

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
17.03.2026PRONOUNCED ON
30.04.2026

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

AS No. 318 of 2017
and CMP.No.12171 of 2017

1. Tmt.P.Ranganayaki (died)
2. D.SHANTHA W/o.Devaraj,
3. R.PANKAJAM W/o.Ramachandran,
4. R.SASIKALA W/o.Ramamorthy,

(SOLE APPELLANT DIED, A2 TO A4 ARE
BROUGHT ON RECORD AS LRS OF
DECEASED SOLE APPELLANT, VIDE
ORDER OF COURT DATED 21/11/2023
MADE IN CMP.NO.26481 OF 2023 IN
AS.NO.318 OF 2017)

..Appellant(s)

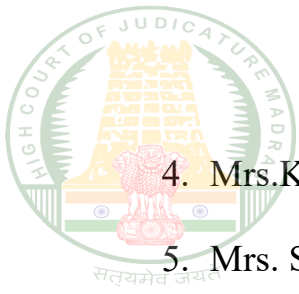
Vs

1. Tmt.Saraswathi Ammal
(R1 Is Alive, Vide Order Of Court Dated
21/11/2023 Made In Cmp..No.26481,26485
And 26487/2023 In As.No.318/2017)

(R1 is Recorded)

(R1, Is Dismissed as abated, Vide Order of
Court dated 05/02/2025 Made In As.No.318 Of
2017 and CMP.No.12171 Of 2017)

2. K.Narayanasamy, S/o Krishnama Naidu
3. Mrs.R.Krishnaveni W/o Mr.K.Soundararajan,



4. Mrs.K.Sitarakala W/o Krishnamurthy,
5. Mrs. S.Ramaprabha W/o Mr.Suresh Kumar,
6. Mrs. R.Umapriya W/o N.Rajagopal,

..Respondent(s)

PRAYER:- First Appeal filed under Section 96 of the Code of Civil Procedure, to the Judgement and decree in OS NO 25/2013 dated 15/03/2017 on the file of the IV Additional District Court, Coimbatore may kindly be set aside and the appeal.

For Appellant(s): Mr.S.Senthil

For Respondent(s): Mr.T.L.Thirumalaisamy for R2
Mr.C.Veeraraghavan for RR3 To 6
Died - R1

JUDGMENT

The present first appeal has been filed challenging the decree and judgement dated 15.03.2017 made in the O.S.No.25 of 2013 on the file of Learned Additional District and Sessions Judge, Coimbatore.

1.The suit is instituted for partition and separate possession of the plaintiff's 1/3rd share in the suit properties and for costs and other consequential reliefs. The case of the plaintiff is that she and the 1st defendant are sisters and the 2nd defendant is their brother, and they are the daughters and son of Late Krishnama Naidu through his junior wife Chinnammal, while his senior wife



Akkammal died issueless.

WEB COPY

2.The plaintiff submits that the suit properties were purchased by the said Krishnama Naidu out of joint family income under a registered sale deed dated 31.08.1944 and thereafter the said Krishnama Naidu, along with his wives and children including the plaintiff and defendants, were in joint possession and enjoyment of the suit properties by cultivating the same.

3.It is submitted that the said Krishnama Naidu died intestate on 24.11.1947 and his senior wife Akkammal died on 06.04.1956, and thereafter his junior wife Chinnammal, being the mother of the plaintiff and defendants, succeeded to the suit properties as a limited owner under the provisions of the Hindu Women's Right to Property Act, 1937, and subsequently became the absolute owner by virtue of the Hindu Succession Act, 1956, and she continued to be in possession and enjoyment of the suit properties until her death on 17.03.1969, leaving behind the plaintiff and defendants as her legal heirs.

