2026:MHC:4509

Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-11-2026

CORAM

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE S.RAVEEKUMAR

AS No. 717 of 2017
&
C.M.P. No. 22810 of 2017

Case QR

CNR:{HCMA011719852017}

Rani
W/o. Selvaraj,
No.20/6, Indira Nagar, Vridhachlam
Boothamur, Vridhachalam Taluk,
Cuddalore.

Appellant(s)

Vs

1. R. Velu
S/o. Rajangam,

2.R. Rajendran
S/o. Rajangam

3.R. Damodaran (died)
S/o. Rajangam

4.Mohan Raj
S/o.Late Damodaran,

5.Kalaivanan
S/o.Late Damodaran,
All are Residing at No.5A,
Main Road, Sedapalayam,
Cuddalore Taluk, Cuddalore District.

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R3 Died. R4 and R5 are brought on record as LRS of deceased R3 vide court order dated 06.10.2026 made in CMP.Nos. 21873, 21875, 21876 of 2024 in AS.No.717/2017 (CVKJ and RSVJ)

Respondent(s)

PRAYER

Appeal Suit to set aside the judgment and decree dated 31.07.2014 passed in O.S. No. 163 of 2012 by the learned Additional District and Sessions Judge, Cuddalore.

For Appellant(s): Mr.R. Gururaj

For Respondent(s): Mr.K.A. Ravindran for R1

J U D G M E N T

(*Delivered by* ***C.V.Karthikeyan J.*****)**

The plaintiff in O.S. No. 163 of 2012, aggrieved by the dismissal of the said suit, by judgment and decree dated 31.07.2014 passed by the learned Additional District and Sessions Judge, Cuddalore, has filed the present appeal.

2. The said suit had been filed seeking partition and separate possession of five separate items of properties, of which item Nos.1 to 4 are agricultural lands and the 5th item is a house property. The defendants in the suit are the three brothers of the plaintiff/appellant herein.

3. It had been contended by the plaintiff that as the daughter of the family, she is entitled to undivided one-fourth share in each one of the items of suit property. However, it had also been admitted that the 5th item, which is a

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house property, was purchased in the name of the first defendant, one of the brothers of the plaintiff/R.Velu.

4. The claim for partition did not find favour with the learned Additional District and Sessions Judge, Cuddalore and on examination of pleadings and on framing necessary issues, the learned Additional District and Sessions Judge, Cuddalore had entered into a discussion on Section 6 of The Hindu Succession (Amendment) Act of 2005 and had stated that though Section 6 of the said Act provides for parity of rights in the co-parcenary property among male and female members of a joint Hindu Family, the burden was on the person who claims that the property was purchased from joint family nucleus and in the light of the admission in the cross-examination of the plaintiff that pattas with respect to item Nos. 1 to 4 of the suit property were in the name of her brothers, had held that such burden had not been discharged and had non-suited the plaintiff stating that she is not entitled to any share in the suit property.

5. Mr.R. Gururaj, learned counsel for the appellant/plaintiff is very much aggrieved by the said finding rendered by the Trial Court. Learned counsel pointed out that under the amendment, as a daughter in the family, unless there is testamentary disposition or a partition entered in writing among the parties, the daughter can never be denied a share in the properties. Learned counsel was also fair enough in stating that since the 5th item of the suit property

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stands in the name of the first defendant/R.Velu, the appellant herein has given up her rights over the said item of property. However, he would insist that the appellant has a right of undivided one-fourth share in item Nos. 1 to 4, which are agricultural lands. Mr.K.A. Ravindran, learned counsel for the first respondent stated that in the written statement, it had been very clearly stated that the first respondent has no objection to divide item Nos. 1 to 4 of the suit property in accordance with law.

6. Now, subsequent to the amendment in the year 2005, daughters have been recognised to lay a claim in the Joint Family Property provided there had been no earlier testamentary disposition or a written partition deed effected over the said property. The father had already died prior to 20.12.2004, as a matter of fact, as early as in the year 1979. The facts being not in dispute and the properties being identifiable, we hold that the judgment of the Trial Court declining to grant preliminary decree for partition of any share in the suit property to the appellant has to be necessarily re-visited, re-examined and set aside by us.

7. We are also informed that respondents 2 and 3/defendants 2 and 3, who are incidentally the other brothers of the appellant, filed appeals before this Court questioning the judgment of the Trial Court and those appeals were dismissed for non-prosecution. But, we would also keep their rights in mind.

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8. In view of the undisputed facts, we would set aside the judgment and decree of the Trial Court and grant a preliminary decree to the appellant herein/Rani, who was the plaintiff in O.S. No. 163 of 2012 to an undivided one-fourth share in item Nos. 1 to 4 as described in the plaint. We would only impress upon the learned Trial Judge, when the final decree application is filed, to ensure that the partition is effected in such a way that agricultural activities can be continued to be performed and agricultural lands are not fragmented into further pieces and that at least one item of the property goes to the appellant so that she could be satisfied with the same and thereafter, her brothers/respondents 1 to 3 can enjoy the fruits of other items of the suit property.

9. However, we make it clear that the 5th item of the property which stands in the name of the 1st respondent/R.Velu since it had been purchased in his name, he can lawfully claim title.

10. In the result,

(i) The judgment and decree passed in O.S. No. 163 of 2012 by the learned Additional District and Sessions Judge, Cuddalore District is hereby set aside and the appeal stands allowed;

(ii) A preliminary decree is passed granting undivided one-fourth share in item Nos. 1 to 4 of the property to the appellant herein and also simultaneously granting undivided one-fourth share, each to respondents 2 and 3.

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(iii) We are conscious of the fact that the 3rd respondent had died and his legal representatives have been brought on record as respondents 4 and 5. Therefore, the 2nd respondent would be entitled to undivided one-fourth share in item Nos. 1 to 4 and respondents 4 and 5 would be entitled to undivided one-fourth share in item Nos. 1 to 4;

(iv) Item No.5 will vest entirely with the first respondent and he is also independently entitled to undivided one-fourth share in item Nos. 1 to 4;

(v) Parties to apply to the Trial Court for final decree application and they shall answer the final decree application before the Trial Court on 20.11.2026.

(vi) There shall be no orders as to costs.

Connected C.M.P. is closed.

(C.V.KARTHIKEYAN J.)(S.RAVEEKUMAR J.)
05-11-2026

Neutral Citation:Yes/No
nv

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To

The Additional District and Sessions Court,
Cuddalore.

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