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AS No. 1074 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

AS Nos. 1074, 1088 of 2025 & 352 of 2026

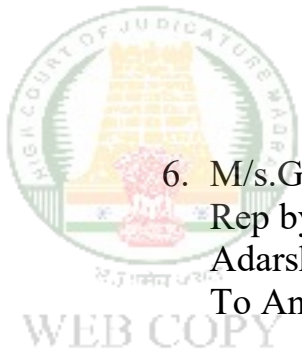
AS No.1074 of 2025

1. Sumathy
2. Hemanthkumar
3. Sudhakar
4. Veena

..Appellant(s)

Vs

1. H. Sathyanarayanan
2. Renuka
3. M/s. Sakthi Maligai Shop
Rep.by Prop. P. Muniyaraj, No.1,
A.G. Devarajulu Reddiar Garden,
Wood Creek County Road, Nandambakkam,
Chennai 89.
4. M/s.Dodla Dairy Ltd.,
by its Head A. Madusdhan Reddiar, HR and
Admin, Old No.14, New No.4,
Sivanandha Colony, Kolathur, Chennai 99.
5. M/s.Gommon India - I
Rep by Authorized Signatory, No.719, ASV
Adarsh Towers, 3rd Floor, Pathari Road,
Opp. To Anna Salai, Chennai 2.



6. M/s.Gammon India II
Rep by Authorized Signatory, No.719, ASV
Adarsh Towers, 3rd Floor, Pathari Road, Opp.
To Anna Salai, Chennai 2.
7. M/s.Elite Engineering Construction (Hyd) Pvt
Ltd.,
Rep by Authorized Person Srinivasan, No.18,
Defence Colony, Ekattuthangal, Chennai 032.
8. M/s.Deko Exhibit System
Rep by Proprietor M. Janakiraman, No.44,
Ground Floor, Mount Poonamallee High Road,
Nandambakkam, Chennai 89.
9. M/s.IBOX Technology (P) Ltd.,
Rep by its Director T. Vijay Arun, No.39,
Mount Poonamallee High Road,
Nandambakkam, Chennai 89.
- 10.M/s.Meroform India Pvt Ltd.,
Rep by Propretor Lakshmanan, No.44, Ground
Floor, Mount Poonamallee High Road,
Nandamabkkam, Chennai 89.
- 11.M/s.Anastasia Event
Rep by its Proprietor Kabilan (Deleted as per
order in IA No.524/2017 dated 01.11.2017)
- 12.M/s.Chennai Trade Fair Services
Rep by its Proprietor, R. Balasubramanian,
No.48, Ground Floor, Mount Poonamallee High
Road, Nandambakkam, Chennai 89.
- 13.M/s.R.V. Coats
Rep by its Proprietor Raman, No.53, 1st Floor,
Mont Poonamallee Road, Nandambakkam,
Chennai 089.
- 14.M/s.S.K. Auto Consultant
Rep by its Proprietor Prabakaran, 53, 1st Floor,
Mont Poonamallee Road, Nandambakkam,
Chennai 089.



15.M/s.Jabal Noor Cafeteria

Rep by its Proprietor Mohamed, No.53, 1st Floor, Mont Poonamallee Road, Nandambakkam, Chennai 89.

16.M/s.Nandu's Snack Point

Rep by its Proprietor Rajeevan, No.53, 1st Floor, Mont Poonamallee Road, Nandambakkam, Chennai 89.

17.M/s.Nandhini Enterprises

Rep by its Proprietor Purushothaman, No.53, 1st Floor, Mont Poonamallee Road, Nandambakkam, Chennai 089.

18.M/s.Tour (IN) Talkies

Rep by its Proprietor K. Prbhakaran, No.53, 1st Floor, Mont Poonamallee Road, Nandambakkam, Chennai 089.

19.M/s.I Design Solutions

Rep by its Proprietor Raman, No.53, 1st Floor, Mont Poonamallee Road, Nandambakkam, Chennai 89.

20.M/s.Saleem Meat Shop

Rep by its Proprietor Saleem, No.53, 1st Floor, Mont Poonamallee Road, Nandambakkam, Chennai 89.

21.D. Prathap Reddiar

22.Jayakumar

23.The Central Bank of India

Rep.by its Branch Manager, Nandambakkam, Chennai 89.

24.The HDFC Bank

Rep by its Branch Manager, Nandambakkam Branch, Nandambakkam, Chennai 089.