4.The plaintiff submits that after the death of Chinnammal, the suit properties have been in the joint and constructive possession of the plaintiff and defendants without any partition till date. she further submits that she is entitled to 1/3rd share in the suit properties and had made several demands to the defendants for amicable partition, but the defendants have been evading and



postponing the same. The plaintiff therefore caused a legal notice dated 27.12.2012 calling upon the defendants to effect partition, and though the 2nd defendant sent a reply dated 03.01.2013 containing false averments, the defendants have failed to comply with the demand, thereby necessitating the filing of the present suit.

5. The defendants filed a detailed written statement stoutly denying the entire case of the plaintiff and contended that the suit property is not ancestral in character, but the absolute self-acquired property of late Krishnama Naidu, purchased under the registered sale deed dated 31.08.1944 Ex. A1 out of his independent income and not from any joint family nucleus as falsely alleged by the plaintiff. The defendants categorically denied the existence of any ancestral property or joint family income capable of forming a nucleus for such purchase. It was further contended that the recitals in Ex. A1 do not disclose any reference to joint family funds, and therefore the plaintiff cannot be permitted to contradict the written document by way of oral evidence.

6. The defendants further pleaded that Krishnama Naidu was in exclusive possession and enjoyment of the suit property as its absolute owner during his lifetime. According to them, he died on 07.04.1946 as evidenced by Ex. B1, and upon his demise, the property did not devolve in the manner alleged by the plaintiff. The defendants denied that Chinnammal acquired any absolute



ownership over the property or that she was in exclusive possession as claimed.

Instead, it was contended that the second defendant continued in uninterrupted, open, and exclusive possession and enjoyment of the suit property, exercising rights of ownership to the exclusion of others.

7. In support of their possession and enjoyment, the defendants relied upon a series of documentary evidence marked as Ex. B2 to Ex. B30, comprising list of receipts spanning several years, along with Ex. B31 patta, Ex. B32 adangal extract, and Ex. B33 chitta, all standing in the name of the second defendant. These documents were relied upon to demonstrate continuous cultivation, payment of land revenue, and recognition by revenue authorities, thereby evidencing long-standing possession and enjoyment of the suit property.

8. The defendants also raised a strong plea regarding the conduct of the plaintiff, contending that she remained completely silent for several decades and never asserted any right over the suit property either during the lifetime of Chinnammal or thereafter.

9. It was pointed out that the plaintiff issued the first legal notice only in the year 2012 and filed the suit in 2013, nearly 66 years after the death of Krishnama Naidu and about 44 years after the death of Chinnammal. Such unexplained and inordinate delay, according to the defendants, clearly indicates



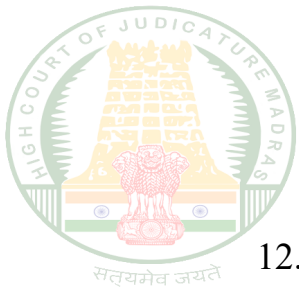
that the plaintiff had no subsisting right and that the claim is an afterthought.

WEB COPY

10. The defendants further contended that mere production of a death certificate Ex. A2 or reliance on succession laws would not by itself confer any right unless the foundational fact of the nature of the property is established. They emphasized that the plaintiff has failed to prove joint possession, joint enjoyment, or existence of any coparcenary or joint family nucleus. It was also argued that the plaintiff has not produced any document to show that she was ever in possession or cultivation of the suit property at any point of time.

11. On the aforesaid pleadings the following issues were framed:-

- 1. Whether the deceased Chinnammal was the heir at law when succession opened on 07.04.1946 when Krishnama Naidu died?*
- 2. Whether the plaintiff is entitled to any share in the suit properties?*
- 3. Whether the suit is properly valued and proper court fee is paid?*
- 4. To what other reliefs are the parties entitled? On the Plaintiffs' side, PW1 alone was examined as sole witness and documents Ex. A1 to Ex. A10 were marked. On the Defendants' side, DW1 and DW2 was examined and documents Ex. B1 to Ex. B31 were marked.*



