



WEB COPY

S.A.No.416 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.416 of 2021
and C.M.P.No.5326 of 2024

1.Saraswathi (died)
[cause title of A1 amended, vide order of Court dated
made in CMP.No.5326 if 2024 in SA.No.416 of 2021]

2.Jothimani
3.N.Shanmugasundaram

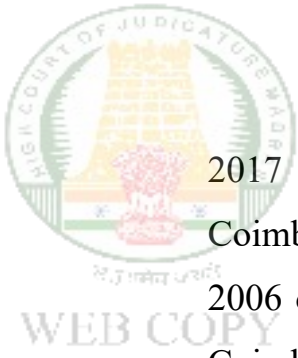
... Appellants

vs.

(Late) Subbian
(Late) P.Somasundaram
1.M.Nanjammal
2.R.Palaniammal
3.R.Rajendran
4.Rangathal
5.R.Selvaraj
6.R.Baby
7.R.Devajanaki
8.R.Vijayalakshmi
9.R.Sundaram
10.R.Murthy
11.R.Velusamy
12.Rukmani
13.K.Mani
14.K.Arumugam
15.Sudha
16.Suji
17.Mani

... Respondent

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.41 of
1/8



2017 dated 31.10.2019 on the file of the 1st Additional District Judge, Coimbatore and confirming the judgment and decree passed in O.S.No.45 of 2006 dated 20.02.2017 on the file of the 2nd Additional Subordinate Judge, Coimbatore and dismiss the suit.

For Appellants : Mr.Adinarayana Rao

For Respondents :No Appearance for R1 to R14
Insufficient Address for R15 & R16

J U D G M E N T

The unsuccessful defendants are the appellants.

2. The respondents herein filed a suit seeking partition. The suit was decreed by the trial Court. The first appeal filed by the defendants was also dismissed. Aggrieved by the concurrent findings, the defendants have come before this Court.

3. According to the respondents/plaintiffs, the suit property originally belonged to one Periyasamy, is common ancestor of the plaintiffs and the defendants. He had five sons and three daughters namely (i) P.Venkitusamy, (ii) P.Subbian, (iii) P.Somasundaram, (iv) P.Ramasamy, (v) P.Arumugham, (vi) Nallammal (vii) Nanjammal and (viii) Saraswathy.



4. It is further stated that after death of Periyasamy, the instant suit has been filed seeking 1/7th share to each of legal heirs of Periyasamy. The 'plaintiffs' represents six children of Periyasamy. Therefore, the decree was sought for allotment of 6/7th share in favour of the plaintiffs.

5. The second defendant filed a written statement and the same was adopted by the first defendant. In the written statement, the defendants denied the allegation in the plaint that the suit property was the property of Periyasamy.

6. It was also stated that the defendants 1 and 2 have been in possession and enjoyment of the suit property for several decades without any interruption whatsoever and therefore, the plaintiffs were not entitled to claim any share in the suit property.

7. In the additional written statement filed by the second defendant and adopted by defendants 1 and 3, it was stated that the suit property absolutely belonged to Periyasamy, who is none other than the maternal grandfather of the second defendant.



8. It was also stated during lifetime of Periyasamy, he executed a settlement deed dated 05.12.1966 settling the suit property in favour of the first defendant. It was also claimed that from the date of execution of the settlement deed in favour of first defendant, she has been in possession and enjoyment of the suit property and plaintiffs have no right over the same. It was also stated that the patta in the name of plaintiffs will not confer any title and therefore they sought for dismissal of the suit.

9. Before the trial Court, the 13th plaintiff Velusamy was examined as PW.1 and eleven documents were marked on the side of the plaintiffs as Exs.A1 to A11. On behalf of the defendant, first defendant was examined as DW.1 and ten documents were marked as Exs.B1 to B10.

10. Based on the evidence available on record, the trial Court came to the conclusion that the suit property belonged to Periyasamy and on his death, his children are entitled to equal share. Accordingly, the suit was decreed as prayed for. Aggrieved by the same, the defendants 1 to 3 filed an appeal in A.S.No.41 of 2017 on the file of the First Additional District Court, Coimbatore. The First Appellate Court confirmed the findings of the trial Court. Aggrieved by the concurrent findings, the defendants have come before this Court.



WEB COPY

11. The learned counsel appearing for the appellants would contend that the plaintiffs who claimed that the property originally belonged to Periyasamy failed to lead in any evidence to show that the property belonged to said Periyasamy and therefore, the courts below committed an error in decreeing the suit as prayed for.

12. The learned counsel also submitted that though the Courts below relied on Ex.A5-Joint patta issued in the name of plaintiffs and the defendants, it failed to see that the defendants have already taken steps to set aside the patta wrongly issued in the name of the plaintiffs and the defendants.

13. It is seen from the additional written statement filed by second respondent and the defendants 1 and 3 dated 18.06.2013, the defendants categorically admitted that the suit property belonged to Periyasamy, who was none other than maternal grandfather of second defendant. It was further stated that Periyasamy executed a registered settlement deed on 05.12.1966 settling the suit property in favour of the first defendant. Therefore, having admitted that the suit property belonged to Periyasamy and he executed a settlement deed in favour of mother of second defendant



[first defendant], it is not open to the appellants to contend that the plaintiffs failed to prove that the suit property originally belonged to Periyasamy.

WEB COPY

14. It is settled law that admitted facts need not be proved. In the case on hand, even in the pleadings, the defendants admitted that the property belonged to Periyasamy and they also relied on alleged settlement deed executed by him. However, the defendants failed to produce alleged settlement deed executed by Periyasamy in favour of first defendant. On the other hand, the plaintiffs produced Ex.A5-joint patta, which stands in the name of legal heirs of Periyasamy namely the plaintiffs and defendants. Therefore, it is proved that the property originally belonged to the Periyasamy and after his death, the same has been in joint possession and enjoyment of his heirs namely the plaintiffs and the defendants and in recognition of joint possession under Ex.A5-joint patta has been issued in the name of both the parties. The trial Court as well as First Appellate Court rightly appreciated the admission of the defendants in the pleadings and the other evidence available on record and came to the conclusion that the plaintiffs were entitled to decree for partition as prayed for.



15. I do not find any perversity in the factual conclusion reached by the Courts below and I find no substantial question of law arising for consideration in the second appeal. Accordingly, this Second Appeal is dismissed. Consequently, the connected civil miscellaneous petition is closed. No costs.

23.03.2026

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

To

1.The I Additional District Judge, Coimbatore

2.The II Additional Subordinate Judge, Coimbatore



WEB COPY

S.A.No.416 of 2



S.SOUNTHAR, J.

ub

S.A.No.416 of 2021

23.03.2026