IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.07.2026

Pronounced on : 31.07.2026

CORAM :

The Hon'ble Mr.Justice N.SATHISH KUMAR
and
The Hon'ble Mr.Justice M.JOTHIRAMAN

A.S.No.920 of 2012
and
M.P.No.1 of 2012

Mrs.L.Raniammal (died)

2.L.Vasanthakumar

(Appellant died, A2 is brought on record
as LR.s of deceased first appellant, namely
L.Raniammal vide order dated 28.10.2022
in CMP. No.11425 of 2019 in AS No.920 of 2012) .. Appellant

Vs.

1.K.C.Saradambal (died)
2.R.Durgarani
3.E.Karpagam
4.Navaneetha Krishnan
5.Keerthana
[Respondent 4 and 5 are declared as major and
their guardian Mr.O.M.Saravanan is discharged
from guardianship of RR4 and 5 vide order
dated 23.07.2024 made in CMP Nos.29427 and
29428 of 2023 in AS No.920 of 2012]

6.J.Chitra
7.B.Indira
8.R.Sundarajan
9.R.Soundarajan
10.R.Vijaya
11.R.Sathya
12.R.Vidya
13.R.Sujatha
14.R.Kowsalya
15.D.Navaneedam
16.K.C.Madanagopal
17.K.C.Dilli Babu
18.K.C.Jayagopal (died)
19.K.Sundaraj

20.P.Menaga
21.L.Suresh
22.I.Vijayabaskar
[RR20 to 22 are brought on record as
LR.s of deceased appellant, namely L.Raniammal
vide order dated 28.10.2022 made in
CMP Nos.11425, 11426 and 11428 of 2019
in AS No.920 of 2012]

23.Yamuna Bai
24.J.Sathiskumar
25.J.Rathish
[R18 died, RR23 to 25 are brought on record
as LR.s of deceased 18th respondent K.C.Jayagopal
vide order dated 28.02.2023 made in CMP
Nos.4349, 4352 and 4353 of 2023 in
AS No.920 of 2012] .. Respondents

This appeal suit has been filed under Section 96 of the Civil Procedure Code, 1908 seeking to set aside the decree made in OS No.335 of 2004 dated 30.03.2012 on the file of the Additional District Judge, Fast Track Court No.1, Chengalpattu insofar as the same is made against the appellant that is dismissing the suit for partition in respect of item nos.146, 148 to 150 of the suit schedule property by allowing the appeal and grant decree of partition in all the suit properties and thus render justice.

For Appellant : Mr.S.Vasudevan

For Respondents : Mr.P.H.Aravindh Pandian, SC
for Mr.S.Udhayakumar
for RR8,9,17,18,23,24 and 25

Mr.S.Parthasarathy, SC
for Mr.K.S.Navin Balaji for R19

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JUDGMENT

N.SATHISH KUMAR, J.

The plaintiff challenging the dismissal of the suit in O.S.No.335 of 2004 by the learned Additional District Judge, Fast Track Court No.1, Chengalpattu, vide judgment dated 30.03.2012 has filed the present appeal in respect of properties mentioned in item nos.146, 148 to 150.

2.The parties in this judgment are hereinafter referred to as per their rankings before the trial court.

3.The facts in the present case are as follows:

3.1.According to the plaintiff, the entire suit properties belonged to her father one K.R.Chinnaiya Naidu and he died intestate on 27.11.1978 leaving behind the plaintiff and defendants as his legal heirs. The plaintiff, 14th and 15th defendants are daughters and one K.C.Ramachandran is the son of late K.R.Chinnaiya Naidu. The first defendant is the wife of K.R.Chinnaiya Naidu. The second defendant is the wife of K.C.Ramachandran, since deceased. The third defendant is the grand son's wife of late K.R.Chinnaiya Naidu. Defendants 4 and 5 are great grand son and great grand daughter of late K.R.Chinnaiya Naidu. The defendants 6, 7, 10, 11, 12 and 13 are grand daughters of late K.R.Chinnaiya Naidu. 8th and 9th defendants are grand sons of late K.R.Chinnaiya Naidu. Defendants 16 to 18 are sons of late K.R.Chinnaiya Naidu. The 19th defendant is the purchaser of 5/8th share in the entire suit properties from other defendants. According to the plaintiff, defendants 1 to 13, 16 to 18 appropriated income from the bus service and lands without giving shares to the plaintiff.

3.2.Further, it is the plaintiff's case that substantial lands in Keezakarana Chithamnur and Tirukachur villages have been acquired by the government for the benefit of the industrial unit and the compensation is yet to be paid by the government. Therefore, the plaintiff and defendants are entitled to shares in the plaint schedule properties as per the Hindu law. The plaintiff is entitled to 1/8th share in the suit properties. Since the joint ownership of the properties has not been beneficial to the plaintiff, she has sent a legal notice on 05.09.1998 to the defendants demanding partition of plaint schedule properties. The defendants attempted to sell the substantial portion of the suit properties. Being the co-owner, the plaintiff is entitled to preliminary decree of 1/8th share in all the suit properties.