WEB COPY

12. On Issue 1, the trial court examined the conflicting claims regarding the date of death of Krishnama Naidu. The plaintiff relied upon Ex. A2 (death certificate) to contend that Krishnama Naidu died on 24.11.1947, whereas the defendants relied upon Ex. B1 (death certificate) to assert that he died on 07.04.1946. The court observed that though there was inconsistency in the documentary evidence regarding the exact date of death, the determination of this issue was not decisive of the ultimate rights of the parties. The court proceeded on the footing that even if the plaintiff's version is accepted and succession opened in 1947, the plaintiff must still establish that Chinnammal validly succeeded to the property and that the property itself was of such a nature as to devolve upon her under the Hindu Women's Right to Property Act, 1937. The court noted that the plaintiff's claim fundamentally depended upon the nature of the property being ancestral or joint family property. In the absence of proof regarding such character, the question of succession in favour of Chinnammal would not materially advance the plaintiff's case.

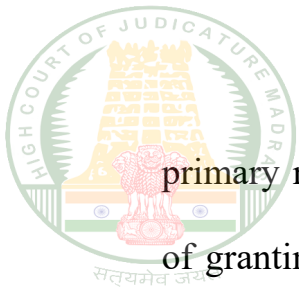
13. On Issue 2, the trial court held that the burden lay on the plaintiff to prove that the suit property was ancestral or acquired from a joint family nucleus. Although the plaintiff examined herself as PW-1, she failed to produce any supporting documentary evidence or examine independent witnesses. On scrutiny of Ex. A1 (sale deed), the court found no recital indicating purchase



from joint family funds and held that, in view of Section 92 of the Indian Evidence Act, oral evidence could not contradict the written document. Apart from Ex. A1(sale deed) and Ex. A 2 (death certificate given by plaintiff), no material was produced to establish joint possession. In contrast, the defendants relied on Ex. B2 to Ex. B30 (kist receipts), along with Ex. B31 (patta), Ex. B32 (adangal), and Ex. B33 (chitta), which demonstrated continuous possession of the property by the second defendant. While noting that such records do not confer title, the court treated them as relevant evidence of possession. Relying on settled principles of Hindu law, including the Supreme Court ruling in the judgement of *Makhan Singh Vs. Kulwant Singh (AIR 2007 SC 1808)*, the court reiterated that there is no presumption of joint family property and that the existence of a nucleus must be specifically proved.

14. On Issue 3, the court noted that although the defendants raised an objection regarding valuation and court fee in their written statement, the same was not seriously pressed during trial. No substantial arguments or evidence were advanced to challenge the valuation adopted by the plaintiff. In the absence of any material to substantiate the objection, the court held that the issue did not require detailed consideration and treated it as redundant.

15. On Issue 4, In view of the findings rendered on the above issues, particularly Issue No.2, the court held that the plaintiff was not entitled to the



primary relief of partition and separate possession. Consequently, the question of granting any ancillary or other reliefs did not arise. The court observed that the suit was devoid of merits and that no equitable or discretionary relief could be granted in favour of the plaintiff.

16. Heard Mr. S. Senthil the learned counsel for the appellants and Mr.T.L.Thirumalaisamy the learned counsel for the 2nd respondent Mr.C.Veeraraghavan, learned counsel appearing for the respondents 3 to 6.

17. The learned counsel for the appellant would submit that the judgment and decree of the trial court failed to properly appreciate the nature of the claim and misdirected itself by treating the issue as one of ancestral property, whereas the appellant's case is fundamentally based on succession rights flowing from the estate of late Krishnama Naidu.

18. It is contended by the appellant that the trial court erred in placing an undue burden on the plaintiff to prove the existence of a joint family nucleus, when the admitted position on both sides is that the property originally stood in the name of Krishnama Naidu under Ex. A1 (Sale Deed).

