



WEB COPY

AS No. 841 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-03-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

**AS No. 841 of 2020 and
C.M.P.Nos.10202 of 2020 and
C.M.P.No.27416 of 2023 and
Cros.Obj.No.34 of 2021**

Chandra,
D/o.Uthirappan, No.80/1,
Tindivanamsalai Kilpennathur,
Tiruvannamalai District.

..Appellant(s)

Vs

1. Kalaimani
W/o.Uthirappan No.80/1,
Tindivanamsalai, Kilpennathur,
Tiruvannamalai District.
2. Ambiga
D/o.Uthirappan, No.80/1,
Tindivanam Salai, Kilpennathur,
Tiruvannamalai District

..Respondent(s)

PRAYER : Appeal filed under Section 96 of CPC r/w. Order 41 Rule of CPC, to set aside the Judgment and decree dated 03.12.2019 made in O.S.No.36 of 2017 on the file of the Learned Additional District Court, Tiruvannamalai.



Cross Objection No.34 of 2021

1. Kalaimani

W/o.Uthirappan No.80/1,
Tindivanamsalai, Kilpennathur,
Tiruvannamalai District.

2. Ambiga

D/o.Uthirappan, No.80/1,
Tindivanam Salai, Kilpennathur,
Tiruvannamalai District.

... Cross Objectors/
Respondents

Vs.

Chandra

D/o.Uthirappan, No.80/1,
Tindivanamsalai Kilpennathur,
Tiruvannamalai District.

.... Respondent /
Appellant

PRAYER : Cross Objection filed under Order XLI Rule 22 of CPC., to dismiss the Appeal filed by the appellant in A.S.No.841 of 2020, on the file of this Court against the judgment and decree dated 03.12.2019 in O.S.No.36 of 2017, on the file of the Additional District Court, Tiruvannamalai and allow the Cross Objection.

For Appellant(s) / : M.Guruprasad
respondent in
Cross Objection

For Respondent(s) / Mr.R.Subramanian for
Cross Objectors: Mr.T.R.Rajarajan



Judgment

(Judgment of the Court was delivered by C.V.Karthikeyan J.)

The defendant in O.S.No.36 of 2017 on the file of the Additional District Court, Tiruvannamalai, aggrieved by the judgment and decree dated 03.12.2019, has filed this Appeal Suit.

2. The parties would be termed in the nomenclature as referred in the suit.

3. The suit in O.S.No.36 of 2017 has been filed by the plaintiffs Kalaimani and Ambiga. Kalaimani is the mother of Ambiga. The suit had been filed against the another daughter of Kalaimani viz., Chandra who is the appellant herein. The suit has been filed seeking partition and separate possession of two properties described as 'A' and 'B' schedule. 'A' schedule property is agricultural land in S.No.209/4 measuring 0.20.000 are, Survey No.209/5 measuring 0.18.5 are, Survey No.210/1B measuring 0.93.50 are, Survey No.210/1B measuring 0.14.00 are and Survey No.201/1E measuring 0.14.50 are in Kilpennathur Village. 'B' schedule property is a land and building measuring 730 Sq.ft, 2093 Sq.ft land and 1173 Sq.ft RCC Building ground floor and 713 Sq.ft building in 1st floor. There were also two other sons for the first plaintiff who both died in an accident as bachelors. The appellant herein had resisted the suit on the ground that B schedule property was a self-acquired property of the father Uthirappan. It had been claimed that all the parties to the suit have equal share over the suit property.



4. The fact that 'A' schedule property was ancestral in nature is not in dispute. The fact that 'B' schedule property was self-acquired property of the father Uthirappan again is not in dispute, though in the evidence of P.W.1, it had been stated that the property was originally owned by her father-in-law/ father of Uthirappan, on his death, the patta was transferred in the name of Uthirappan. It is also stated that Uthirappan had brother who is not a party to the suit. The brother has not laid any claim over 'B' schedule property.