..Respondent(s)



AS No. 1088 of 2025

H. Sathyanarayanan

..Appellant(s)

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- 13.M/s.Meroform India Pvt Ltd.,
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- 20.M/s.Nandhini Enterprises
Rep by its Proprietor Purushothaman, No.53,
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23.M.G.Karunanidhi

24.M/s.Saleem Meat Shop

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Rep by its Branch Manager, Nandambakkam Branch, Nandambakkam, Chennai 089.

..Respondent(s)

AS No. 352 of 2026

1.Renuka (died)

2.H. Sathyanarayanan

(first respondent transposed as second appellant vide order dated 21.04.2026 made in CMP No.10172 of 2026)

..Appellant(s)

Vs

1. Sumathy

2. Hemanthkumar



3. Sudhakar

4. Veena

5. M/s. Sakthi Maligai Shop
Rep.by Prop. P. Muniyaraj, No.1,
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17.M/s.Jabal Noor Cafeteria

Rep by its Proprietor Mohamed, No.53, 1st
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..Respondent(s)

PRAYER in AS No. 1074 of 2025: Appeal filed under Section 96 r/w Order 41 Rules 1 & 2 of CPC to set aside the judgement and decree dated 21-12-2024 made in OS.No.290 of 2014, on the file of the Principal District Judge at Chengalpattu to dismiss the suit by allowing the counter claim made there under.

PRAYER in AS No. 1088 of 2025: Appeal filed under Section 96 of CPC praying that the judgment and decree dated 21.12.2024 passed in O.S.No.290 of 2014, on the file of the Principal District Judge, Chengalpattu may kindly be modified granting 6/10 shares to the plaintiff/appellant and the above first appeal be allowed with costs.

PRAYER in AS No. 352 of 2026: Appeal filed under Section 96 of CPC to set aside the judgement and decree of the Trial Court in OS.No.290 of 2014, on the file of the Principal District Court at Chengalpattu dated 21.12.2024 and the appeal be allowed with costs throughout.

AS No. 1074 of 2025

For Appellant(s):

Mr.V.Manohar

For Respondent(s):

Mr.C.Jagadish For R1

Mr.R.V.Agilan For R2

Mr.C.Mohan For M/S.A.Rexy Josephine Mary
For M/S.King & Patridge For R24



Not ready in notice reg R3 TO R10 & R12 TO R23
R11 - Deleted (vide in EB)

AS No. 1088 of 2025

For Appellant(s):

Mr.C.Jagadish

For Respondent(s):

Mr.R.V.Agilan For R1

Mr.V.Manohar for R2 to R5

Mr.C.Mohan & M/S.A.Rexy Josephine Mary For M/S.King
Patridge For R28

Not ready in notice reg R7 TO R10 & R12, 16, 18 TO R22
R26,27.

No appearance – R6, 11, 13 to 15, 17, 23, 24 & 25

AS No. 352 of 2026

For Appellant(s):

Mr.R.V.Agilan

For Respondent(s):

Mr.C.Mohan & M/S.A.Rexy Josephine Mary
For M/S.King & Patridge For R28

Mr.C.Jagadish for R1 (in AS SR stage)

Mr.V.Manohar for R2 to R5 (in AS SR stage)