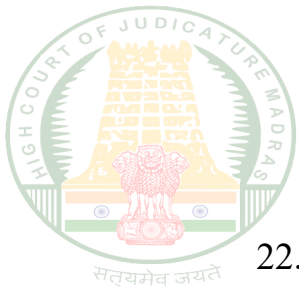
19. The appellant would further contend that the trial court failed to give due weight to Ex. A2 (Death Certificate), which clearly establishes that



Krishnama Naidu died on 24.11.1947. In the absence of reliable rebuttal evidence, the court ought to have accepted this public document and consequently held that succession opened after the coming into force of the relevant statutory framework, thereby entitling Chinnammal to succeed as a life estate holder under the Hindu Women's Right to Property Act, 1937, later enlarged into absolute ownership under Section 14 of the Hindu Succession Act, 1956.

20. It is further submitted that the trial court wrongly discarded the evidentiary value of the admissions contained in Ex. A8 and Ex. A10 (reply notices), wherein the defendants themselves have inconsistently stated the year of death of Krishnama Naidu, thereby casting serious doubt on Ex. B1 (Death Certificate produced by defendants). The inconsistency in the defendant's stand ought to have been viewed as weakening their case.

21. The appellant would also contend that the reliance placed by the trial court on revenue records such as Ex. B2 to Ex. B30 (kist receipts), Ex. B31 (patta), Ex. B32 (adangal), and Ex. B33 (chitta) is misplaced, as it is well settled that such documents do not confer title. At best, they indicate possession, which in a family context cannot defeat the lawful share of a co-heir. The court failed to appreciate that possession by one co-sharer is deemed to be possession on behalf of all, unless ouster is clearly proved.



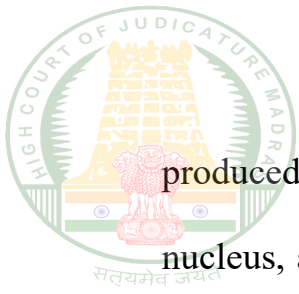
WEB COPY

22. It is further argued that the trial court erred in drawing adverse inference from the delay in filing the suit, without considering that in cases of joint family property or co-ownership, limitation does not run unless there is clear and unequivocal denial of title. The appellant had consistently asserted her right and ultimately issued Ex. A 9 (legal notice) before instituting the suit.

23. Per contra, the learned counsel for the respondents would submit that the judgment of the trial court is well-reasoned, legally sound, and does not warrant interference. The entire case of the appellant is founded on a bald assertion that the suit property is ancestral or joint family property, without any supporting evidence. The burden of proof squarely lay on the appellant, which she has miserably failed to discharge.

24. It is contended by the counsel of respondents that Ex. A1 (Sale Deed) clearly stands in the exclusive name of Krishnama Naidu and contains no recital indicating that the property was purchased out of joint family funds. In the absence of such recital, the plaintiff cannot be permitted to adduce oral evidence to contradict the terms of the document, in view of Section 92 of the Indian Evidence Act. The trial court has rightly rejected such an attempt.

25. The respondents would further contend that the plaintiff has not



produced any evidence whatsoever to establish the existence of any joint family nucleus, ancestral property, or income from which the suit property could have been acquired. No independent witness has been examined, and the solitary testimony of PW-1 is wholly insufficient.

26. It is further submitted by the counsel of the respondent that the appellant's reliance on Ex. A2 (Death Certificate) is inconsequential, as even assuming the date of death as claimed, the plaintiff has failed to establish how she derives a legal right in the absence of proof regarding the nature of the property. The trial court has rightly held that the question of succession becomes irrelevant when the foundational fact of the property being ancestral or joint family property is not proved.

27. The respondents also emphasize the inordinate and unexplained delay of several decades in filing the suit. The appellant remained silent for over 40–60 years and suddenly came forward with the present claim, which clearly indicates that the suit is an afterthought. There is no evidence of joint possession, demand for partition, or assertion of rights during this long period.

