



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-02-2026

CORAM

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

SA No. 98 of 2026

AND

CMP NO. 2884 OF 2026

Gnanammal (died)

1. M.Siva Shanker

S/o. A.Madhivanan,
No.30 K2, New Karkaana Street,
Tiruvannamalai Taluk,
Tiruvannamalai District.

2. M.Logeswaran

S/o. A.Madhivanan,
No.30 K2, New Karkaana Street,
Tiruvannamalai Taluk,
Tiruvannamalai District.

..Appellant(s)

Vs

1. A.Kalyanasundaram

S/o.T. Arumugam
Res at NO.32/HIB, Vettavalam Road
Tiruvannamalai.



2. K.Shanthi Sundaram

W/o.A.Kalyanasundaram

Res at NO.32/HIB, Vettavalam Road

Tiruvannamalai.

3. A.Madhivanan

S/o.Arimuthu Naiker

Kaattampoondi Village, Tiruvannamalai Taluk

Tiruvannamalai District

4. A.Arumugam

S/o.Arimuthu

No.45, Sunnambukkara street

Tiruvannamalai-606601.

5. A.Saminathan

S/o.Arimuthu

Res at Anna Nagar

Near Government School

Vedanathham Village

6. S.Karthikeyan

S/o.Late Subramani

Res at Anna Nagar

Near Government School

Vedanathham Village

7. S.Sellam

W/o.Late Subramani

Res at Anna Nagar

Near Government School

Vedanathham Village



8. P.Murugan

S/o.Late Pachaiyappan

No.3/94, Nakkiran salai

25th street, Mugaper East

Chennai-37.

9. P.Rajendran

S/o.Late Pachaiyappan

NO.4/641, Kavitha Nagar,

Kullapalayam Post

Kobichettipalayam,

Erode-638476

10.P.Nethaji

S/o.Late pachaiyappan

Pathima Masil, No.150/309, 2nd Floor

Lingu Chetti Street, George Town,

Chennai-01

..Respondent(s)

PRAYER

Second Appeal filed under Sec.100 of Civil Procedure Code, praying to set aside the operation of the Judgment and decree dated 29.08.2025 made in AS No.21/2014 on the file of Additional Subordinate Judge, Tiruvannamalai, reversing the Judgment and decree dated 26.03.2014 made in OS No.131/2009 on the file of Principal District Munsif of Tiruvannamalai.



For Appellant(s):

Mr. K.Venkatasubban

for M/s.Sarvabhauman Associates

For Respondent(s):

Mr.V.Raghavachari

Senior Counsel For Ms.A.Pramila

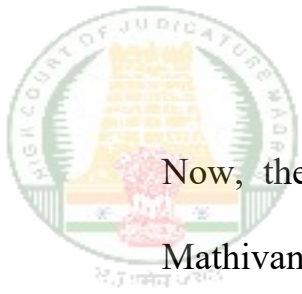
for R1 And R2

JUDGMENT

Challenging the reversal findings rendered by the first appellate court in A.S.No.21 of 2014 on the file of Additional Subordinate Judge, Tiruvannamalai arising out of the findings rendered in O.S.No. 131 of 2009 on the file of Principal District Munsif, Tiruvannamalai, the defendants 2 and 3 have preferred this Second Appeal.

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

3. Before the trial court, original Plaintiff A.Gnanambal filed a suit for declaration and other consequential relief, more particularly, to declare her possessory right as life interest holder over the suit properties. On receipt of summons, the defendants 1 to 3, 4 and 5 have contested the suit stating that the plaintiff has no possessory right over the suit properties and the claim made by her based on Will dated 29.06.1964 was not at all aware to them. They have also contended that already there was a partition held on 26.05.1978 between legal heirs of Aarimuthu Pillai and plaintiff Gnanambal. As per the partition, the properties were possessed and enjoyed by them ever since from the year 1978.



Now, the 1st respondent herein is the purchaser of suit property from one Mathivanan, who is the one of sons of plaintiff and Aarimuthu Pillai. So, according to the contesting defendants, already the properties were offered to the sell in order to settle the debt incurred by one Mathivanan and with the consent of all the parties, the properties belong to the plaintiff was divided. They have also contended that the Will was not proved as per manner known to law.

4. Before the trial court, both parties adduced evidence and the trial court has granted the relief in favour of plaintiff. Aggrieved over that, the defendants 4 and 5 have preferred appeal in A.S.No.21 of 2014. On analysing the facts and evidence on record, the first appellate court framed points for consideration and finally held that the Will marked as Ex.A2 has not been proved and on the evidence of P.W.3, the Will was executed by the attesor not on the sound state of mind. Therefore, the first appellate court held that the Will was not proved and on the evidence of P.W.3, he was not aware of Testator, which was extracted by the first appellate court in paragraph 23, it would clearly shows that he was not known about the alleged execution of Will and he appeared and attested the signature, except that he was not aware of anything.

5. Furthermore, the plaintiff also admits that her husband Aarimuthu Pillai was not in a sound state of mind and he was mentally disturbed man and he has lost mental ability in the year 1964 itself. Therefore, the alleged evidence of D.W.1 itself shows that her husband was not in sound state of mind, besides

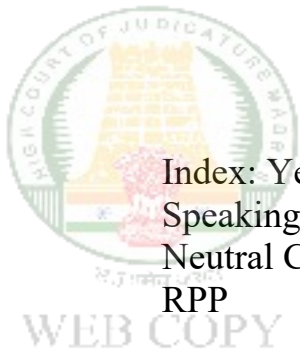


the evidence of P.W.2 not inspired the minds of the court and the Will is not proved beyond reasonable doubt.

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6. Furthermore, the plaintiff herself stated that there was a partition held in the family on 25.06.1978 among her sons, thereby entire properties were divided through a registered partition deed. Therefore, as on date, the properties were already partitioned in the year 1978 itself. In such circumstances, the relief sought for by the plaintiff to declare the right and title over the property was not sustainable one and it requires no interference. The plaintiff, who herself has right over the property and she claimed possessory right over the property while filing the suit. But, as on date, she also died. So, nothing survives for consideration in this Second Appeal, besides the claim made by the plaintiff based on the Will of the year 1964 was not proved and already the properties were partitioned and there is no dispute with regard to partition. So, the claim made by the plaintiff is sustainable one. Therefore, the findings rendered by the first appellate court in A.S.No.21 of 2024 on the file of Additional Subordinate Judge, Tiruvannamalai is confirmed and no substantial question of law is involved for consideration of this Second Appeal. Accordingly, this Second Appeal is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

09-02-2026



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

To

1. The Additional Subordinate Judge, Tiruvannamalai.
2. The Principal District Munsif, Tiruvannamalai.
3. The Section Officer, VR Section, Madras High Court.



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SA No. 98 of 2



T.V.THAMILSELVI J.

RPP

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