5. The learned Trial Judge by judgment dated 03.12.2019, had granted 3/15 share in 'A' schedule property and 1/3 share in the 'B' schedule property. Further, the second plaintiff and the defendant were declared each entitled to 1/5 share in the 'A' schedule property and 1/3 share in the 'B' schedule property. Aggrieved by the division of shares, the defendant is before this Court.

6. Heard the learned counsel for the appellant and the learned counsel for the respondent and perused the materials available on record.

7. It is contended that consequent to the law laid down by the Hon'ble Supreme Court in the case of *Vineeth Sharma Vs. Rakesh Sharma and Ors, reported in 2020 5 CTC 302*, in which, the Hon'ble Supreme Court had an occasion to interpret the amendment to Section 6 of the Hindu Succession Act that the daughters also have to be considered as coparceners.



8. The learned counsel for the appellant urged that the judgment granted by the Trial Court should be revisited by this Court.

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9. We have carefully considered the arguments advanced by the learned counsel on either side. The only point which arises for consideration under Order 41 Rule 31 of the CPC is whether the preliminary decree declaring the shares of the plaintiffs and the defendant in the suit should be revisited?.

‘A’ schedule property:

10. ‘A’ schedule property is agricultural land and it is ancestral property. Consequent to the judgment laid down by the Hon’ble Supreme Court in the case cited supra, the daughters have also become coparceners along with the sons and the father and therefore, during his life time, the father, his two sons and two daughters would each be entitled to an undivided $\frac{1}{5}$ share in the property. On the death of the father, his undivided $\frac{1}{5}$ share would be divided among the two sons and two daughters and his widow / first plaintiff. This would indicate that the first plaintiff / widow would get $\frac{1}{25}$ share and the two sons and two daughters would each be entitled to an undivided $\frac{6}{25}$ share. Since the two sons died as bachelors, the mother alone can be declared as their sole surviving legal heir. Therefore, their $\frac{6}{25}$ share each would again flow back to the mother. This would indicate that the two daughters viz., the second plaintiff and the defendant would have an undivided $\frac{6}{25}$ share each in the ‘A’ schedule



property and the first plaintiff / mother would be entitled to an undivided 13/25 share in the suit property. The decree granted with respect to the 'A' schedule property is accordingly modified.

'B' schedule property :

11. As this property is admittedly a self-acquired property of the father, on his death, his two sons and two daughters and his widow would each be entitled to an undivided 1/5 share. On the death of the two sons intestate and as bachelors, their undivided 1/5 share would flow back to their mother / first plaintiff as sole surviving class I legal heir. This would indicate that the mother / first plaintiff would be entitled to an undivided 3/5 share and the second plaintiff and the defendant would each be entitled to an undivided 1/5 share each. The preliminary decree granted by the Trial Court is modified to this extent.

12. With the above observations, **this Appeal Suit is disposed of.** Since the *lis* is between the family members, we are not inclined to grant costs.

13. In view of the above discussion, **the Cross Objection filed by the plaintiffs also stands disposed of.**



14. The shares are crystallised as below:

<i>‘A’ schedule property</i>	<i>‘B’ schedule property</i>
The first plaintiff is entitled to 13/25 undivided share and the second plaintiff and the defendant are each entitled to an undivided 6/25 share.	The first plaintiff is entitled to undivided 3/5th share and the second plaintiff and the defendant are each entitled to undivided 1/5th share.

15. We are informed that seeking final decree, an application in I.A.No.17 of 2020 had been filed before the Trial Court and an Advocate Commissioner had also been appointed by the Trial Court to effect partition. We would direct the Trial Court to issue fresh warrant to the Advocate Commissioner indicating that ‘A’ and ‘B’ schedule properties are to be divided in accordance with this judgment.

16. **Appeal Suit and Cross Objection are disposed of.** No costs. Consequently, connected miscellaneous petition is closed.

(C.V.K.,J.) (K.R.S.,J.)
02-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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**C.V.KARTHIKEYAN J.
AND
K.RAJASEKAR J.**

GSK

To
The Additional District Court,
Tiruvannamalai.

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