



S.A.No. 687 of 2025

WEB COPY **T.V.THAMILSELVI, J.**

This matter was taken up for hearing under the caption “For Being Mentioned” today at the instance of the learned counsel for the 4th respondent.

2. The learned counsel for 4th respondent would submit that this Court by judgment dated 26.02.2026 disposed of the above Second Appeal. However, he had filed a memo stating that to avoid any possible confusion and to protect the 4th defendant’s interest, some change may be made in para 8 of judgment. Hence, he prayed to modify certain lines in the judgment and requested to issue fresh order copy.

3. Heard the rival submissions made by learned counsel for the 4th respondent as well as appellant and perused the order.

4. Considering his submissions, page 5 of the judgment, in para 8, the 9th and 10th line shall be substituted as follows :-

“The purchase made by the 4th defendant is ordered to be protected, subject to outcome of any suit if filed by the appellants, wherein he has to work out his remedy under equity.”



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5. Registry is directed to incorporate above modification in the judgment of this Court in S.A.No.687 of 2025 dated 26.02.2026 and issue fresh order copy. In other aspects, the order dt. 26.02.2026 shall remain unaltered.

26.03.2026

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T.V.THAMILSELVI, J.

rpp

S.A. No.687 of 2025

26.03.2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2026

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

SA No. 687 of 2025

AND

CMP NO. 24783 OF 2025

1. Ayyammal
W/o.Kuppusami, D/o.Late Sevi Gounder,
5th ward, Tharamangalam Post, Omalur Tk.,
Salem Dist.
2. Bakkiyam
W/o.Venkatesh, D/o.Sevi Gounder,
Poosari Patti Village and Post, Omalur Tk.,
Salem Dist.

..Appellant(s)

Vs

1. Ponnammal
W/o.Late Sevi Gounder,
Rest.at 5th ward, Anaigoundar Valavu,
Tharamangalam Village,
Omalur Tk., Salem Dist.
2. Ammasi
S/o. Sevi Gounder,
Rest.at 5th ward, Anaigoundar Valavu,
Tharamangalam Village,
Omalur Tk., Salem Dist.
3. Mariyappan
S/o.Late Sevi Gounder,
Rest.at 5th ward, Anaigoundar Valavu,
Tharamangalam Village, Omalur Tk., Salem Dist.



4. M.Prakasam

S/o.Muthusami Muthaliar,
8th Ward, Tharamangalam-Nangavalli Main Road,
Tharamangalam Post,
OmalurTk., Salem Dist.

5. K.Ramasami

S/o.Kullagounder,
Rest.at No.3, 40A, Convent Road,
Mittapudur, Salem - 16.

..Respondent(s)

PRAYER

Second Appeal filed under Sec.100 of Civil Procedure Code, praying to set aside the judgement and decree dated 24-04-2025 in AS.No.8 of 2023, on the file of the Subordinate Judge at Omalur confirming the judgement and decree dated 28-04-2023 in OS.No.18 of 2014, on the file of the District Munsif Court, Omalur.

For Appellant(s): Mr.V.Sekar

For Respondent(s): Mr.P.M.Subramaniam
Senior Advocate for
Mr.V.Elangovan for R4
R1 to R3 and R5 – No appearance

JUDGMENT

Challenging the concurrent findings of the courts below rendered in A.S.No. 8 of 2023 on the file of Subordinate Judge, Omalur arising out of findings rendered in the suit in O.S.No. 18 of 2014 on the file of District Munsif Court, Omalur, the plaintiffs have preferred this Second Appeal.



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

3. Today, when the matter taken up for hearing, learned counsel for plaintiffs admitted that only one item of property, which was purchased by the 4th defendant alone is shown as suit property, but however they are disputing the partition deed dated 28.01.1994, wherein 14 items were shown as properties, but those items were not added as properties in the suit, though the plaintiffs claimed 2/5th share in the suit properties as if it is their joint family ancestral properties. However, they have challenged the partition deed said to be effected between their father and two brothers in the year 1994.

4. The learned counsel appearing for 4th defendant, who is purchaser of suit property from the 3rd defendant raised objections stating that nearly about 20 years back, he purchased the property on 29.12.2006 through Ex.B4 and ever since, he is in possession of the suit property. With regard to other properties of the family, some of the properties have been sold by co-sharers to various third persons through valid sale deeds, but those sale deeds were not challenged by the plaintiffs and with an ulterior motive only, the purchase made by the 4th defendant alone is under challenge. He would also submit that as a bonafide purchaser, he possessed and enjoyed the property, in which the plaintiffs have not challenged the same within three years from the date of alleged sale and the suit was filed only in the year 2014 as such is clearly



barred by limitation. Therefore, the purchase made by 4th defendant is valid one.

Hence, he prayed to pass the decree.

5. Heard and considered the rival submissions made by learned counsel for appellants and 4th respondent and perused the materials available on record.

6. Considering the fact that the suit was filed by the plaintiffs for the relief of partition in respect of suit property, which was purchased by 4th defendant in the year 2006. They have also challenged the partition deed of the year 1994, but the courts below rightly held that the plaintiffs' family owned other ancestral properties but the same was not included in the suit, which itself hit by partial partition. Accordingly, the suit was partly dismissed. Against which, an appeal was preferred and the first appellate judge had also confirmed the findings and dismissed the suit. Challenging the said findings, the plaintiffs had preferred this Second Appeal.

7. As on date, it is a settled proposition, all the properties to be included for a partition, but the plaintiffs themselves admitted that their family owned other properties, but the only property, which was purchased by the 4th defendant alone was under challenge. On perusal of partition deed marked as Ex.B3 dated 28.01.1994, the father of plaintiffs and their two brothers have divided the property in respect of 14 items. But, all those items were not included in the suit filed by the plaintiffs.

8. It is also brought to the knowledge of this court, the other sharers also sold



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other properties, which was not challenged by the plaintiffs. Therefore, the objections raised by 4th defendant is sustainable one and the findings of the courts below does not require any interference. Accordingly, there is no substantial question of law involved for consideration of this Second Appeal. However, the plaintiffs are claiming that they are the daughters and having lawful shares in the family. So, liberty is granted to them to work out their remedy by filing a partition suit by including all the properties. Until then, the purchase made by 4th defendant is ordered to be protected. If any suit is filed, he has to work out his remedy under equity. Accordingly, this Second Appeal is disposed of. No costs. Consequently, the connected civil miscellaneous petition is closed.

26-02-2026

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

RPP

To

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



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