nos 1118 And 5331 Of
2022 In Sa No 797 And 796 Of 2016(kgtj)
1memo Dated 23/09/2025(usr.No.38175) A3 Died,
A4 To 6 Already On Record Are Recorded As Lrs
Of The Deceased A3 .Memo Recorded Vide Court
Order Dated 25/09/2025 Made In Sa.No.615 Of
2012(pdbj)

..Appellant(s)

Vs

Amsavalliammal(decs),
Muniammal(decs) 1.Pushpas/o Late Sivalingam
Bommarajapuram Village Ayyappakkam Po,
Kalpakkam, Kancheepuram Dist
1. Pushpa
2.Arumugam Udayar
S/o Late Jayarama Udayar, Bommarajapuram
Village Ayyappakkam Po, Kalpakkam,
Kancheepuram Dist



3. Mangayarkarasi(died)
W/o Palanivel, No. 9/5a, Pattinathar Koil St,
Thiruvottiyur Chennai 19

4. Mageswari
W/o Ravi Res At 37/14, Mayor Basudev St, Old
Washermenpet, Chennai 21

5. L.MUNUSAMY(died)
MEMO DATED 23/09/2025(USR.NO.38175) A3
DIED, A4 TO 6 ALREADY ON RECORD ARE
RECORDED AS LRS OF THE DECEASED A3 .
r5 died,r6 and 7 ALREADY ON RECORD ARE
RECORDED AS LRS OF THE DECEASED R5
MEMO RECORDED VIDE COURT ORDER
DATED 25/09/2025 MADE IN SA.NO.615 OF
2012(PDBJ).

6. M.Bharathy
.

7. M.Dinakaran
R5tor7 Res At 34/17 Sastri Nagar M.M.Colony,
Manali, Chennai 58

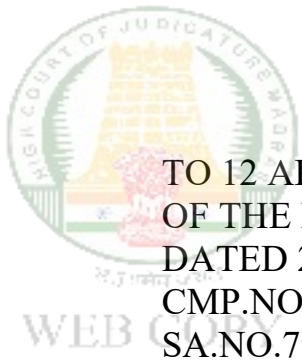
8. Rajeswari
W/o Rajendran Plot No. 74, Ayyavoo Nagar
Mettukuppam Rd, Maduravoyal Chennai 95

9. Palanivelu
S/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

10. Priyadharshini
D/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

11. Hemalatha
D/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

12. Yuvaraj
S/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19. R3 DIED, RR9



TO 12 ARE BROUGHT ON RECORD AS LRS
OF THE DECEASED R3 VIDE COURT ORDER
DATED 25/09/2025 MADE IN
CMP.NOS.699,700 AND 701 OF 2025 IN
SA.NO.797 OF 2016(PDBJ)

..Respondent(s)

For Appellants : Mr.H.Rajasekar
Mr.B.Manivannan

For R1,2,4,6 ,7,8,9 to 12 : Mr.D.Murugan
R3 and R5 : Died

PRAYER in SA.No.797 of 2016: This Second Appeal is filed under Section 100 of the CPC to set aside the Judgment and Decree of the V Additional City Civil Court, Chennai dated 15.12.2010 made in AS.No.496 of 2007 in partly reversing the Judgment and Decree made in OS.No.1477 of 2004 dated 11.01.2007 of the XVIII Assistant Judge, City Civil Court, Chennai by decreeing the suit in respect of plaint 'B' schedule property.

For Appellants : Mr.H.Rajasekar
Mr.B.Manivannan
For Respondents : Mr.D.Murugan
for R1, R2, R4, R6, R7, R8, R9 to R12
Died - R3 & R5

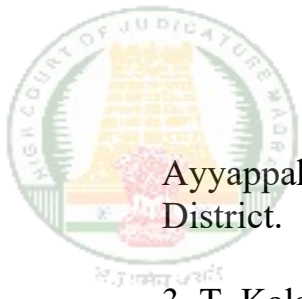
In CMP No. 29125 of 2025:

Rajeswari
W/o. Rajendran, Plot NO.74, Ayyavoo Nagar,
Mettukuppam Road, Maduravoyal, Chennai - 095.