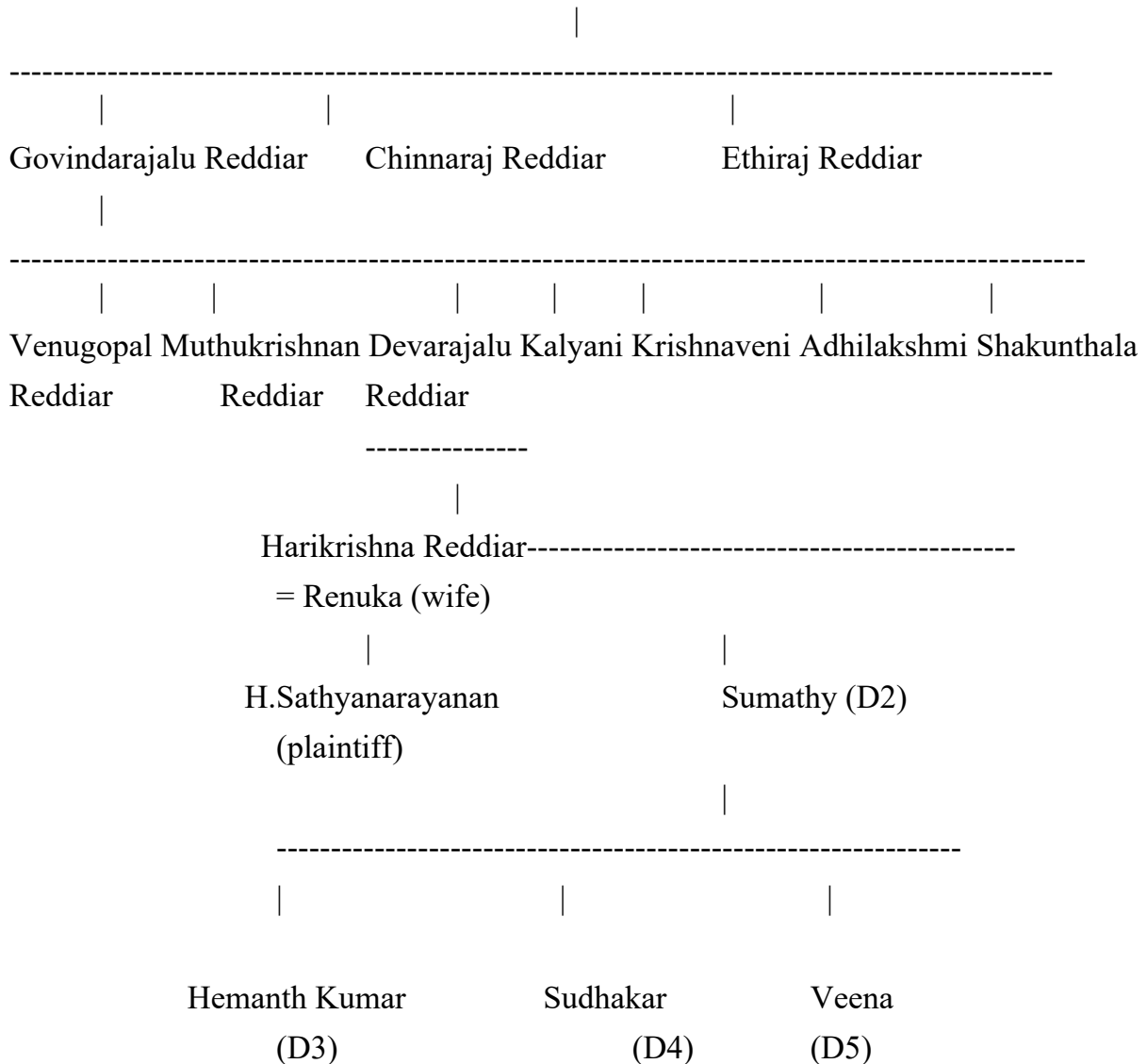
COMMON JUDGMENT

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

All three appeals arise from the judgment and decree in OS No.290 of 2014, on the file of the Principal District Court at Chengalpattu, dated 21.12.2024. The plaintiff in the said suit, H.Sathyanarayanan had filed AS No.1088 of 2025, the first defendant in the said suit Renuka, who is the mother of the plaintiff had filed AS No.352 of 2026 and the 2-5 defendants, Sumathy, Hemanthkumar, Sudhakar and Veena have filed A.S.No.1074 of 2025.



3.The Genealogy giving the relationship among the parties is given below:





4.It had been contended in the plaint in the suit that the properties were ancestral joint family properties. There was a partition among Perumalsamy Reddiar and his three sons, Govindarajalu Reddiar, Chinnaraj Reddiar and Ethiraj Reddiar by a registered partition deed on 06.02.1918, which had been registered as document No.508 of 1918 in the office of the Joint II Sub Registrar, Saidapet, Chennai. It had been stated that in the said partition deed, the B schedule properties had been allotted to the branch of Govindarajalu Reddiar. The litigation is with respect to the said properties allotted under B schedule in the said partition deed. A perusal of the genealogical table would show that Govindarajalu Reddiar had three sons and four daughters. The third son Devarajalu Reddiar had a son by name Harikrishna Reddiar, who is the father of the plaintiff who was allotted a share and the suit should be further narrowed down to the share of Devarajalu Reddiar.

