



AS(MD). No.120 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 18.02.2026

CORAM

**THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MRS. JUSTICE R. KALAIMATHI**

A.S(MD)No.120 of 2018

L.Florance alias Soma Devotta

... Appellant /
1st Plaintiff

Vs

1.A.Xavier Ammal

2.C.Emerencia

3.P.Philo Soris

4.A.Judo Rodrigo

... Respondents /
Plaintiffs 2 to 5

5.N.Anton Ravel

6.N.Jeno Ravel

7.R.Fathima Rooban

8.J.Nallammal Ravel



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9.J.Sujith Ravel

10.A.Reka

11.Minor J.Sruthika

*(R.11 represented by her natural
guardian / mother A.Reka, the
10th Respondent)*

... Respondents /
Defendants

12.DR.Bharathi Kannan

*(R.12 is impleaded vide order
of this Court dated 13.02.2026
in C.M.P(MD)No.1693 of 2026)*

... Respondent

PRAYER :-

Appeal Suit is filed under Section 96 of C.P.C to call for the records from the Court below and set aside the decree and judgment of the learned Additional District Judge, Fast Track Court No.2, Tuticorin dated 01.08.2008 in O.S.No.42 of 2006 so far as the appellant is concerned by allowing this appeal and decreed the above suit so far as the appellant is concerned.

For Appellant : Mr.A.Saravanan

For Respondents : Mr.S.Muthukrishnan
for R.1 to R.4 & R.7

Mr.D.Srinivasaragavan
for S.M.Mohan Gandhi
for R.5

Mr.C.Mohankumar
for R.9 to R.11



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Mr.K.Prabhakar for R.6 & R.8

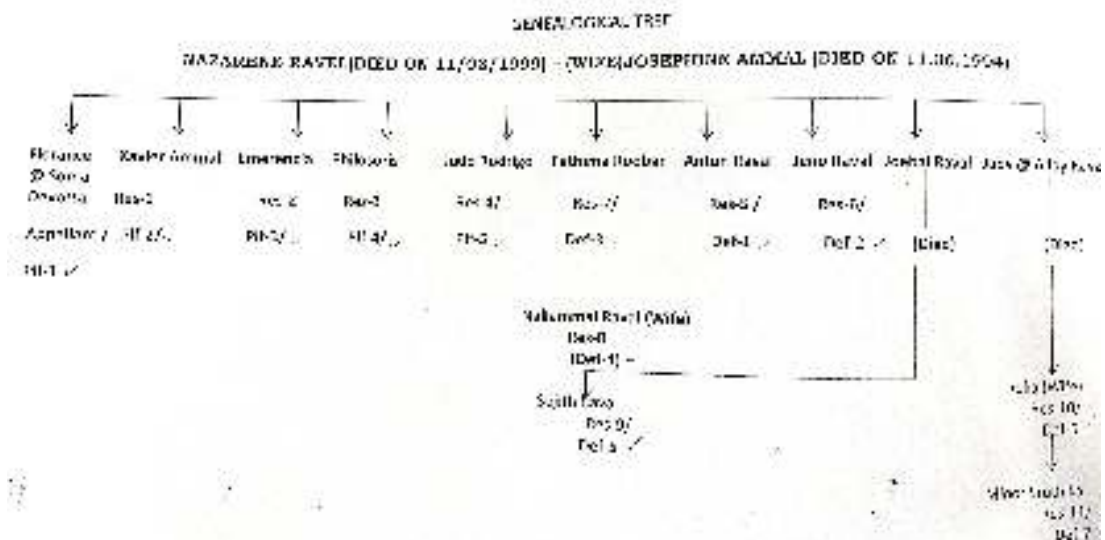
Mr.K.Govindarajan
for Mr.T.Palanisamy for R.12

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

Heard both sides.

2.This appeal arises out of a suit for partition. The parties are Christians belonging to Roman Catholic denomination. One Nazarene Ravel and Josephine Ammal got married and through the wedlock 6 daughters and 4 sons were born. The genealogical tree is as follows:





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3. Five of the daughters filed O.S.No.42 of 2006 on the file of the Additional District Judge (FTC-2), Tuticorin seeking partition and separate possession of 5/10th share in the plaint schedule properties. The principal contestants were the two surviving brothers and the legal heirs of the two deceased brothers. They filed written statement. The stand in the written statement was as follows:

There are 10 suit schedules. Schedule No.1 stood in the name of the father. Schedule No.2, comprising 2 items, stood in the name of the mother. But the first item of second schedule was treated as personal property of the father. The suit schedules 3 to 10 stood in the names of the father and his sons. The father passed away on 11.03.1999. The mother predeceased her husband on 11.06.1994. The father executed a Will dated 08.09.1994, which was duly registered (Ex.B31). The plaintiffs 1 and 2 had executed release deeds dated 17.04.2003 and 05.05.2003 respectively in favour of the brothers.



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4. Based on the rival pleadings, the trial Court framed the following

issues:

“1) Whether the plaintiffs are entitled to get 1/10th share each in the schedule mentioned properties?

2) Whether the 7th defendant is minor is true?

3) Whether the Late Nazerine Ravel had executed a registered Will in favour of this four sons i.e. the D1 & D2 and 2 deceased sons on 8.9.1994 is binded over the properties and acted upon?

4) Whether the all properties are in Joint possession and enjoyment is true?