..Appellant(s)

Vs

J. Perumal Udayar (died)
1. J. Alagesan Udayar
S/o. Late Jayarama Udayar, No.27/11, Muniappan
Street, Old Washermenpet, Chennai - 21,
P. Samundeeswari (Died).
2. P. Prabavathi
D/o. J. Perumal Udayar, Lrs of Deceased 1st
Appellant, Bommarajapuram Village,



Ayyappakkam Post, Kalpakkam, Kanchipuram District.

3. T. Kalaiselvi

D/o. J. Perumal Udayar, Lrs of Deceased 1st Appellant, Bommarajapuram Village, Ayyappakkam Post, Kalpakkam, Kanchipuram District.

4. P. Sharmila

D/o. J. Perumal Udayar, Lrs of Deceased 1st Appellant, Bommarajapuram Village, Ayyappakkam Post, Kalpakkam, Kanchipuram District. Amsavalli (died), Muniammal (Died).

5. Pushpa

S/o. Late Sivalingam, Bommarajapuram Village, Ayyappakkam Post, Kalpakkam, Kanchipuram District.

6. Arumugam Udayar

S/o. Late Jayaramaundayar, Bommarajapuram Village, Ayyappakkam Post, Kalpakkam, Kanchipuram District. Mangayarkarasi (Died)

7. Mageswari

W/o. Ravi, Res. at 37/14, Mayor Basudev Street, Old Washermenpet, Chennai. L.Munusamy (died)

8. M. Bharathy

at 34/17, Sastri Nagar, M.M.Colony, Manali, Chennai - 58.

9. M. Dinakaran

at 34/17, Sastri Nagar, M.M.Colony, Manali, Chennai - 58.

10. Palanivelu

S/o. Mangayarkarasi, No.9/5A, Pattinathar Koil Street, Thiruvottiyur, Chennai 19.



11. Priyadharshini
D/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

12. Hemalatha
D/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

13. Yuvaraj
S/o. Mangayarkarasi, No.9/5A, Pattinathar Koil
Street, Thiruvottiyur, Chennai 19.

..Respondent(s)

PRAYER IN CMP.No.29125 of 2025: To permit the petitioner to produce the additional documents listed hereunder, namely the Adangal extracts, patta, FMB Sketch and sale agreement pertaining to item No.8 to 16, receive in B Schedule suit property and mark the same as additional evidence and pass such further or other orders as this Honble Court.

For Petitioners:	D.Murugan for P1 to P3, P5, P7, P8, P9 to P12
For Respondent(s):	Mr.H.Rajasekar Mr. B.Manivannan Mr.H.Rajasekar

COMMON JUDGMENT

All the above three Second Appeals are arising out of the suit in OS.No.1477 of 2004.

2. The appellants in all the appeals are the defendants 3 and 5 in the main suit. The 1st respondent in SA.No.615 of 2012 and SA.No.796 of 2016 and 8th respondent in SA.No.797 of 2016 has filed a suit in OS.No.1477 of 2004 for the



relief of partition of immovable properties claiming $\frac{1}{4}$ share of the suit properties. The trial court decreed the suit in respect of the 'A' schedule properties. Aggrieved by the said Decree and Judgment, the defendants 3 and 5 have preferred the first appeal in AS.No.351 of 2007 and the plaintiff has preferred an appeal in AS.No.494 of 2007, and the defendants 1, 2, 4, 6, 7 and 8 have preferred an appeal in AS.No.496 of 2007. The first appellate court heard the appeals together and passed common judgment by dismissing the appeal filed by the defendants 3 and 5 and partly allowed the appeal filed by the plaintiff in respect of the 'B' schedule property and suit is dismissed in respect of 'C' schedule property. The appeal in AS.No.496 of 2007 also partly allowed in respect of 'D' schedule and the decree and Judgment passed by the trial court was partly set aside and partly confirmed. Aggrieved by the common decree and judgment, the defendants 3 and 5 have preferred all these appeals.