5.It is the case of the plaintiff that Harikrishna Reddiar married Renuka, the first defendant. This marriage had been put to serious test and questioned by the other defendants in the suit. The plaintiff is Sathyanarayanan son of Harikrishna Reddiar. The first defendant is Renuka said to be the wife of Harikrishna Reddiar. The second defendant Sumathy also claims the legal status as wife of Harikrishna Reddiar and her two sons and daughter had been impleaded as 3-5 defendants, namely, Hemanth Kumar, Sudhakar, Veena. It



had been contended in the plaint that on 25.01.1937, there was yet another partition in the branch of Govindarajalu Reddiar along with his three sons Venugopal Reddiar, Muthukrishnan Reddiar and Devarajalu Reddiar. The properties were further divided into four shares. In the said partition deed, item Nos.1 to 4 and part of item No.5 of the suit A schedule properties had been allotted to Devarajalu Reddiar. It was stated that initially, there was an oral partition and subsequently, the terms were written down. But one of the sons of the Govindarajalu Reddiar, namely, Muthukrishnan Reddiar did not sign the partition deed. Thereafter, Govindarajalu Reddiar in his capacity as Karta of the Joint Family, partitioned the Joint Family properties under a deed dated 10.12.1940, registered as document No.22 of 1940 again in the office of the Sub Registrar, Saidapet. This document had been interpreted as a Will and as a partition deed. If it is to be considered as a Will, then the ancestral nature of inheritance would not be prevalent and if it is construed as a partition deed, then the ancestral nature would still remain. It had been further contended that in the said document, the suit schedule properties and other properties had been allotted by Govindarajalu Reddiar to his three sons, Venugopal Reddiar, Muthukrishnan Reddiar and Devarajalu Reddiar/grand father of the plaintiff herein. From the date of the allotment, and by the document dated 10.12.1940, Devarajalu Reddiar had been enjoying the suit properties and other properties as Joint Family Co-parcener properties. The father of the plaintiff Harikrishna Reddiar was the only son of Devarajalu Reddiar. It is contended by the plaintiff



that Harikrishna Reddiar married the first defendant Renuka on 23.02.1973.

The plaintiff claims that he is the only son born out of the said wedlock.

Devarajalu Reddiar died on 25.07.1995 according to the plaintiff, leaving him as the only male heir. But however, the second defendant is also claiming relationship as wife of Harikrishna Reddiar and she had laid a separate claim in the properties for herself and her three children who had been impleaded as 3-5 defendants. The plaintiff claims that the second defendant would not be entitled to any share as he questions her lawful marital status. It was also contended that the 3-5 defendants cannot claim any share in the Joint Family properties. The other defendants are tenants of the properties and the plaintiff claims that he was entitled to an undivided 6/10 share in the suit schedule properties and also 6/10 share in the rental income paid by the other defendants to the properties. It had been further claimed that the plaintiff had been seeking his share as a matter of right and since the same had been denied, the suit had been filed.

6.The first defendant had filed a written statement which could be taken as a reply to the written statements filed by 2-5 defendants. To narrate the facts in sequence, the written statement of the 2-5 defendants shall be narrated first.

7.In their written statement, the 2-5 defendants had denied the marital relationship and legal status of the first defendant. The second defendant



claimed that she was the legally wedded wife of Harikrishna Reddiar. It had been stated that the lawful marriage of Harikrishna Reddiar was celebrated only with the second defendant. She had joined Harikrishna Reddiar immediately after the birth of the plaintiff herein and had brought him up with all due care. It was repeatedly pointed out in the written statement that the second defendant alone was the lawful wedded wife of Harikrishna Reddiar and that she lived with him and cohabited with him throughout his life. It had been further stated that since she was the lawfully wedded wife, she and her children, the 3-5 defendants were also entitled to equal shares in the suit schedule properties. It was further contended that the document under which the rights were claimed had to be treated only as a Will and not as a partition deed and if it is treated as a Will, then it would become a self acquired property in the hands of Devarajalu Reddiar and thereafter, it would also become the acquired property of Harikrishna Reddiar. It is therefore contended that all the parties are entitled to an equal share in the suit schedule properties. The 2-5 defendants therefore claimed that they should be allotted undivided $\frac{1}{5}$ share each in the suit properties and the other $\frac{1}{5}$ share shall fall to the share of the plaintiff.

