



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-02-2026

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**THE HONOURABLE MR JUSTICE N. SATHISH KUMAR
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL**

AS No. 1263 of 2025 and CMP.No.32919 of 2025

1. Karuppannan

2. Gomathi

Appellant(s)

Vs

Priya Alias Saranya
Pavayee (Died)

Respondent(s)

PRAYER: Appeal Suit filed under Section 96 of Code of Civil Procedure, to against the Judgement and Decree Dated 26.09.2025 passed in OS.No.329 of 2022 on the file of Additional District Court, Kallakurichi

For Appellant(s): Mr.S.Kaithamalai Kumaran

For Respondent(s): Mr.R.Raj Prasanna

JUDGMENT

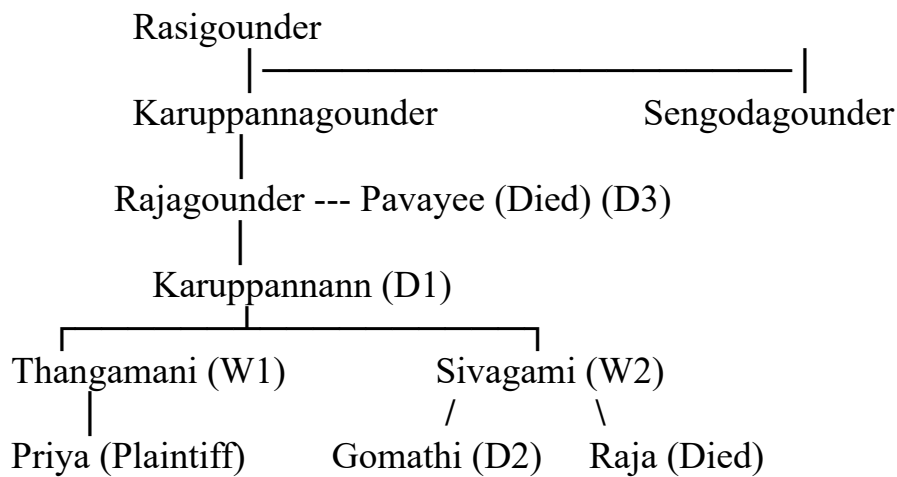
(Judgment was delivered by N.Sathish Kumar J.)

Challenging the decree and judgment of the Trial Court granting preliminary decree declaring that the plaintiff is entitled to 3/8th share in the suit schedule properties and separate possession and also declaring that the settlement deed dated 27.01.2012 executed by Raja Gounder and third defendant in favour of the first defendant is null and void, the present appeal has been filed.

2. The parties herein are arrayed to as per their own ranking before



the Trial Court. It is the case of the plaintiff that the plaintiff is the daughter of the first defendant. The second defendant is another daughter of the first defendant born through second marriage of the first defendant during the subsistence of the first marriage. The second defendant was having a brother named Raja had died intestate as bachelor. According to the plaintiff, the suit properties are ancestral properties of the plaintiff and the first defendant. The family genealogy is as follows:-



3. According to the plaintiff, the first defendant's great grandfather Rasi Gounder has two sons namely Karuppagounder (first defendant grand father) and Sengodagounder. They jointly sold their ancestral property in the Namakkal district and purchased the suit properties through various sale deeds in the year 1965 & 1968 and they were put into common hotchpot of the ancestral nucleus and thereafter, on 11.09.1970, the said Sengoda Gounder and Raja Gounder partitioned the ancestral joint family between themselves through a registered partition deed. Hence, the plaintiff's grandfather Raja Gounder through the income derived from the ancestral property has purchased various



properties through three sale deeds of the year 1986 and the plaintiff's father Karuppannan purchased some properties through sale deeds dated 1988 and 1991. The said Raja Gounder and Karuppannan i.e. the 1st defendant has no individual source of income to purchase any property. The said properties were purchased from the income derived from the ancestral property. The said Raja Gounder and his wife Pavayee Ammal has executed a settlement deed pertaining to the suit property in the name of 1st defendant through a registered settlement deed dated 27.01.2012. The said settlement deed is void as the settlement mentioned properties are ancestral joint family properties and the executors are not the sole owners to execute settlement deed. Hence, settlement deed does not bind or affect the right of the plaintiff in any way. Hence, the plaintiff being the daughter of the first defendant seeks allotment of 3/8th share in the suit property and thus, the suit for partition and declaring the settlement deed dated 27.01.2012 as null and void.

