



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-02-2026

CORAM

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

SA No. 849 of 2025

AND

CMP NO. 32789 OF 2025

1. C.Mani
S/o.Chinnakolandai,
Rest.at. No.6/3, Diversion Road, Polur Town,
Tiruvannamalai Dist.
2. M.Madhaneswari
W/o.C.Mani,
Rest.at. No.6/3, Diversion Road, Polur Town,
Tiruvannamalai Dist.

..Appellant(s)

Vs

C.M.Uma (died)

1. Murali,
S/o.Pandu,
Rest.at Polur Town, Tiruvannamalai Dist.
2. Minor Sangamithra
D/o.Murali, Rep by their father and natural
guardian 1st Respondent Murali
3. Minor Mathuni Nachiya
D/o.Murali, Rep by their father and natural
guardian 1st Respondent, Murali,

Minors 2 and 3 are Rest.at Polur Town,
Tiruvannamalai Dist.
4. A.Loganathan
S/o.Annamalai,
No.14 Chennu Street, Polur Town,
Tiruvannamalai Dist.



5. R.Chakrapani
S/o.Rama,
No.9 Appavoo Street, Polur town,
Tiruvannamalai Dist.

..Respondent(s)

PRAYER

Second Appeal filed under Sec. 100 of C.P.C., praying to set aside the Judgment and Decree dated 24.9.2024 passed in AS.No.14/2019 on the file of Principal District Court at Tiruvannamalai confirming the Judgment and Decree dated 18.1.2019 passed in OS.No. 90/2009 on the file of Subordinate Court at Arani with cost throughout.

For Appellant(s): Mr.R.Singgaravelan
Senior Advocate for
Mr.D.Senthil Kumaar

For Respondent(s): Mr.N.Suresh For R1 To R3

Mr.A.Gouthaman
Advocate Commissioner

JUDGMENT

Challenging the concurrent findings of courts below rendered in A.S.No.14 of 2019 on the file of Principal District Court, Thiruvannamalai arising out of findings rendered in O.S.No. 90 of 2009 on the file of Subordinate Court, Arani, the defendants 1 and 2 have preferred this Second Appeal.



2. Before the trial court, one Uma, wife of 1st respondent filed a suit for partition claiming half share in the property stating that the suit property absolutely belongs to her mother Balamani by way of purchase made on 10.11.1997. Thereafter, she died leaving behind her husband/1st respondent as her legal heir, however, after the demise of her mother, she demanded partition, but her father refused, for which she filed a suit. She had also included other item of properties as described in the 'B' schedule property, which stands in the name of 4th defendant, who is father-in-law of 1st defendant. The suit was contested by the 1st defendant stating that the property was purchased in the name of wife by the 1st defendant husband, thereafter, he put up construction by obtaining a loan from Polur Kamaraj Cooperative Society and also from one individual Venugopal Naidu and also he had spent more amount for the treatment of cancer to his wife Balamani. Therefore, he raised objections.

3. On considering both side submissions, the trial judge framed issues and finally held in respect of 'A' schedule property alone that the plaintiff as well as 1st defendant, each is entitled for half share and the remaining suit properties, shares were not given as it is not belong to the family. Challenging the said findings, an appeal in A.S.No. 14 of 2019 was filed by the defendants, wherein the first appellate court has analysed and framed separate points for consideration and finally held that as per Ex.A1, the sale deed stands in the



name of Balamani, mother of original plaintiff and she died intestate. Therefore, as legal heir, the plaintiff and the 1st defendant are entitled to half share, but he had made an observation with regard to benami transaction and finally confirmed the findings of trial judge. Challenging the said findings, the present Second Appeal was preferred.

4. The learned senior counsel for appellants would argue that the court below has clearly erred in dismissing the appeal without accepting the appellant's contentions and without appreciating the case of the appellants, who has clearly pleaded their case and substantiated the same with proper proof with documentary evidence. He would also submit that the courts below ought to have held that the plaintiff ought to have proved that the A schedule property was purchased by the deceased Balamani from her own sources, selling her jewels in order to purchase the A schedule property. Admittedly, the plaintiff did not prove the fact that the plaintiff's mother Balamani had purchased it from her self-earning and by selling her jewels. Therefore, the courts below ought to have held that the 1st appellant alone had purchased the A Schedule property in the name of his wife Balamani. It is also pertinent to state that the 1st appellant's wife Balamani was not wealthy person from her parental house and after her marriage, she was affected by cancer and taken treatment. Therefore, the 1st appellant decides that his lovable wife Balamani should not die as indigent manner and thus, he had purchased the A schedule property in the name of his



wife Balamani for his own welfare and future enjoyment and not for the welfare of deceased plaintiff. Hence, he prayed to set aside the findings of the courts below.

5. On perusal of records, the fact reveals that Balamani has no proper source of income to develop the property, only the 1st appellant/1st defendant purchased the property in the name of his wife, but the courts below failed to appreciate the same though the documents produced to prove the same. Even though Ex.A1 sale deed in respect of 'A' schedule property stands in the name of Balamani, the appellants failed to prove that the 1st defendant purchased it in the name of his wife. In such circumstances, when there is no material evidence to disprove the said fact as per Ex.A1, Balamani and therefore, the findings given by the trial judge needs no interference.

6. During the pendency of proceedings, this Court has appointed an advocate commissioner for division of property and the advocate commissioner had filed the report. But, after due deliberation, there is no possibility to settle the property. To that effect, the objections was also filed. As on date, there is no division was effected. Therefore, the plaintiff and her legal heirs, who are respondents 1 to 3 herein are directed to work out their remedy before the final decree proceedings with regard to division of property.



7. Furthermore, the Advocate Commissioner had filed a memo seeking additional remuneration and the same is considered. The additional remuneration for the Advocate Commissioner is fixed at Rs.20,000/-. The appellants and the respondents are directed to pay an amount of Rs.10,000/- each directly to the Advocate Commissioner within 15 days from the date of receipt of copy of this judgment. Accordingly, this Second Appeal is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

27-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RPP

To

1. The Principal District Court, Thiruvannamalai.
2. The Sub-Court, Arani.
3. The Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

RPP

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