



S.A.No.242 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.242 of 2026
and
C.M.P.No.8169 of 2026

1.Gopal @ Chinna Goundar

Vadiammal (died)

2.Ambiga Ammal

3.Sangeetha

4.Mohanapriya

... Appellants

vs.

Selvi

... Respondent

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the Judgment and Decree made in A.S.No.11 of 2020 on the file of the Subordinate Judge, Chengam, dated 08.12.2025 modifying the Judgment and Decree made in O.S.No.129 of 2010 on the file of the Additional District Munsif Court, Chengam, dated 25.04.2017.

For Appellants : Mr.K.A.Ravindran



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J U D G M E N T

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The defendants in the suit are the appellants. The respondent herein filed a suit seeking partition of her 5/12 share in the suit property. The Trial Court partly decreed the suit by granting 2/12 share in favour of the plaintiff. Aggrieved by the same, the plaintiff preferred an appeal. The First Appellate Court partly allowed the appeal and enhanced the share of the respondent/plaintiff to 13/36. Aggrieved by the same, the defendants have come before this Court.

2. According to the respondent/plaintiff, the suit properties originally belonged to her grandfather-Senga Gounder. He had three sons namely Venkatrama Gounder, Gopal @ Chinna Gounder and Rangasamy Gounder. The plaintiff is daughter of above mentioned Gopal @ Chinna Gounder, who has been arrayed as 1st defendant in the suit. The wife of Gopal @ Chinna Gounder has been arrayed as 2nd defendant. They had a son by name Pachaiyappan, who died on 12.09.2008. The wife and children of Pachaiyappan has been arrayed as defendants 3 to 5.



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3. According to the plaintiff, the suit properties are ancestral properties. Thus, she is having 1/3rd share in the said properties. It is further stated that Pachaiyappan died on 12.09.2008 leaving behind his mother-2nd defendant and defendants 3 to 5 as his legal heirs. As a legal heir of deceased Pachaiyappan, the 2nd defendant is entitled to 1/12 share in the suit properties. She executed a Release Deed releasing her 1/12 share in the suit properties in favour of the plaintiff on 22.03.2010. Thus, the plaintiff claiming 5/12 share in the suit properties and laid a suit for partition.

4. The contesting 3rd defendant filed written statement and denied various allegations found in the plaint. It was their case that there was a partition in the family after death of Senga gounder and suit properties were allotted to the share of Gopal @ Chinna Gounder and his son Pachaiyappan. The marriage of the plaintiff was celebrated 25 years back and after the marriage, there was a oral family arrangement in the family in the year 2000. In the said family arrangement, the entire suit properties were allotted to the share of deceased Pachaiyappan with liabilities to discharge the debt amount of Rs.10,000/-. It was also claimed that plaintiff and 2nd defendant participated in the said oral arrangement and the 2nd defendant was provided with 20 sheep and one cow. As per the terms of oral arrangement,



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Pachaiyappan enjoyed the suit properties and after his death, the same has been in possession and enjoyment of the defendants 3 to 5 with revenue records in their names.

5. It was further case of the 3rd defendant that after death of Pachaiyappan, there was a dispute in the family and a Panchayat was conveyed in the year 2006. As per the settlement reached in the Panchayat, the Items 1 to 7 of the suit properties were allotted to the share of 3rd defendant and the 2nd defendant-Vediyammal was permitted to enjoy the properties situated in Puliampatti Village for her sustenance. Therefore, according to the contesting defendant, under the permission granted by 3rd defendant, the 2nd defendant had been enjoying the properties situated in Puliampatti Village. Thus, neither the plaintiff nor the 2nd defendant has got any right over the suit properties. It was further pleaded that the 1st defendant has been maintained by the 3rd defendant and out of love and affection, he executed a Settlement Deed settling his share in the suit properties in favour of the minor defendants 4 and 5 by appointing 3rd defendant as guardian. On these pleadings, the contesting defendant sought for dismissal of the suit.



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6. Before the Trial Court, the plaintiff was examined as PW.1 and two other witnesses were examined as PW.2 and PW.3. On behalf of the plaintiff, 12 documents were marked as Exs.A1 to A12. The 3rd defendant was examined as DW.1 and yet another witness was examined as DW.2. On behalf of the defendants, 3 documents were marked as Exs.B1 to B3.