4. The defendants admitting the relationship denied that the properties are not ancestral properties and contended that the properties are self acquired properties of the first defendant. The first defendant's father Raja Gounder and his wife Pavayee, third defendant have jointly executed a settlement deed on 27.01.2012 in favour of the first defendant in respect of the first defendant's father self acquired properties. Thus, the suit properties are separate properties of the first defendant and the plaintiff has no right to claim any share in the suit



5. On the basis of pleadings and evidence, the Trial Court framed the following issues:

- 1) Whether the plaintiff is entitled for the relief of declaration to declare that she has 3/8th share in the suit properties as prayed for?
- 2) Whether the plaintiff is entitled to declare the settlement deed executed by the 3rd defendant in favour of the 1st defendant on 27.01.2012 vide Doc.No.270/2012 is null and void?
- 3) To what other relief?

6. On the side of the plaintiff, the plaintiff was examined as PW1 and one Gurusamy was examined as PW2 and Ex.A1 to A13 were marked. Neither oral nor documents were marked on the defendants side.

7. After appreciation of evidence, the Trial Court decreed the suit granting preliminary decree by declaring that the plaintiff is entitled to get 3/8 share in the suit schedule properties and separate possession of the suit schedule properties and also declared that the settlement deed dated 27.01.2012 executed by Raja Gounder and 3rd defendant in favour of the 1st defendant is null and void. Aggrieved over the same, the present appeal suit has been filed by the



defendants.

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9. The learned counsel for the defendants submitted that even assuming that the properties are ancestral properties, the shares declared by the Trial Court is not proper. Though, there is no evidence to show that the suit properties are purchased out of the joint family nucleus, even assuming that the properties are held to be joint family property, the plaintiff is at the most entitled to $1/8^{\text{th}}$ share in the property, not $3/8^{\text{th}}$ share as declared by the Trial Court. According to the learned counsel, Karuppanagounder/great grandfather and his son Raju Gounder each are entitled to $1/2$ share of the property. After the death of Karuppanagounder, his half share devolves upon the Raja gounder and that half share of Karuppanagounder will not be a coparcenary property, it will be a separate property of the Raja Gounder, whereas, the plaintiff's father becomes a coparcener in respect of the half share of Raja Gounder in the property, i.e., $1/4^{\text{th}}$ share. In such case, the plaintiff will be coparcener only in respect of $1/8^{\text{th}}$ share and not in entirety and other property is already dealt by Raja Gounder, therefore, would submit that the Trial Court granting $3/8^{\text{th}}$ share is not correct.

10. The learned counsel for the plaintiff submitted that the character of the properties is not disputed, however, with regard to the ratio of the share, the plaintiff will abide by the order of the Court. According to him, though he has calculated shares in different aspect, he would submit that as pointed out by the



Court and the appellant, the plaintiff is entitled to 1/8th share.

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11. In light of the above submissions, now the following points arise for consideration:

- (i) Whether the Trial Court is right in granting preliminary decree of 3/8 share in favour of the plaintiff?
- (ii) Whether the Trial Court is right in declaring the settlement deed dated 27.01.2012 executed by Raja Gounder and 3rd defendant in favour of the first defendant as null and void?

Points (i) & (ii)

12. The relationship of the parties are not disputed. The plaintiff is the daughter of the first defendant. The second defendant is another daughter of the first defendant born through the second marriage of the first defendant. Admittedly, there is a marital discord between the first wife and the father of the plaintiff. The plaintiff and her mother left long back and they are residing separately. The evidence of PW1 itself indicates that that they are residing separately for more than 40 years. Be that as it may, now, she has sued his father for partition claiming that the properties are ancestral properties.