3. The gist of the plaint averments are as follows:-

The suit schedule 'A' and 'B' properties originally belonged to the plaintiff's father B.S.Jayaman Udayar and he died in the year January, 1992 intestate leaving behind his Wife, Amsavalli Ammal/1st defendant, daughters/the plaintiffs and defendants 2, 4, 7, 8 and sons, the defendants 3, 5 and 6. The plaintiffs and defendants are the joint owners of the suit 'A' and 'B' schedule properties. The 'A' schedule properties are all agricultural lands and 'B' schedule properties are under the possession of tenants and some portions of



the properties are occupied by the 5th defendant. The 'C' schedule property is the fixed deposit made by the plaintiff's father in the name of 1st defendant.

Therefore, the plaintiff is entitled to 1/9th share in the plaint schedule properties. When the plaintiff demanded partition of her share, the defendants refused for the amicable partition. Therefore, the plaintiff caused a notice dated 20.03.2003 and the defendants 1 and 4 issued false reply through reply dated 22.05.2003 and the defendants 3 and 5 have issued reply with false allegations on 05.04.2003. Even after the notice, the defendants failed to partition the properties. Therefore, they filed the suit.

4. The defendants 3 and 5 filed the written statement stating that 'A' and 'B' schedule properties are originally belonged to the plaintiffs and defendant's grandfather, Chellamuthu Udayar and after his demise, only his son B.S.Jayaraman Udayar inherited and had been in possession and enjoyment of the properties. While So on 17.01.1992, the said B.S.Jayaraman Udayar died leaving behind a Will dated 13.10.1991. The defendants and the plaintiffs are the legal heirs of the B.S.Jayaman Udayar. The plaintiff is not in joint possession and enjoyment of 'A' and 'B' schedule properties. Hence, the suit is barred by limitation.

4.1. The B.S.Jayaraman Udayar left the property situated at Bommarajapuram, Nallathur Village to an extent of 6.74 acres of Nanja and



Punja lands and also a house bearing No.27/11, Muniyappa Mudali street, Old Washermanpet, Chennai and bank balance of Rs.3 lakhs. Out of the 3.74 acres, the defendants 3, 5 and 6 each took $2\frac{1}{4}$ acres. The Bommarajapuram house has been occupied by the defendants, 1, 3, 4 and 6. The old tiled house bearing No.27/11, Muniyappa Mudali street, Old Washermanpet, Chennai is maintained by the 5th defendant. The land and properties left behind by B.S.Jayaraman Udayar situated at Bommaraja puram, Nallathur village are also mentioned in the written statement.

4.2. The existence of the land mentioned in 'B' schedule is imaginary and incorrect. B.S.Jayaraman Udayar had bank deposit of Rs.3 lakhs at the time of his demise. The said Rs.3 lakhs amount was paid for the legal purpose of celebrating the marriage of the plaintiff and the 6th defendant. Ever since 1994, right from the date of marriage of the 6th defendant, his wife and his widowed sister Pushpa and his mother, 1st defendant /Tmt. Ammal were occupying and enjoying $\frac{1}{2}$ share of Bommarajapuram village house. The 1st defendant while settling with 6th defendant has packed up 25 sovereigns of gold jewellery and Rs.50,000/- cash from the bank deposit of B.S.Jayaraman Udayar and Rs.2 lakhs was spent for celebrating of plaintiff and 6th defendant marriage; Rs.50,000/- was taken by the 1st defendant while settling with 6th defendant. Therefore, the plaintiff is not entitled to any share in the schedule mentioned properties and everything was settled amicably long back. Hence, the suit is



barred by limitation. Issue of share claim in the properties left by late B.S.Jayaram Udayar was referred to village panchayatars headed by Mr.Subramani, Kasi and Annappan and as per the decision of the village panchayat, the defendants 3 and 5 had paid a sum of Rs.25,000/- each to the three sisters namely defendants 2, 7 and 8. Thus, the claim were amicably settled. But the 6th defendant has failed to pay his contribution of Rs.25000/- to the plaintiff. Therefore, she has been motivated to file this suit. 6th defendant alone is responsible to answer the claim of the plaintiff. Therefore, the suit is liable to be dismissed.