5) Whether the release deed which was executed by the P1 and P2 are acted upon and binded upon the plaintiffs?

6) If so, what reliefs, the plaintiffs are entitled to?”

5. Four of the plaintiffs examined themselves as PW.1 to PW.4. Ex.A1 to Ex.A8 were marked. On the side of the defendants, 6 witnesses were examined. Ex.B1 to Ex.B31 were marked.



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6. After considering the evidence on record, the trial Court partly decreed the suit on 01.08.2008 in the following terms:

“1) that the Item 2 of 2nd schedule property be divided into 15 equal shares and out of which the plaintiffs 3 to 5 are declared to have entitled for one share each.

2) In respect of other schedule properties the plaintiffs 3 to 5 are not entitled to any share in the schedule properties.

3) That the plaintiffs 1 and 2 are not entitled to any share in the schedule properties.

4) That the interested parties be at liberty to file a Final decree petition for partition by appointing the Commissioner by metes and bounds.

5) that the case stands adjourned sine die.

6) that the plaintiffs and defendants do bear their own costs. Plaintiffs cost Rs.3785/-

Defendants cost Rs.Nil (cost statement not filed)”

Aggrieved by the same, the first plaintiff alone has filed this appeal.

7. The learned counsel appearing for the appellant reiterated all the contentions set out in the grounds of appeal and called upon this Court to set aside the decree of the trial Court and grant relief as prayed for.



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8.Per contra, the learned counsel appearing for the contesting respondents submitted that the impugned judgment is well reasoned and that it does not warrant interference.

9.We carefully considered the rival contentions and went through the evidence on record.

10.The point that arises for determination is whether the Court below was justified in completely denying relief to the appellant herein. Suit schedule 1 stood in the name of Nazarene Ravel, while the suit schedules 3 to 10 stood in the joint names of Nazarene Ravel and his sons. Nazarene Ravel had executed a registered Will on 08.09.1994. It was registered as Document No.61/1994 and marked as Ex.B31. The Will was attested by two witnesses, one of whom, Suriyan was examined as DW2.

11.It is relevant to note that after the demise of Nazarene Ravel, the brothers filed a partition suit among themselves in respect of the properties that were left in common by their father. In that suit, i.e.,



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O.S.No.26 of 2000 on the file of Sub Court, Tuticorin this Will was marked in evidence. The Court below after a careful consideration rendered a finding that the Will executed by Nazarene Ravel stood proved. No valid ground has been made to dislodge this finding. We therefore confirm the same. Therefore, the Court below was justified in non-suiting the plaintiffs in respect of suit schedule 1 and suit schedules 3 to 10.

12.As already mentioned, suit schedule 2 comprised of 2 items. The first item was purchased in the name of the mother Josephine Ammal. Vendor was her own mother. The said sale deed was marked as Ex.B3 dated 11.07.1956. In the said sale deed, it has been specifically mentioned that consideration flowed from her son-in-law Nazarene Ravel. A specific recital in the sale deed reads that the sale consideration should be treated as a debt by Josephine Ammal and that it should be discharged by her and only thereafter, she would become the absolute owner of the property. There is no evidence on record to show that Josephine Ammal discharged the said debt.



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13.Be that as it may, Nazarene Ravel treated this property as his personal property and that is how it also found place in the Will executed by him. The Court below therefore held that the daughters cannot have any claim in this item also. Paragraph 20 of the impugned judgment deals with this aspect and it reads as follows:

“20. In the 2nd schedule there are 2 items of properties. The 1st item of 2nd schedule was sold to Josephine Ammal by her mother 11.7.1956. At the time of sale the sale was subject to mortgage in favour of Nazarene Ravel, the husband of Josephine Ammal. The property was sold subject to the mortgage. The mortgage was not redeemed by Josephine Ammal. Therefore the 2nd schedule 1st item of property also belonged to Nazarene Ravel absolutely.”

14.We concur with the aforesaid reasoning of the Court below. That leaves us only with item no.2 of suit schedule 2. The Court below denied relief to the appellant on the ground that she had relinquished her share by executing Ex.B19 dated 17.04.2003. We carefully went through the contents of the said release deed. It does not contain any description. We are therefore of the view that this release deed could not have been



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put against the appellant. We are, however, conscious that the validity of such release deeds which do not contain any property descriptions, is the subject matter of reference before the Full Bench.

15.As per Section 33 read with 35 of the Indian Succession Act, 1/3rd share in the property of women would devolve on her spouse. Therefore, 1/3rd undivided share in Item No.2 of suit schedule 2 devolved on Nazarene Ravel and by virtue of his bequest, the said 1/3rd share devolved on his sons in equal measure. Therefore, only on the remaining 2/3rd share, the children of Josephine Ammal can have claim. When 4 daughters, 2 sons and the legal heirs of the remaining 2 sons have been given shares, it is inequitable to deny a share to the appellant. We therefore modify the judgment and decree of the Court below and hold that the appellant also will be entitled to 1/15th share in the second item of suit schedule 2. The decree is modified accordingly.

16.This Appeal Suit is partly allowed. No costs.



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[G.R.S., J.] [R.K.M, J.]
18.02.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
MGA

To

The Additional District Judge,
Fast Track Court No.2,
Tuticorin.

G.R.SWAMINATHAN,J.



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AND

R.KALAIMATHI, J.

MGA

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