8.The first defendant had thereafter filed a written statement since her legal status was questioned relating to her marriage with Harikrishna Reddiar. She claimed that she married Harikrishna Reddiar on 23.02.1973 and they lived



in the matrimonial house along with his parents. She further stated that a female child was first born but who unfortunately died and subsequently, the plaintiff was born. She denied the relationship of the second defendant with Harikrishna Reddiar. She stated that the second defendant used to come at irregular intervals to the house of Harikrishna Reddiar. There were a few matrimonial issues between the first defendant and Harikrishna Reddiar and therefore, she was forced to stay in her brother's house, whereas the plaintiff lived with his paternal grand parents. She claimed that the second defendant was not entitled to any share in the suit property and further claimed her as an illegitimate wife and that therefore the 3-5 defendants were also not entitled to any share in the suit property. She also stated that one property had been omitted to be included in the suit schedule properties and sought that the said property may also be included, but however she did not pay any court fee to claim share in the suit properties though she claimed that as the lawfully wedded wife she was entitled to a share in the properties.

9.The other defendants/lessees filed the written statements and they would bind by any decree passed by this Court.

10.On the basis of the said pleadings, the following issues were framed by the Trial Court.



(i) *Whether the 1st defendant is the legally wedded wife of Late.Harikrishna Reddiar?*

(ii) *Whether the plaintiff is the only legitimate son of Harikrishna Reddiar?*

(iii) *Whether the plaintiff is entitled for the relief of partition as prayed for?*

(iv) *To what relief the plaintiff is entitled?*

11.On the side of the plaintiff, PW1 to PW4 were examined, Ex.A1 to Ex.A28 were marked. On the side of the defendants DW1 was examined, Exs.B1 to B12 were marked. Court side witness CW1 was examined, Court side exhibits C1 to C5 were marked. The first defendant alone had examined herself as DW1. No oral or documentary evidence was adduced on behalf of 2-5 defendants.

12.The learned Trial Judge on the basis of the evidence adduced and on the basis of the pleadings, had accepted the case of the plaintiff that the first defendant was the lawfully wedded wife of Harikrishna Reddiar, particularly, taking into consideration, that the date of marriage 23.02.1973 was also specifically given, which fact had been proved by Ex.A1.



13.The plaintiff had also placed reliance on Ex.A20 which was also a marriage invitation of Harikrishna Reddiar and the first defendant dated 23.02.1973, wherein, the name of the maternal uncle of the second defendant C.Dharmaia Reddy was given. It was therefore held that the marriage between Harikrishna Reddiar and Renuka had been solemnised as enunciated in Ex.A1 and Ex.A20. On the other hand, the second defendant had not grazed the witness box to prove her marriage with Harikrishna Reddiar and even the date of her marriage was not given.

14.With respect to the shares in the property, it was held that late Harikrishna Reddiar had considered the 3-5 defendants as his own children and that the second defendant was living with him till his demise. It was stated that the plaintiff as a legitimate son must be considered as a co-parcener entitled for a share in the ancestral property and it was therefore stated that he is entitled to $\frac{1}{2}$ undivided share in item Nos.1, 3, 4, 11 & 13 in suit A schedule properties. The other $\frac{1}{2}$ shares was said to belong to Harikrishna Reddiar, the father of the plaintiff and the 3-5 defendants. It was stated that in the said $\frac{1}{2}$ share, the 3-5 defendants along with the plaintiff were jointly entitled to an undivided $\frac{2}{16}$ share each in the item Nos.1, 3, 4, 11 & 13 in A schedule properties. It was therefore held that plaintiff was entitled to an undivided $\frac{10}{16}$ shares and the 3-5 defendants were each entitled to an undivided $\frac{2}{16}$ share in item Nos.1, 3, 4,



11 & 13 in the A schedule properties. It was held that the second defendant was not entitled to any share. It was further held that since item Nos.5 & 6 in A schedule properties stood in the name of Harikrishna Reddiar and his sons the plaintiff and the fourth defendant, the said properties cannot be partitioned. With respect to item Nos.2, 7, 8 & 9 in A schedule properties, it was held that they are the self acquired property of Harikrishna Reddiar and therefore, the plaintiff, first defendant/legally wedded wife, the 3-5 defendants who were also born through Harikrishna Reddiar were each entitled to an equal share. It was held that the plaintiff was entitled to an undivided $\frac{1}{5}$ share and 3-5 defendants were each entitled to an undivided $\frac{3}{5}$ share, but the first defendant was not entitled to the undivided $\frac{1}{5}$ share since she had not paid the Court fee. With respect to the C schedule properties, the suit was dismissed. The suit was also dismissed with respect to the D schedule properties. With respect to item No.2 in B schedule property since there was no claim, the suit was also dismissed. With respect to E schedule properties, it had been held that they are the self acquired properties of Harikrishna Reddiar and therefore the plaintiff was held entitled to an undivided $\frac{1}{5}$ th share and the 3-5 defendants were each entitled to an undivided $\frac{3}{5}$ share. Since the first defendant had not paid the Court fee, she was not granted any share. Holding as above, the suit was partly decreed.