5. The brief averments of the written statement filed by the 6th defendant and adopted by the 1st defendant are as follows:-

The 1st defendant is the mother of the plaintiff and 6th defendant is the elder brother and other defendants are brothers and sisters. The plaintiffs and defendants are in joint possession and enjoyment of the properties. The plaintiff and each of the defendants are entitled to 1/9 share in the suit properties. The defendants themselves admitted before the Panchayatars that the properties are joint properties and a memorandum of partition was signed by the said defendants. In the month of December, 2002 when the matter was brought before the panchayatars, the memorandum of partition was signed. Some of the properties purchased in the name of defendants 3 and 5 within the common funds does not make it their individual properties and they are bound to account



to other sharers for the income received from the common properties.

Therefore, they prayed to decree the suit.

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6. Brief averments of the written statement filed by the 7th defendant and adopted by the defendants 2, 4 and 8 are as follows:-

The plaintiff and the defendants are in joint ownership of the properties. Therefore, the plaintiff and each defendants are entitled to 1/9 share and this defendants have no objection for partition over the schedule property and also prayed for a decree.

7. Based on the above said pleading and after hearing both sides, the trial court has framed the following issues:

- i) Whether the suit is barred by limitation?*
- ii) Whether this suit is maintainable?*
- Iii) Whether some of the suit property is belonged to 3rd parties?*
- iv) Whether some of the suit properties are self acquired properties of defendant No.3?*
- v) Whether the plaintiff is entitled for partition as prayed for?*
- vi) Whether 'B'schedule property is not correct?*
- Vii) Whether the bank deposit of Rs.3,00,000/- of plaintiff's father was spent for legal purposes?*
- Viii) Whether D1 packed up 25 sovereigns of gold and Rs.50,000/- from bank deposit of plaintiff's father?*
- ix) To any other relief?*



8. Before the trial court, on the side of the plaintiffs, the plaintiff was examined as PW1 and marked as Ex.A1 to Ex.A14. On the side of the defendants, DW1 to DW4 were examined and marked Ex.B1 to Ex.B9.

9. After hearing both sides and perusing the records, the trial court decreed the suit in respect of the 'A' schedule property by declaring that the plaintiff is entitled to 1/9th share and the suit is dismissed with regard to 'B' and 'C' schedule properties.

10. Aggrieved by the said decrees and judgments 3 and 5, defendants have preferred an appeal in AS.No.351 of 2007. The plaintiff has preferred an appeal in AS.No.494 of 2007. The defendants 1, 2, 4, 6, 7 and 8 have also preferred an appeal in AS.No.496 of 2007.

11. The first appellate court framed the following points for determination.

i) Whether the properties described in A, B, C schedule property to the plaint are joint family properties and those are liable for partition?

ii) whether the daughters of B.S.Jayaram Udayar agreed to give up their rights over the suit properties in favour of their brothers?

iii) whether the properties described in A and B schedule were already partitioned among the sons of B.S.Jayaram Udayar?



12. The first appellate court after perusing the records and hearing both sides, dismissed the appeal in AS.No.351 of 2007 filed by the defendants 3 and 5 and partly allowed the appeal filed by the plaintiff in AS.No.494 of 2007 and other defendants in AS.No.496 of 2007 and decreed the suit in respect of the 'B' schedule properties and dismissed the suit in respect of the 'C' schedule properties

13. Aggrieved over by the common judgments and decrees of the first appellate court the defendants 3 and 5 have filed the present Second Appeals.

14. This court at the time of admitting the Second Appeal, framed the following substantial questions of law :-

a) The finding of the lower appellate court that the 'B' schedule property is the self-acquired property of late Jayaram Udayar without any documentary evidence is valid in law?

b) Whether the lower appellate court is right in accepting some of the properties in plaint Schedule 'B' which stands in the name of appellant herein as Joint Family Property ?

15. Learned counsel for the appellant would submit that there is no dispute that some of the suit properties are belonged to their father B.S.Jayaraman Udayar but all the suit properties are not available for partition.