3.3.The defendants 3 to 5 filed written statement denying that the entire suit properties belonged to Chinnaiya Naidu. According to him, item nos.126 to 139, 142, 146 and 148 are exclusive properties belonged to late K.C.Ramachandran and only his wife and children are entitled to shares in those properties. Further, it is their contention that defendant nos.2, 8, 9, 16 to 18 appeared to have received their portion of compensation amount regarding the lands of K.R.Chinnaiya Naidu acquired by the government and also in respect of lands of K.C.Ramachandran acquired by the Government for Ford company and National Highways. Therefore, they are accountable for the same. This defendant has also filed a suit in O.S.No.161 of 1997 for partition of the properties left by K.C.Ramachandran. According to them, they are entitled to 33/160 and 33/640 shares in the schedule mentioned properties. The third defendant has also filed an additional written statement for herself and for 4th and 5th defendants, stating that item no.149 belonged to K.C.Ramachandran and they are not the properties of K.R.Chinnaiya Naidu. The item no.150 belonged to K.C.Ramachandran and his brother having jointly purchased by them and it is their exclusive possession and enjoyment and therefore, the plantiff cannot claim any share in those items.

3.4.The 6th defendant has filed a written statement contending that item nos.126 to 139, 142, 146, 148 are properties of K.C.Ramachandran and therefore, his wife and children alone are entitled to shares in those properties. This defendant has also filed a suit in O.S.No.113 of 1997 for partition of properties left by K.C.Ramachandran. Hence, according to her, she is entitled to 1/10th share in the properties of late K.C.Ramachandran and 1/80th share in the properties of late K.R.Chinnaiya Naidu. The 6th defendant has also filed additional written statement. According to her, item no.150 belonged to K.C.Ramachandran and his brothers having jointly purchased by them and they were in exclusive possession and enjoyment of the same.

3.5.The 7th defendant has filed a written statement accepting that some of the averments made by the plaintiff in the plaint are true. According to her, the defendants 1, 2, 8 to 13 and 16 to 18 were colluding together and appropriated the income from the properties to themselves without sharing the income to the plaintiff and also to this defendant and therefore, this 7th defendant is also entitled to 1/8th share in the plaint schedule mentioned properties. This defendant has also filed a suit in O.S.No.222 of 1998 on the file of the Additional Sub Court, Chengalpattu for partition and for separate possession of her due share in respect of the properties mentioned in that plaint schedule.

3.6.The 9th defendant has filed a written statement which was also adopted by defendants 2, 8, 10 to 13 and 17. It was stated that even during the life time of Chinnaiya Naidu, the suit item nos.1 to 29 in Kizhakaranai village were acquired by the government and Chinnaiya Naidu himself had received the entire compensation from the government. Item nos.132 to 137 were sold by Chinnaiya Naidu and the suit was bad for non joinder of purchasers. The other suit items are imaginary and the plaintiff has included the properties of strangers as if they are available for partition. The suit item no.148 never belonged to Chinnaiya Naidu. The Shanmugananda Bus service is exclusive property of defendants 2, 8 and 9. The Shanmugananda bus service is a private limited company governed by the Companies Act and therefore, if at all, the plaintiff has to file a suit for dissolution and winding up of the company and for accounts. Hence, the suit in respect of item no.148 is not maintainable. The plaintiff is not in possession of any properties and the court fee paid is incorrect.

3.7.The 8th defendant has filed additional written statement stating that suit item nos.30, 31, 33, 34, 36 to 41, 43, 51, 60, 61, 66 to 69, 75 to 96, 101 to 111 in Sengundram village were sold away by K.R.Chinnaiya Naidu long prior to the filing of the suit. Item no.35, i.e., S.No.22/4 was repeated as item nos.42 and 49 over again and similarly, item no.32 was repeated as item no.99 again. The suit item nos.112 to 117 and 120 to 123 were sold by K.R.Chinnaiya Naidu several decades ago. Item nos.126 to 132 never owned and possessed by Chinnaiya Naidu and item nos.133 to 137 also never belonged to Chinnaiya Naidu. Item no.146 was purchased on 25.08.1962 by Shanmugananda Bus Service Private Limited and was not the individual property of Chinnaiya Naidu. The suit item no.148, Shanmugananda Bus Service Private Limited consists of several shareholders and was not the individual property of Chinnaiya Naidu. Therefore, a partition suit cannot be filed as shareholder will not have any share in the property of the company. The 8th defendant purchased the shares of Chinnaiya Naidu and the individual shares of 17th and 18th defendants in Shanmugananda Bus service. The buses mentioned in the suit schedule item no.148 do not exist. There was partnership concern, namely K.R.C.Chandran Bus service and as per the partnership deed dated 25.3.1994, the K.R.C.Chandran Bus service belonged to defendants 2, 8 and 9. The suit item no.l50 was purchased by K.C.Ramachandran and his three bothers jointly in the year 1969. Therefore, they are separate properties. The plaintiff has also filed a suit in O.S.No.307 of 1984 claiming those properties as available for partition. The said suit was resisted by K.C.Ramachandran, the husband of second defendant. The said suit was dismissed on 18.1.1990. Further, in the additional written statement filed by the 8th defendant, he has stated that the buses bearing registration nos.TN 21 J 1166 and TN 21 J 5999 were purchased in the year 2006 by this defendant and his brother Sundarrajan, 9th defendant and their mother Durgarani, the second defendant who are partners of K.R.C.Chandran bus service. The route for this bus was also owned by Ramachandran, father of this 8th defendant and 9th defendant and husband of the second defendant and they constituted partnership of K.R.C.Chandraan Bus service. The buses purchased in the year 2006 cannot be claimed by the plaintiff as the property of her father. Similarly, with regard to item no.3 of suit item no.149, the Carriage Spare Bus did not contain any registration numbr and hence, those properties also cannot be claimed.