15. Questioning such decree, the plaintiff has filed an appeal. The first defendant had also filed an appeal questioning the non grant of share though determined, only because she had not paid the court fee. The 2-5 defendants had also filed an appeal particularly questioning the finding relating to the status of the second defendant.

16. Heard arguments advanced by Mr.C.Jagadish, learned counsel for the appellant in A.S.No.1088 of 2025, Mr.V.Manohar, learned counsel for the appellant in A.S.No.1074 of 2025 Mr.C.Jagadish also argued for the appellant in AS.No.352 of 2026.

17. Mr.C.Jagadish, learned counsel for the appellant in AS.Nos.352 of 2026 & 1088 of 2025 pointed out the genealogical table giving the relationship among the parties. The plaintiff was the son of Harikrishna Reddiar. The primary issue was with respect to the matrimonial status of the first and second defendants who both claimed that they are the legally wedded wife of Harikrishna Reddiar. They also claimed seniority. The 3-5 defendants were children born to Harikrishna Reddiar through the second defendant. The learned counsel pointed out Ex.A1 and Ex.A20 which were the marriage invitation cards for the marriage between Harikrishna Reddiar and the first defendant and pointed out that a specific date of the marriage had been printed



namely 23.02.1973 and in Ex.A20, the name of the maternal uncle, C.Dharmaiya Reddy of the second defendant had actually been given. The learned counsel contended that soon after the birth of the plaintiff, there were differences between the first defendant and Harikrishna Reddiar and therefore, she moved away to her brother's house. The second defendant who was also related to Harikrishna Reddiar, moved into the house. She was the niece of C.Dharmaiya Reddy, who had witnessed the marriage between Harikrishna Reddiar and the first defendant. It had been contended that the plaintiff, the second defendant and 3-5 defendants were living together till the death of Harikrishna Reddiar. The learned counsel however fairly contended that though the 3-5 defendants could be considered as the illegitimate children of Harikrishna Reddiar, in view of the law laid down by the Hon'ble Supreme Court, the 3-5 defendants also have a share in the co-parcenary property but restricted to the share of Harikrishna Reddiar. The learned counsel also pointed out that the first defendant has grazed the witness box and had tendered evidence and had stated about her marriage with Harikrishna Reddiar and also about other facts. She had also subjected herself to cross examination. On the other hand, the second defendant did not tender any evidence. Even the 3-5 defendants did not come forward to tender evidence and to subject themselves for cross examination.



18. With respect to the nature of the properties, the learned counsel pointed out that originally, the properties were partitioned among Perumalsamy Reddiar and his three sons, by a registered partition deed on 06.02.1918. The B schedule properties in the said partition deed fell to the share of one of the sons of Govindarajalu Reddiar. He acted as Karta of his family consisting of three sons and four daughters. There was an oral agreement to partition the properties and a partition deed was also prepared, but his second son, Muthukrishnan Reddiar did not sign the same. This forced Govindarajalu Reddiar to execute a document which was alternatively argued as a partition deed retaining the ancestral character of the properties and as a Will, whereby the properties bequeathed could be termed as self acquired properties. It was contended by the learned counsel for the appellant that the ancestral nature was retained. It was contended that thereafter the properties flowed down to Harikrishna Reddiar, the only son of Devarajalu Reddiar, one of the sons of Govindarajalu Reddiar. Since the properties retained the character of ancestral nature, the learned counsel contended that the plaintiff was a co-parcener along with his father Harikrishna Reddiar and each entitled to undivided $\frac{1}{2}$ share in the suit properties. Thereafter, on the death of Harikrishna Reddiar, his share again devolved to his son, the plaintiff, to the 1st defendant, his widow and to the 3-5 defendants. It was argued that even if the document is termed as a Will, it is only a family arrangement executed by Govindarajalu Reddiar on his behalf and his three sons. The learned counsel contended that in view of the said stand, the



properties should be divided initially as $\frac{1}{2}$ share to the plaintiff and Harikrishna Reddiar and later, on the death of Harikrishna Reddiar, his $\frac{1}{2}$ share would further devolve to his legal heirs, namely, the plaintiff, the first defendant and the 3-5 defendants in equal shares. The learned counsel found fault with the reasoning of the learned Trial Judge in not declaring the share of the first defendant and stated that the court fee can be paid by the defendant even at the time of final decree proceedings. Non payment of court fee would not be a ground to disentitle her from a share. The learned counsel therefore argued that the decree should be accordingly modified.