The defendants 3 to 5 who are the appellants herein have categorically stated about the availability of the properties for partition. Already the properties stood in the name of B.S.Jayaraman Udayar were partitioned between his sons and the daughters were given money and they have relinquished their rights. The plaintiff has not produced any documents to show the availability of the properties. Most of the items in 'B' schedule properties are not belonged to the family of the plaintiff or defendant. The separate properties of the defendants 3 and 5 have also included in the 'B' schedule property. This third schedule property is not available and already it was paid for legal necessities. The 'B' schedule properties Survey No.135/1, 136/2, 136/3, 136/5, 136/6, 136/7 and 136/8 have already been partitioned by way of oral partition and those properties are not available for partition. As far as S.Nos. 98/9E1, 9E2 and 9E3 are concerned they were already sold by his father B.S.Jayaraman Udayar in the year 1989 itself. Survey Nos.132/4, 137/2, 139/3 and 137/5 are not at all belonged to family of the plaintiffs and the defendants. As far as the S.No.137/1 is concerned, it is a self-acquired property and the same was purchased in the year 1992. Survey No.137/4 is also a separate property which was purchased in the year 2002; S.Nos.137/3, belongs to 5th defendant and the same was purchased in the month of November 1998. Therefore, the price of the properties mentioned in the 'B' schedule are not correct. However, the courts below failed to consider that there is no documents produced by the plaintiff to prove that all the properties are belonged to B.S.Jayaraman Udayar



and the same are available for partition. In order to prove the case of the plaintiff, plaintiff was examined as PW1 and marked as Ex.A1 to Ex.A14. On the side of the defendants, DW1 to DW4 were examined and marked Ex.B1 to Ex.B9.

15.1. The plaintiff has not proved that the 'B' schedule properties are available for partition. The trial court after analyzing the evidences correctly dismissed the suit in respect of 'B' and 'C' schedule properties. However, erroneously decreed the suit in respect of 'A' schedule properties. Therefore, the appellants filed the Appeal in AS.No.351 of 2007. The plaintiff has preferred the appeal an AS.No.494 of 2007. The other defendants have preferred the appeal in AS.No.496 of 2007. The first appellate court without framing the proper points for determination, erroneously dismissed the appeal by confirming the judgment of the trial court in respect of 'A' schedule property and erroneously allowed the appeal filed by the plaintiff and other defendants in respect of 'B' schedule property. The plaintiff has not produced the documents to show all that the suit properties are belonged to the family of B.S.Jayaraman Udayar. However the defendants have produced documents to show that some of the properties are self-acquired property and some of the properties belonged to third parties and properties available in the name of B.S.Jayaraman Udayar were orally partitioned between the sons of B.S.Jayaraman Udayar. Without considering the same, the first appellate court decreed the suit in respect of the



‘B’ schedule property. Therefore, the decree and judgment passed by the courts below in respect of ‘A’ and ‘B’ schedule properties are liable to be set aside by allowing the Second Appeal.

16. The learned counsel appearing for the respondents would submit that the plaintiffs has filed the suit for partition and the suit A to C schedule properties are separate properties of Jeyaraman Udayar. The plaintiffs and the defendants are the legal heirs of the deceased jayaraman Udayar. After the demise of the Jayaraman Udayar his legal heirs are entitled to equal shares. While so the defendants denied to give share to the plaintiffs thereby filed the suit for partition. On the side of the plaintiffs they examined P.W.1 and marked Ex.A1 to A14. On the side of the defendants they examined D.W1 to D.W.4 and marked Ex.B1 to B9. The trail court decreed the suit in respect of 'A' schedule but erroneously dismissed the suit as against 'B' and 'C' schedule properties. The plaintiff and defendants have preferred separate appeals and the 1st appellate court dismissed the appeal filed by the 3 and 5 defendants and allowed the appeal filed by the plaintiffs and other defendants in respect of 'B' schedule property and dismissed the appeal as against 'C' schedule property. The defendants 3 and 5 themselves admitted the existence of some properties and they failed to prove the oral partition in respect of those properties. The plaintiffs has produced the available documents and the court below based on the documents correctly decreed the suit in respect of 'B' schedule property.



Therefore the appellate court has appreciated the evidence and came to a fair conclusion and the present appeal is liable to be dismissed.