28. It is further contended that the trial court has correctly applied the settled principles of law, including the ratio laid down by the Hon'ble Supreme Court in Makhan Singh v. Kulwant Singh (AIR 2007 SC 1808), holding that



there is no presumption of joint family property and that the burden lies on the person asserting it. Hence, the respondents submit that the appellants has failed to establish any legal right, title, or share in the suit property, and the trial court has rightly dismissed the suit. The appeal, therefore, deserves to be dismissed.

29. I have considered the submissions made by the learned counsels appearing on either side and perused the materials placed on record.

30. The only issue that arises for consideration of this Court is as to whether the Court below was right in rejecting the claim of the appellant of partition of the suit scheduled property?

31. It is the claim of the appellant that the property that been purchased by her father was out of the joint nucleus funds, no evidence had been put forth by her to treat the property as a joint family property of the family. The Court below had come to a conclusion that the property was a self acquired property of the appellant's father. It is to be noted that the appellant's father had died prior to the enactment of the Hindu Succession Act 1956 and therefore, the law of succession as envisaged under the said enactment could not be applied to the facts of the present case.



32. As the death of the ostensible owner of the property had occurred prior to 1956, the law of succession as available on the said date would have to be applied. By application of the said law, it could only be seen that the second defendant being the son of the said ostensible owner would have a right to inherit the property.

33. That apart, it is the further admitted case that the ostensible owner had two surviving wives at the time of his death and hence, by application of Section 3 of the Hindu Women's rights to property Act, 1937, they could also claim a right in the property equal to the son and such right available to them was a limited right under the said Act. Hence, even assuming that under Section 14 of the Hindu Succession Act, 1956, the mother of the appellant had a right in the property by way of inheritance, it would be only to an extent of 1/3rd of the suit property.

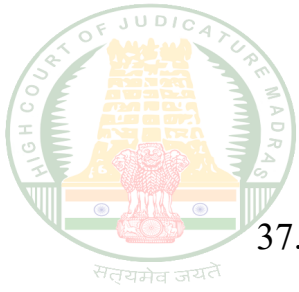
34. It has also been admitted fact that the mother of the parties to the Suit had died as early as in 1969 and the 2nd defendant being the son of the ostensible owner had been enjoying the Suit Scheduled Property in his own right which has been substantiated through Ex.B-2 to Ex.B-31. Hence, the pleadings of the appellant that the mother of the parties to the suit, had inherited to the suit property, as a life estate holder under the Hindu Women's Right to Property Act, 1937 who became an absolute owner under the provisions of the Hindu



Succession Act, 1956 would have to fall. Even though the appellant had claimed to be under constructive possession along with the defendants, it should be seen that from Ex.B-2, the second defendant had been in possession of the property under his own right and it has also been brought out on record that the second defendant was married to the daughter of the plaintiff, even at which time, she had recognized the second defendant to be the owner of the property.

35. Article 110 of the Limitation Act prescribes a period of 12 year for a person to seek enforcement of a right to the share in their property from the date when they were excluded from the joint family from the date of knowledge of such exclusion.

36. In the present case, the appellant had not placed any material on record as when the date of knowledge of the exclusion from the joint family and it is also not disputed that she had been married and been away from the joint family prior to 1969 i.e., the date of death of their mother. Hence, after marriage she had not been the members of the joint family and stood excluded from the joint family. Applying the aforesaid provision, the claim made by the appellant after 44 years from the death of her mother, she cannot also be entitled to seek a share in the share that has been inherited by the mother as indicated above.



37. For the aforesaid reasons, this Court does not find any merits in the Appeal Suit and the same is accordingly dismissed. However, there shall be no order as to costs. Consequently connected Miscellaneous Petition is also closed.

30.04.2026

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

To

1. The Additional District Court - IV, Coimbatore.
2. The Section Officer,
VR Section,
Madras High Court,
Chennai.



WEB COPY

AS No. 318 of 2



K.KUMARESH BABU, J.

PBN

A Pre-delivery judgment made in
AS No. 318 of 2017
and CMP.No.12171 of 2017

30.04.2026