19.Mr.V.Manohar, learned counsel for the appellant in A.S.No.1074 of 2025 however disputed the said contention. The learned counsel contended that the first defendant was not the legally wedded wife of Harikrishna Reddiar and on the other hand, contended that the second defendant alone was the legally wedded wife of Harikrishna Reddiar. The learned counsel further contended that the document relied on was only a Will under which the properties had been devolved through Devarajalu Reddiar to Govindarajalu Reddiar. The learned counsel argued that the properties cannot be termed as ancestral properties in the hands of Harikrishna Reddiar. They were not ancestral properties. The learned counsel stated that since Harikrishna Reddiar died intestate, his properties would be divided among his legal heirs, the plaintiff and



the 2-5 defendants in equal shares. The learned counsel contended that the first defendant was not the legally wedded wife of Harikrishna Reddiar and was not entitled to any share in the properties. She was never living in the house of Harikrishna Reddiar. The learned counsel questioned her marital status.

20. But however the fact that the 2-5 defendants did not graze the witness box has to be mentioned. They have not come forward to tender any evidence and they did not give any contrary evidence to the evidence of the first defendant.

21. We have carefully considered the arguments advanced. The following points arise for consideration:

(i) Whether the first defendant was the legally wedded wife of Harikrishna Reddiar?

(ii) Whether the properties continue to be categorised as ancestral properties or had lost the character of ancestral properties in view of the document executed by Govindarajalu Reddiar?

22. With respect to the first point framed, we would rely on Ex.A1 and Ex.A20 and also the evidence of first defendant, plaintiff and also of PW2. In the pleadings, specific date of marriage had been given, namely, 23.02.1973. The marriage invitation card had been produced as Ex.A1. To further



substantiate this fact, Ex.A20 had also been produced in which, the name of the maternal uncle of the second defendant was also given. Further, PW2 in his evidence also spoke about the marriage between the first defendant and Harikrishna Reddiar. More importantly, the first defendant herself had grazed the witness box and had spoken about her marriage with Harikrishna Reddiar. Per contra, the second defendant did not give the date of her marriage with Harikrishna Reddiar and she did not indicate any other detail about her marriage with Harikrishna Reddiar. She had been living in the house of Harikrishna Reddiar, but at that time also the first defendant was alive and it was only now, pending appeal, on 04.04.2026, the first defendant died. Therefore, the second defendant can never claim any matrimonial status as a legally wedded wife of Harikrishna Reddiar, particularly, when the first wife was living and the marriage was subsisting. There is no evidence to show a marriage took place between Harikrishna Reddiar and the second defendant and such marriage was prior to the marriage of Harikrishna Reddiar with the first defendant. In fact, there is no evidence at all to prove the marriage between second defendant and Harikrishna Reddiar. In view of these reasons, we would answer point No.1 that the first defendant was alone the legally wedded wife of Harikrishna Reddiar.



23. With respect to the second point, in the partition deed dated 06.02.1918 which had been marked as Ex.A3, it had been clearly given that the properties are ancestral properties of the family. Thereafter, Ex.A4 had been produced dated 10.12.1940. A perusal of Ex.A4 would reveal that there was a partition of the Joint Family properties in the year 1937 itself between Govindarajalu Reddiar and his three sons. It is also in evidence that though the partition deed was prepared in the year 1937, one of the sons of Govindarajalu Reddiar, namely, Muthukrishnan Reddiar did not co-operate in signing the document. Therefore, Govindarajalu Reddiar executed Ex.A4 confirming the allotment of partition that took place in the year 1937. The son who had not signed the partition deed, Muthukrishnan Reddiar filed OS No. 4 of 1949 on the file of the District Court, Chengalpattu for recovery of possession of lands and for accounting of income and partitioning of specific items of properties. Issues were framed regarding the validity of the document dated 10.12.1940. In that particular judgment, a specific finding was given that partition had been completed and there was no re-union between the divided members. The document was found to have lawfully executed. It was also held that properties had been allotted to Govindarajalu Reddiar under the partition in the year 1937 and that the plaintiff in OS No. 4 of 1949 was not entitled to any relief.



