



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-02-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 96 of 2026

AND

CMP NO. 2813 OF 2026

1. Ganapathy
s/o.Chella Perumal Mudaliyar
Pillaiyar Koil Street, Vadapoondipattu Village,
Kaganam Post, Cheyyar Taluk
Tiruvannamalai District.
2. Sekar
S/o.Chella Perumal Mudaliyar
Pillayar Koil street, Vadapoondipattu Village,
Kaganam Post, Cheyyar Taluk
Tiruvannamalai District
3. Punidhavathi
D/o.Chella Perumal Mudaliyar
W/o.Ramamoorthy
No.9, Alapakkam, Srinivasa Nagar Post,
Chennai-600063
4. Thanigaivel
S/o.Annamalai Mudaliyar
Pillayar Koil street, Vadapoondipattu Village,
Kaganam Post, Cheyyar Taluk
Tiruvannamalai District
5. Dharani
D/o.Annamalai Mudaliyar
Pillayar Koil street, Vadapoondipattu Village,
Kaganam Post, Cheyyar Taluk
Tiruvannamalai District

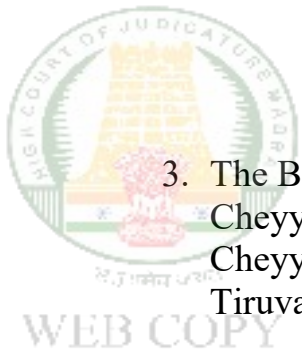


6. Balamurugan
S/o.Annamalai Mudaliyar
Pillayar Koil street,
Vadapoondipattu Village,
Kaganam Post, Cheyyar Taluk
Tiruvannamalai District
7. Sakthivel
S/o.Annamalai Mudaliyar
Pillayar Koil street,
Vadapoondipattu Village,
Kaganam Post, Cheyyar Taluk
Tiruvannamalai District
8. Dinakaran
S/o.Annamalai Mudaliyar
Pillayar Koil street, Vadapoondipattu Village,
Kaganam Post, Cheyyar Taluk
Tiruvannamalai District
9. Kalai Selvi
w/o.Sekar
Pillayar Koil street, Vadapoondipattu Village,
Kaganam Post, Cheyyar Taluk
Tiruvannamalai District

..Appellant(s)

Vs

1. Sammandan
S/o.Chella Perumal Mudaliyar
No.14, Pillayar Koil street
Vadapoondipattu Village,
Kaganam Post, Cheyyar Taluk
Tiruvannamalai District.
2. Annamalai
S/o.Rajagopal Mudaliyar
Pillayar Koil street, Vadapoondipattu Village,
Kaganam Post, Cheyyar Taluk,
Tiruvannamalai District



3. The Block Development Officer
Cheyyar Union Office,
Cheyyar Town and Taluk
Tiruvannamalai District
4. Panneerselvam
S/o.Venkatesan Mudaliyar
Pinnapattu Village,
Melmattai Vinnamangalam Post,
Cheyyar Taluk, Tiruvannamalai District
5. Manigandan
S/o.Panneerselvam
Pinnapattu Village
Melmattai Vinnamangalam Post,
Cheyyar Taluk, Tiruvannamalai District
6. Tamilselvan
S/o.Panneerselvam
Pinnapattu Village,
Melmattai Vinnamangalam Post,
Cheyyar Taluk
Tiruvannamalai District

..Respondent(s)

PRAYER

Second Appeal filed under Sec.100 of Civil Procedure Code, praying to set aside the Decree and Judgment passed in A.S.No.11 of 2019 dated 13.12.2023 on the file of the Sub-Ordinate Judge, Cheyyar, Tiruvannamalai District, confirming the Decree and Judgment passed in O.S.No.260 of 2015, dated 10.12.2018, on the file of the Additional District Munsif Court at Cheyyar, Tiruvannamalai District.

For Appellant(s): Mr.K.G.Senthil Kumar



JUDGMENT

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Challenging the concurrent findings of the courts below in A.S.No.11 of 2019 on the file of Subordinate Judge, Cheyyar, Tiruvannamalai District arising out of trial court findings in O.S.No. 260 of 2015 on the file of Additional District Munsif, Cheyyar, the defendants 1 to 9 have preferred this Second Appeal.

2. For the sake of convenience, the parties are denoted as per the ranking in the Suit.

3. Before the trial court, the plaintiff filed a suit for partition claiming 1/6th share in the entire suit properties stating that all the properties belongs to Pachammal, mother of plaintiff. Therefore, he claimed 1/6th share in the suit properties. The defendants 1 and 2 also have contested the suit and the defendants 3, 5, 6 to 15 were remained exparte. They have contended that the said Pachammal died testate and she has already settled the property. Based on the settlement deed as well as based on the Will, they have claimed title over the suit properties. Before the trial court, the contention of defendants 1 and 2 is that mother of plaintiff had executed a Will in favour of defendants 6, 8, 9 and 10 on 21.04.1997 marked as Ex.B11 and the alleged Settlement deed Ex.B7



dated 23.06.2015 through which Defendants 3, 4 and 7 claimed right, more particularly, in respect of item no.5. Furthermore, as per the Will marked as Ex.B12 also, they have claimed right over the property, in which, the defendants 3, 4 and 7 not entitled any share. The plaintiff contended that Pachammal was died intestate. So, the burden is heavily cast upon them, who claimed right over the suit properties based upon the settlement deed as well as Will, who ought to have examined themselves, but they have not entered into witness box.

4. Admittedly, the Will Ex.B12 was not proved by the contesting defendants, since at the time alleged execution of Ex.B12, the testator was aged about 80 years and within 5 days she died, for which no reason was assigned. So also, as per the contention of defendants, the plaintiff's mother executed a Will marked as Ex.B12 is also not proved as prescribed under Sec.68 of Indian Evidence Act. Apart from that, the 1st defendant is one among the witness, who is an interested witness and another witness as well as document writer was not examined. Signature was also in dispute and the same was not proved, which is raising reasonable doubt on the defendants. Therefore, the plaintiff claiming that Pachammal was died intestate. However, the defendants approached this court, since they have failed to enter into witness box and intended to prove the Will as alleged by the plaintiff, which requires interference. Therefore, the case is remitted back to the trial court for fresh trial and the trial court is directed to dispose the case within a period of six months from the date of receipt of copy



of this order by giving opportunity to both parties. Accordingly, this Second Appeal is disposed of. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

09-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RPP

To

1. The Sub-Judge, Cheyyar.
2. The Additional District Munsif, Cheyyar.
3. The Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

RPP

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