13. Though it is the contention that vide Ex.A13, sale deed dated 18.04.1966, the ancestral property has been sold by Karuppana Gounder and



Sengoda gounder, later the said sale consideration has been used for purchase of property under Exs.A1 and A2. Similarly, other properties were purchased out of joint family nucleus. On perusal of Exs.A1, A2 and A13, we are not in position to comprehend the submission of the plaintiff that only the ancestral properties has been dealt, however, the evidence of PW1 in this regard that the properties are ancestral properties were all along treated as joint family properties and other properties purchased by Raja Gounder is also out of joint family nucleus is not even denied in the cross examination. Therefore, once the evidence of parties is not denied in the cross examination, the facts spoken in the chief examination is deemed to have been admitted. Therefore, we have no other go except to hold that the properties are ancestral properties. Further, it is also to be noted that the defendants having taken a plea that properties are not ancestral properties, they have not chosen to examine themselves. No oral or documentary evidence adduced, therefore, when the plaintiff has clearly spoken that all the properties are ancestral in character and when the same has not been disputed, it has to be held that the properties are ancestral properties.

14. In light of the above admitted facts, now, it has to be seen what is the nature of share plaintiff is entitled for. Admittedly, even as per the plaint, coparceners are one Rasigounder, Karuppannagounder, Raja Gounder and Karuppannan, therefore, Karuppannagounder, grandfather of the first defendant and Raju Gounder, father of the first defendant are equally entitled to half share.



Though no exact date of death of Karuppannagounder is stated, the fact remains that Karuppannagounder also died only later. His only son is Raja Gounder.

After the death of Karuppa gounder, his half share devolved upon his son Raja Gounder, i.e., in half share of the property, the first defendant has become coparcener along with his father. The Raja Gounder and Karuppanna Gounder equally entitled to $1/4^{\text{th}}$ share in the ancestral property. Now, the plaintiff in view of The Hindu Succession (Amendment) Act, 2005 No. 39 of 2005, as there was no partition effected by way of registered instrument, she will become a coparcener along with her father only in respect of $1/4^{\text{th}}$ share in ancestral property, accordingly, she is entitled to $1/8^{\text{th}}$ share as co-parcener, whereas, Karuppugounder's $1/2$ share devolved on Raja Gounder remained as separate property of Raju Gounder as per Section 8 of the Hindu Succession Act. In fact, he has dealt the property along with the third defendant in favour of the first defendant by executing a settlement deed dated 27.01.2012 under Ex.A9. As long as the property devolved on Raja Gounder from Karuppa Gounder as per Section 8 of Hindu Succession Act, such property will be treated only as the separate property and he has already dealt the property by executing a settlement deed under Ex.A9.

15. As far as the ancestral property is concerned, pursuant to the settlement deed though possession may not be possible to the defendant, the fact remains that the said document cannot be read as settlement, atleast it can be



taken as some transfer or alienation. The grandfather of the plaintiff dealt the property which devolved on him as per Section 8 of the Act in favour of the first defendant by way of registered settlement deed. Therefore, the plaintiff as coparcener and be entitled to only $1/8^{\text{th}}$ share in the coparcenery not beyond that.

16. In view thereof, the Trial Court is wrong in passing preliminary decree declaring the rights of the plaintiff for $3/8^{\text{th}}$ share and setting aside the entire document namely the settlement deed dated 27.01.2012 executed by Raja Gounder and third defendant in favour of the first defendant as null and void.

17. Accordingly, the appeal suit is partly allowed and the judgment of the Trial Court in O.S.No.329 of 2022 granting preliminary decree declaring that the plaintiff is entitled to $3/8$ share and declaring the settlement deed dated 27.01.2012 in entirety as null and void is hereby set aside and the judgment and decree of the Trial Court is modified as hereunder:-

The preliminary decree is passed as follows:-

(i) the plaintiff is entitled to $1/8^{\text{th}}$ share and the Trial Court shall divide the properties into eight equal shares and allot $1/8^{\text{th}}$ share to the plaintiff and the remaining share go to the first defendant on payment of necessary court fees.



Accordingly, this appeal suit is allowed as indicated above.

Consequently, connected miscellaneous petition stands closed. Considering the relationship between the parties, there is no order as to costs.

(N.SATHISH KUMAR J.)(R.SAKTHIVEL J.)
17-02-2026

dhk

Index:Yes/No

Internet:Yes

Neutral Citation:Yes/No

To

1.The Additional District Judge
Additional District Court, Kallakurichi

2. The Section Officer
VR Section
Madras High Court



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AND
R.SAKTHIVEL J.**

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