



WEB COPY

AS No. 410 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR JUSTICE K.RAJASEKAR

AS No. 410 of 2026

and

CMP No.8393 of 2026

1. Mallika
2. Suresh
3. Magesh
4. Rajesh
5. Durai

..Appellant(s)

Vs.

1. Jeyakumar
2. Shanthi
3. Kanmani
4. Kumar
5. Bhuvaneswari
6. Meenakumari
7. Sundharambal

..Respondent(s)

This appeal suit is filed under Section 96 of CPC, to set aside the judgment and decree dated 18.04.2024 made in OS.No.3274/2021 on the file of the Learned XV Additional City Civil Court, Chennai.

For Appellant(s):

Mr.R.Balaguru Swamy

For Respondent(s):

Mr.P.R.Thiruneelakandan
For R1 to R6

Mr.A.K.Sriram, Senior Counsel
For Mr.S.Annamalai For R7



JUDGMENT

WEB COPY

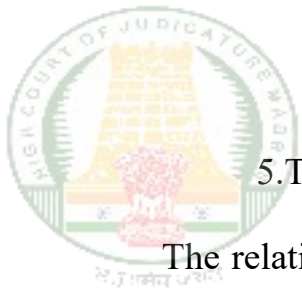
(Judgment of the Court was delivered by C.V.Karthikeyan J.)

The 1st to 4th and the 6th defendants in O.S.No.3274 of 2021 aggrieved by the judgment and decree dated 18.04.2024 passed by the XV Additional Judge, City Civil Court, Chennai, are in appeal questioning the said judgment.

2.The suit in O.S.No.3274 of 2021 had ben filed seeking partition and separate possession of the property described in the schedule to the plaint.

3.It is contended on behalf the plaintiffs that the properties are to be divided into five equal shares. There are totally six plaintiffs. The 1st, 2nd and 3rd plaintiffs are the legal representatives of one late K.S.Sankaran. They all claim to be entitled to an undivided 1/5th share. The 4th, 5th and 6th plaintiffs are the legal representatives of late K.S.Natarajan. They claimed to be entitled to an undivided 1/5th share in the suit property.

4.There are totally six defendants. The 1st to 4th defendants form one group and they claimed to be entitled to an undivided 1/5th share. The 5th defendant stands alone and she claims entitlement to an undivided 1/5th share. The 6th defendant also stands alone, and claims an undivided 1/5th share.



5. There is no dispute about the respective shares claimed by the parties.

The relationship is also not denied or disputed. The 5th defendant had also paid the Court fees as envisaged under Section 37(2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1965, by paying one half of the Court fees paid by the plaintiffs and claims right to be allotted a share.

6. In the written statement of the present appellants / 1st to 4th defendants, the share of the 5th defendant is admitted.

7. It is contended that after the preliminary decree had been passed, final decree proceedings had also been initiated and a Commissioner had also been appointed who had also filed the report and now that report is pending consideration of the XV Additional City Civil Court, Chennai.

8. This appeal had been preferred by the 1st to 4th defendants and the 6th defendant.

9. Heard both sides.

10. The learned counsel for the appellants contended that two necessary parties had been omitted to be impleaded. They are Vedhavalli and Bakkiyam. The learned counsel contends that they are part of the family of K.S.Sankaran.



11. But however, it is contended on behalf of the 1st to 6th respondents / plaintiffs and by the learned Senior Counsel on behalf of the 7th respondent / 5th defendant that the other name of Vedhavalli is Kanmani who is shown as the 3rd plaintiff. It is further contended that C. Bakkiyam had died in the year 2013. Even otherwise, if any of the sharers surface, they can only claim it from and among the 1/5th share to be allotted to the family of K.S. Sankaran and they cannot extend their claim to the shares allotted to the other parties.

12. It is also contended on behalf of the learned counsel for the appellants that the 6th defendant who is also one of the appellant herein had spent money towards discharge of existing debt and also invested money in the construction of the property.

13. But however, no evidence in that regard had been adduced by the 6th defendant. As a matter of fact, he had not tendered any evidence at all during the trial. When that is the case, it may not be appropriate on our part to adjudicate on such ground put forth on behalf of the 6th defendant / 5th appellant herein. The properties will have to be divided in accordance with the preliminary decree.



14. We find no merit in the Appeal Suit and the same stands dismissed at the time of admission itself. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

15. The learned trial Judge may endeavour to dispose of the final decree application on or before 30.06.2026.

(C.V.K.,J.) (K.R.S.,J.)
07-04-2026

smv

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

To

The XV Additional City Civil Court, Chennai.



WEB COPY

AS No. 410 of 2



**C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.**

smv

AS No. 410 of 2026

07-04-2026