7. The Trial Court on appreciation of oral and documentary evidence available on record, came to the conclusion that the plaintiff failed to prove that her marriage did not take place prior to 25.03.1989 and hence, as per the TN Act 1 of 1990, she could not be treated as a coparcenar. Ultimately, the Trial Court granted decree for 2/12 share in favour of the plaintiff. Not satisfied with the said judgment and decree, the plaintiff preferred an appeal in A.S.No.11 of 2020 on the file of the Subordinate Court, Chengam. The First Appellate Court came to the conclusion that the plaintiff was entitled to the benefit of 2005 amendment to Hindu Succession Act, 1956 and held that she was entitled to equal share along with son of Gopal @ Chinna Gounder. Since the 2nd defendant released her interest in the suit properties in favour of the plaintiff, the First Appellate Court granted decree for 13/36 share. Aggrieved by the same, the appellants/defendants 3, 4 and 5 have come before this Court.



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8. The learned counsel appearing for the appellants would contend that the plaintiff failed to prove that her marriage had taken place subsequent to the coming into force of TN Act 1 of 1990 and hence, she cannot be treated as a coparcenar. He further submitted that Ex.A1-Partition Deed between the Gopal @ Chinna Gounder and his brothers which had taken place in the year 1998 was a registered document, therefore, the plaintiff is not entitled to have share in the ancestral properties. The learned counsel further submitted that the revenue document stands in the name of the contesting defendants. Therefore, the plaintiff was ousted from the joint family property and hence, she cannot be treated as coparcenar.

9. It is not in dispute that the suit properties were allotted to the plaintiff's father-Gopal @ Chinna Gounder in a family partition that had taken place on 30.10.1998. The registered Partition Deed has been marked as Ex.A1. Therefore, it is clear that the suit properties are ancestral properties of Gopal @ Chinna Gounder. In such circumstances, by virtue of 2005 amendment to Hindu Succession Act, 1956, the son as well as daughters of Gopal @ Chinna Gounder are entitled to equal share in the suit properties. Hence, the plaintiff is entitled to 1/3 share and Gopal @ Chinna Gounder and Pachaiyappan are entitled to 1/3 share each. It was contended



that Pachaiyappan died even prior to coming into force of 2005 Amendment Act, therefore, the benefit of the said amendment cannot be extended to plaintiff.

10. The Apex Court in *Vineeta Sharma vs Rakesh Sharma* reported in **2020 (9) SCC 1**, categorially held that the 2005 Amendment Act is retroactive in nature. In such circumstances, the plaintiff is entitled to the benefit of the said judgment. As far as 1/3rd of the share available to the Pachaiyappan, after his death, his interest in the said property will be distributed among his Class-I heirs as per Section 8 of the Hindu Succession Act, 1956. The minor defendants 4 and 5 in their capacity as members of the inner coparcenary headed by the Pachaiyappan are entitled to 1/9th share each in the suit properties. The 1/9th share of Pachaiyappan will be distributed among his Class-I heirs namely 2nd defendant and defendants 3 to 5. Therefore, the 2nd defendant-mother of Pachaiyappan is entitled to 1/36 share in the suit properties. She already released her interest in the suit properties in favour of the plaintiff under Ex.A10.

11. In view of the same, the plaintiff is entitled to 13/36 share in the suit properties. The First Appellate Court rightly relied on the judgment of



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the Apex Court in *Vineeta Sharma* case cited supra and granted a decree for 13/36 share in the suit properties. I do not find any error in the conclusion reached by the First Appellate Court.

12. It was vehemently contended on behalf of the appellants that the revenue document stands in the name of the contesting defendants and therefore, the plaintiff was ousted from the suit property. The patta in the name of the defendants 3 to 5 produced by them came into existence only subsequent to the death of Pachaiyappan. As per the plaint averment, he passed away only in the year 2005. The present suit has been filed well within the period of twelve years on 23.06.2010. Merely because, the revenue records stands in the name of one of the family members, we cannot presume that the other co-owner is totally ousted from the suit properties unless there are strong evidence to support the plea of ouster. Therefore, the argument raised on behalf of the appellants that the plaintiff was ousted from the suit properties is also not appealable to this Court. Finding no substantial question of law arising for consideration in this second appeal, the second appeal stands dismissed.



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13. In Nutshell:-

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(i) The Second Appeal is dismissed.

(ii) In the facts and circumstances of the case, there will be no order as to costs.

(iii) Consequently, the connected Civil Miscellaneous Petition is closed.

15.04.2026

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

- 1.The Subordinate Judge,
Chengam.
- 2.The Additional District Munsif Court,
Chengam.



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S.SOUNTHAR, J.

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