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17. In CMP.No.29125 of 2025:-

During the pendency of the appeal, the 1st respondent in SA.No.796/2016 has filed an application to receive the additional documents. According to the applicant, he obtained some documents, namely Adangal extract, FMB sketch and sale agreement in respect of the properties which had been obtained recently and thereby those documents are very essential to prove the case of the plaintiff and thereby the applicant has filed this petition .

18. The respondents filed counter stating that there are no reasons stated by the applicant for non-production of the documents during the trial either before the lower court or before the first appellate court and there are no grounds to allow the application and there are no pleadings to fulfill the conditions of Order 41 Rule 27 of CPC. The documents Nos.5 and 6 are inadmissible. Even as per the Adangal records, they are only in respect of enjoyment of the properties and those documents are not title deeds and those documents no way helpful to decide the case. Therefore, they pray to dismiss the application.

19. This court heard both sided and perused the records.



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20. During the pendency of this Second Appeal the first appellate court in SA.no796 has filed an application to receive the document as an additional documents under Order 41 Rule 27 of CPC. According to the applicant, those documents are very essential to prove the case and thereby they filed the application. According to the respondents, the applicant has not filed those documents either before the trial court or before the first appellate court. There are no reasons stated for non production of documents. Even as per the documents, 1 to 3 documents are pertaining to the year 2010 and the 5th document is pertaining to year 1992. Most of the documents are xerox copies. Therefore, those documents are nowhere helpful to decide the case and already available evidences are sufficient to decide the case.

21. It is a well settled law that as far as the reception of additional documents are concerned, if the documents are very essential to decide the case and to enable the court to pronounce judgments or for any other substantial cause, the court can allow such evidence as documents. Further, the applicant has to fulfill the conditions stated in Order 41 Rule 27. The applicant has not stated any reasons for non-production of those documents either before the trial court or before the first appellate court. Even on merits those documents are Adangal extract and xerox copies of the agreement and already sufficient



documents are available and with those documents and evidences, the court can pronounce judgments and thereby those documents are not essential to decide the case, therefore this application is liable to be dismissed.

22. In this case, there is no dispute that the plaintiff and the defendants are legal heirs of the deceased B.S.Jayaraman Udayar. The plaintiff who is the daughter of the B.S.Jayaraman Udayar has filed the suit for partition alleging that the suit 'A' to 'C' schedule properties are available for partition and the defendants have admitted the relationship between the parties. However, the defendants 3 and 5 have denied the availability of all the proprieties mentioned in 'A' and 'B' schedule property and 'C' schedule proprieties money was already spent for legal necessities. Since the suit is filed for partition and the defendants denied the availability of the properties, it is the duty of the plaintiff to prove the availability of the properties. In order to prove the availability of the properties, the plaintiff has not produced any documents in respect of any title deeds and produced Ex.A1 certified copy of sale deed in the name of the B.S.Jayaraman Udayar dated 31.01.1969. Ex.A2 to Ex.10 are Encumbrance Certificates. Ex.A11 is chitta copy for the properties Ex.A12 is the legal notice dated 20.03.2023 issued to the plaintiffs to the defendants 1,3,5 and 6 . Ex.B13 and 14 are reply notices. When the defendants denied the existence of properties, it is the duty of the plaintiff to prove that all the properties are available for partition. The defendants in the written statement admitted the



existence of some properties and denied the other properties and some of the properties are self-acquired properties.

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23. As far as the Schedule 'A' property is concerned, the defendants admitted the existence of the properties and it is also not disputed that the property stands in the name of B.S.Jayaraman Udayar. Even according to the defendants 3 and 5 who are the contesting defendants, 'A' schedule property is under the occupation of 5th defendant and the rent is being distributed to his mother and spent for maintenance of the properties. The defendants have not stated that the said house was partitioned between them. Therefore, the plaintiff is entitled to share over the said 'A' schedule properties.

