



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-02-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

CS No. 228 of 2021

E.Padma W/o Late Sri K.S.Elayaperumal
residing at No.47, Ravi Colony, St.Thomas Mount
Chennai 16.

..Plaintiff(s)

Vs

1.E.Thennarasu

S/o of late Sri K.S.Elayaperumal at No.9, New
Block, Todhunter Nagar, (Drivers Quarters) I
Saidapet, Chennai 15

2.G.Ezhilselvi

W/o Ganesan Residing at No.27/, Venkateswara
avenue extension, Sabari Nagar, Chennai

3.E.Chandrasekar

S/o Elyaperumal No.B-12 Mount View Apartment
No.1, Mount Poonamalle Road,Nungampakkam
Chennai 89

4.Anand

S/o Elayapermal residing at No.47 Ravi Colony,
St Thomas Mount, Chennai 600 016.

5.Inmozhi Sekar

D.No.6, 4th Cross street, Subhashree Nagar,
Extension -I, Porur, Chennai-600016.

(The 5th defendant impleaded as per order dated
14/11/2019 in I.A.No.186/2024 and time extended
as per order dated 23/04/2025 in Tr.C.S.228/2021)

6.T.Dharshini

F/ aged 25 years,



D/o.E.Thennarasu, residing at No.47, 3rd Street,
Ravi Colony, St.Thomas Mount, Chennai-600016.

7.T.Roshni

F/ aged 22 years,

D/o.E.Thennarasu, residing at No.47, 3rd Street,
Ravi Colony, St.Thomas Mount, Chennai-600016.

8.T.Varshini

F/ aged 18 years,

D/o.E.Thennarasu,

Rep by Mother, Next Friend , and Natural

Guardian M.E.V.Thulasi,

W/o.E.Thennarasu,

residing at No.47, 3rd Street, Ravi Colony,
St.Thomas Mount, Chennai-600016.

(The Defendants 6 to 8 are impleaded as per order
dated 23/04/2025 in A.no.6733/2024)

..Defendant(s)

PRAYER: The Civil Suit has been filed Order VII Rule 1 of Code of Civil Procedure praying for i) directing partition of the suit property and allot the Plaintiff her 4/5th share and the defendant his 1/5th share, after deducting the expenses incurred in education. ii) directing the defendant to pay the cost of this suit. and iii) to pass such other or further orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.



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For Plaintiff(s):

M/s.G.Ezhilarasan

For Defendant(s):

M/s R.Priyanka [for R1]

Mr. B.Balaganesan [for R2 to R4]

M/s.K.Balaji [for R6 to R8)

JUDGMENT

The Civil Suit has been filed for the reliefs of partition and cost.

2. The learned counsel appearing for the Plaintiff requested permission of the Court to withdraw this Suit in C.S. No.228 of 2021 and to that effect, he has also made his endorsement. However, the learned counsel appearing for the defendants strongly objected to withdraw the Suit and brought to the notice of the Court that already the same Plaintiff made an undertaking before this Court that she would not withdraw the Suit and now contrary to the said undertaking made by her, seeking permission to withdraw the Suit. Already the defendants have filed an application to transpose them as Plaintiffs in the Suit and those applications were disposed of, since the Plaintiff would not withdraw the Suit and therefore, strongly objected.

4. This Court heard both sides and perused the materials available on record.



5. On a perusal of records, it is observed that the Plaintiff in C.S. No.228 of 2021 has filed the Suit in respect of a single property, whereas the son of the Plaintiff has filed the Suit in C.S.No.226 of 2021 by including all the properties including the subject matter of the property in this Suit. Therefore, once the Plaintiff herself wanted to withdraw the Suit which is filed only for a single property, whereas the comprehensive Suit in C.S.No.226 of 2021 is pending for partition, in respect of the entire family properties, which includes the subject matter of the Suit property in the said pending Suit in C.S. No.226 of 2021, the parties can work out their remedies and therefore, there would be no prejudice caused to either side by permitting the Plaintiff to withdraw the Suit. Once the comprehensive suit filed for partition is pending the present suit filed by the plaintiff is only in respect of one item of property covered under the suit in CS No.226 of 2021, the suit need not be kept pending unnecessarily. Further the plaintiff who is the dominus litus can withdraw the suit as her wish and the defendants cannot have any objection. Though the suit is for partition all the parties can be treated as plaintiffs, since the suit property is covered under earlier suit in CS No.226 of 2021 which is filed for partition by including all the family members, it is appropriate to permit the plaintiff to withdraw the suit.



6. In view of the same, this Court is of the opinion that the earlier undertaking given by the Plaintiff that not to withdraw the Suit is noway an impediment to grant permission to the Plaintiff to withdraw the Suit. Therefore, this Court is inclined to permit the Plaintiff to withdraw the Suit.

7. Accordingly, this Suit is *dismissed as 'withdrawn' and the Plaintiff is entitled to refund of Court fee as per rules.*

27-02-2026

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

MJS



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P.DHANABAL, J.

MJS

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