24. In *Mulla Hindu Law, 21st Edition 2010*, by Satyajee A Desai in Article 344, it had been stated as follows:

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"344. Partition or family agreement created by so-called will.

(1) No member of a joint family, although he may be the head of the family, has a right to make a partition by will of joint family property among the members of the family except with their consent. A document, though called a will, may not be a will in fact, but one intended to operate from the date of its execution; such a document may be good evidence of a family arrangement contemporaneously made and acted upon by all parties, the effect of which may be to create a partition of the joint family property.

(2) Similarly, no member of a joint family can dispose of even his own share by will. But now sec. 30 of the Hindu Succession Act, 1956 permits a coparcener to dispose of his own share by will.

A document, though called a will, may not be a will in fact, but one intended to operate from the date of its execution. If a member of a joint family purports by such a document to dispose of his interest in the joint family property then if the disposition is assented to by the other members of the family, the document may be good evidence of a family arrangement, and effect will be given to the disposition so made."

This passage is very instructive. It states that if a member of a joint family purports to dispose of his interest and such disposition is assented to by other members, then the document can be categorised as a family arrangement.



25.We therefore hold that the document dated 10.12.1940 marked as Ex.A4 recognises the partition which took place on 1937 which partition had been recognised by the District Court in the suit filed by Muthukrishnan Reddiar. Therefore, the properties had been inherited by the lineal descendants of Perumalsamy Reddiar since the document can be categorised only as a family arrangement and when viewed from that angle, they become ancestral in the hands of Harikrishna Reddiar and on the birth of the plaintiff, he becomes a co-parcener entitled to an undivided $\frac{1}{2}$ share along with his father Harikrishna Reddiar.

26.The status of the second defendant had been examined by us and we have given in answer to point No.1 that she cannot claim herself to be the lawfully wedded wife of Harikrishna Reddiar. Her children, namely, 3-5 defendants born to her through Harikrishna Reddiar would be entitled to a share in the share of their father's ancestral properties. We would adopt the dictum as laid by the Hon'ble Supreme Court in *Revanasiddappa and another Vs. Mallikarjun and others* reported in 2023 (10) SCC page 1.

27.If this principle is to be adopted, when Harikrishna Reddiar and the plaintiff were alive, they were both entitled to an undivided $\frac{1}{2}$ share in the suit schedule properties. On the death of Harikrishna Reddiar, his undivided $\frac{1}{2}$



share would flow over to his legal heirs including the plaintiff, the first defendant as his wife and the 3-5 defendants as his illegitimate children in equal shares. This would indicate that $\frac{1}{2}$ share of Harikrishna Reddiar would be again divided into five shares and the plaintiff would get additionally $\frac{1}{10}$ share and the first defendant and 3-5 defendants would be entitled to an undivided $\frac{1}{10}$ share each. In totality, the plaintiff would be entitled to an undivided $\frac{6}{10}$ share, the first defendant, 3-5 defendants would be each entitled to an undivided $\frac{1}{10}$ share in the properties. The learned Trial Judge had given cogent reasons for the availability of the properties on which such division could be granted and the properties for which partition cannot be granted. We would confirm that particular portion of the judgment. We would therefore modify the share for the properties for which the shares had been determined by the learned Trial Judge as follows:

- (i) Plaintiff - undivided $\frac{6}{10}$ share.
- (ii) 1st defendant – undivided $\frac{1}{10}$ share.
- (iii) 3-5 defendants - undivided $\frac{1}{10}$ share.

28. We also take judicial note of the fact that the first defendant had died on 04.04.2026 and therefore, her $\frac{1}{10}$ share would again devolve to the plaintiff which would mean that he would now be entitled to an undivided $\frac{7}{10}$ share and the 3-5 defendants would each be entitled to an undivided $\frac{1}{10}$ share in the



properties to which the learned Trial Judge had categorically stated are available for partition.

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29. In view of the above reasons, the appeals are disposed of crystallising the shares of the properties as aforesaid. The parties are relegated to final decree proceedings for allotment of shares. No costs. Consequently, connected miscellaneous petition, if any, is also closed.

(C.V.K.,J.) (K.R.S.,J.)
21-04-2026

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

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To
The Principal District Court,
Chengalpattu.



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

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21-04-2026