24. As far as the 'B' schedule properties are concerned, the plaintiff has not produced any documents. But however, defendants have stated that an extent of 6.74 acres in SF.No.135/1,2,6,7,8 were left by B.S.Jayaraman Udayar at Bommarajapuram, Nallathur village. The said properties had been divided between the sons of B.S.Jayaraman Udayar, namely defendants 3, 5 and 6, and they each took 2¼ acres. The daughters of Jayaram Udayar were paid a sum of Rs.25,000/- each by the defendants 3 and 5 to defendants 2, 7 and 8, but the 6th defendant has to contribute money to the plaintiff to a sum of Rs.25,000/- But he failed to pay the said money, therefore, the suit has been filed. The plaintiff has not filed any documents to show that all the items mentioned in the



‘B’ schedule are available for partition. However, the defendant themselves admitted that the five items of the properties mentioned supra are belonged to his father B.S.Jayaraman Udayar situated in Bommarajapuram, Nallathur Village.

25. According to the defendants, the Survey Numbers mentioned in ‘B’ Schedule 98/9E1, 9E2 and 9E3 are not belonged to the family and entirely belonged to the third parties. The plaintiff also not filed any document of prove that those properties are family properties and available for partition. Further according to the defendants, S.Nos.137/2, is belonged to Sundaram Naicker and the same under **usufructuary** mortgage with the 5th defendant and S.No.137/5 belonged to Govindasamy Ethiraj and the said properties are under possession of the defendants 3, 5 and 6 for the past several decades. Therefore, in the absence of any documents for the aforesaid properties the plaintiff is not entitled to any relief as against those properties.

26. As far as the other properties in S.No.137/3, is concerned, it was purchased by 5th defendant through sale deed dated 09.11.1998 and S.Nos.137/1, 137/4 were purchased by the 3rd defendant through sale deeds dated 14.07.1992 and 15.04.2002 respectively. Since the aforesaid properties are stands in the name of D3 and 5 the plaintiff cannot claim any right over the property. It is not a case of the plaintiff that these properties were purchased



through the income derived from the joint family properties. Therefore, the plaintiff is not entitled to any relief in respect of these abovesaid Survey Numbers.

27. As far as 'C' schedule properties are concerned, both the courts have dismissed the suit and no any appeal filed as against the dismissal of 'C' schedule property and already the defendants stated that amount had been paid for legal necessity. Therefore the available properties in the name B.S.Jayaraman Udayar are A schedule property and S.No.135/2, 136/6, 136/7, 136/8 to the total extent of 6.74 acres, 'B' schedule properties.

28. According to the defendants 3 and 5, these properties available in 'B' schedule were already divided between the 3 sons of B.S.Jayaraman Udayar and the defendants 3 and 5 paid a sum of Rs.25,000/- each to the defendants 2, 7,8 and D6 has to pay sum of Rs.25,000/- to the plaintiff but the D6 failed to pay his contribution to the plaintiff. Therefore from the above said admissions from by the defendants 3 and 5 it is clear that there is no any partition between the parties by metes and bounds and the daughters of the deceased B.S.Jayaraman Udayar have not relinquished their rights and therefore the plaintiff being the daughter of deceased B.S.Jayaraman Udayar is entitled to share over the available properties.



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29. The trial court failed to consider the admissions made by D3, 5 in respect of properties available in the name of B.S.Jayaraman Udayar in respect of 'B' schedule. The first appellate court failed to consider that the plaintiff has not filed documents to prove the existence of all the properties in 'B' schedule properties and there are no pleadings in respect of properties separately purchased by the defendants 3 and 5 and without any pleadings, the first appellate court decreed the suit in respect of self-acquired properties of the defendants 3 and 5. Since the defendants themselves admitted that the properties stood in the name of B.S.Jayaraman Udayar were enjoyed by them and that is why there are no records to show that the daughters of B.S.Jayaraman Udayar relinquished their rights in favour of the defendants 2, 5 and 6. The daughters of the B.S.Jayaraman Udayar are entitled to share over his properties. Therefore, the plaintiff is entitled to share 1/9 share in 'A' schedule and 1/9 share in 'B' schedule S.Nos.135/1, 136/2, 136/6, 136/7 and 136/8. Therefore, the decree and judgment passed by the first appellate court in respect of 'B' schedule property is unsustainable and the same is liable to be modified.

30. As far as substantial question of law (a) is concerned, the plaintiff filed a suit for partition in respect of A to C items of the properties, 'A' schedule item is the immovable properties, 'B' schedule items contains so many items of immovable properties. In the 'B' schedule the plaintiff has shown 16



items of the properties. But no documents have been filed even for a single property. The plaintiff who filed the suit for partition has to prove that the properties are her family properties and the same are available for partition. But no documents have been produced. However, the defendants 3 and 5 have denied the existence of all the properties and according to the defendants 3 and 5, S.Nos.135/1, 136/2, 136/6, 136/7 and 136/8 alone are available in the name of B.S.Jayaraman Udayar to an extent of 6.74 acres.

31. As far as the other properties are concerned, the S.No.137/3 has been purchased by the 5th defendant through sale deed dated 09.11.1998, S.Nos.137/1 and 137/4, are concerned, those properties have been purchased by the 3rd defendant through sale deeds dated 14.07.1992 and 15.02.2002 respectively. Since those properties were purchased by the individuals, it is the presumption that the properties were purchased by them and the said properties are self acquired properties, unless the contrary is proved. The plaintiff has not pleaded that the said properties were purchased through the income of the joint family and in the absence of any specific pleadings and evidence, those properties have to be treated as separate properties of the defendants 3 and 5.

32. In respect of other properties, no documents have been filed and the defendants have also stated that those properties are not family properties. Therefore, without any documentary evidence in respect of entire 'B' schedule



properties, it is not appropriate to hold that all the properties are self-acquired properties of B.S.Jayaraman Udayar. But, the first appellate court erroneously held that the entire B schedule properties are available for partitioned. Therefore, the findings of the lower appellate court without any documents that the 'B' schedule properties are self-acquired property of B.S.Jayaraman Udayar is not valid in law. Thus, the substantial question of law is answered.

33. As far as the substantial question of law, 'whether the lower appellate court is right in accepting some of the properties in the plaint B schedule property stands in the name of the appellant herein as joint family property, is concerned, the plaintiffs has filed the suit for partition alleging that A to C schedule properties belonged to B.S. Jayarman Udayar and the said properties are his separate properties. The defendants 3 and 5 denied the existence of some properties and admitted 'A' schedule property and some properties of 'B' schedule. However some of the properties were purchased in the name of the 3 and 5 defendants. While so those properties stands in the name of 3 and 5 defendants are their separate properties and the plaintiffs who filed the suit for partition has to prove that all the suit properties are separate properties of her father Jeyaraman Udayar. Since some of the properties are stands in the name of individuals 3 and 5 defendants those properties are their separate properties. It is not the case of the plaintiffs that the properties stands in the name of 3 and 5 defendants were purchased through joint family funds and the said properties



were blended with joint family properties and no pleadings to that effect.

Therefore in the absence of any contra evidence the court has to presume that the sale deeds stands in the names of 3 and 5 defendants are their separate properties. Therefore, the properties stands in the name of the defendants 3 and 5 have to be treated as separate properties, thereby the findings of the lower appellate court in respect of the properties stand in the name of the defendants 3 and 5 is not correct and the same are liable to be set aside.

34. In view of the above said discussions and the answers for substantial questions of law, this court is of the opinion that the judgment and decree passed by the first appellate court in respect of 'A' schedule property and S.Nos.135/1, 136/2, 136/6, 136/7 and 136/8 of 'B' schedule are concerned liable to be confirmed and in respect of other items properties of 'B' schedule are liable to be set aside. Accordingly the S.A 615/2012 is dismissed and S.A. 796/2016, S.A.797/2016 Second Appeals are partly allowed and the decree and judgment passed by the first appellate court in **AS.No.351 of 2007/ AS.No.496/2007** in respect of “A' schedule and ‘B’ schedule properties namely S.Nos.135/1, 136/2, 136/6, 136/7 and 136/8 are confirmed and in respect of other items properties of 'B' schedule this suit is dismissed.



35. In the result SA.No.615 of 2012 is dismissed and SA.Nos.796 and 797 of 2016 are partly allowed and CMP.No.29125 of 2025 is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

26.02.2026

Index: Yes/No
Internet: Yes/No
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P.DHANABAL.,J

gv/aav

SA Nos. 615 of 2012, 796 OF 2016 & 797 OF 2016
AND
CMP.Nos.15072 & 15073 of 2016 & 29125 of 2025

26.02.2026