3.8.The 18th defendant has filed a written statement stating that most of the suit properties mentioned in the schedule were sold by Chinnaiya Naidu even during his life time. Some of the properties of Chinnaiya Naidu were partitioned orally among sons even during the life time of Chinnaiya Naidu. The rest of the properties of Chinnaiya Naidu were partitioned among the sons after his demise. The plaintiff has never been in joint possession of any of the properties. Therefore, he has disputed the claim of the plaintiff. The 18th defendant has also filed an additional written statement. The suit filed by the plaintiff in O.S.No.307 of 1984 along with others was already dismissed. If really the plaintiff has any share in item no.150, she would not have agreed to go along with others and she would have contested the suit alone by herself and hence, the 18th defendant disputed the claim of the plaintiff.

3.9.The 19th defendant is the purchaser of some the suit properties and he has purchased the same from the other co-owners. He became entitled to 5/8th share in survey nos. 22/2B, 27, 51/2, 56/2, 68/1A1, 68/1A3, 75/1, 78/5, 82/3B, 110/1C, 123/1A, 124/6, 131, 132/2, 79/2, 26/1D, 26/11, 83/2, 84/2, 86/2, 89/4 (89/4A), 137/2 and 5/8th share in the Well in S.No.56/2. He has filed a suit in O.S.No.59/2004 seeking for partition and separate possession of 5/8th share.

4.Based on the above pleadings, the following issues were framed by the trial court:

(i)Whether the plaintiff is entitled for partition as prayed for?

(ii)To what other reliefs?

The purchaser 19th defendant has also filed a suit in O.S.No.59 of 2004. The said suit was also tried along with O.S.No.335 of 2004. A joint trial was conducted. On the side of the plaintiff, P.Ws.1 to 3 were examined. Exs.A.1 to A.32 documents were marked. On the side of the defendants, the defendants 8 and 19 were examined as D.Ws.1 and 2 and documents Exs.B.1 to B.27 were marked. The trial court dismissed the suit filed by the subsequent purchaser holding that he can work out his remedy in the final decree proceedings since he was the subsequent purchaser. In respect of the suit filed by the plaintiff herein, the trial court decreed the suit in respect of item nos.30 to 41, 43 to 48, 50 to 98, 100 to 145, 147 and dismissed the suit in respect of item nos.1 to 29, 42, 49, 99, 146, 148 to 150.

5.As against the dismissal of O.S No.59 of 2004, the purchaser has filed A.S.No.916 of 2012 before this court and further, as against the preliminary decree granted in favour of the plaintiff in O.S.No.335 of 2004 in respect of some of the suit properties, he has filed A.S.No.915 of 2012. In the present appeal, namely A.S.No.920 of 2012, as the original plaintiff died, her son was prosecuting the appeal and the other children of the original plaintiff were made as respondents. In the above appeals, namely A.S.Nos.915 and 916 of 2012, it was submitted that except the contesting respondent, namely 21st respondent in A.S.No.915 of 2012 and 17th respondent in A.S.No.916 of 2012, all other legal heirs of the original plaintiff have already sold their shares to the appellant, namely 19th defendant in O.S.No.335 of 2004. When the above two appeals, namely A.S.Nos.915 and 916 of 2012 came before this court, the second appellant in A.S.No.920 of 2012, who is now prosecuting the said appeal, has agreed to sell an extent of 30 cents at the rate of Rs.3700/- per square feet and the purchaser, namely the appellant in A.S.Nos.915 and 916 of 2012 has also agreed to purchase the same within a period of three weeks after the payment of the entire sale consideration. In view of the said agreement reached between the contesting appellant and the subsequent purchaser, who was plaintiff in O.S.No.59 of 2004, both appeals filed by the subsequent purchaser, namely A.S.Nos.915 and 916 of 2012 were disposed of by this court vide a common judgment dated 22.07.2026.

6.Now, the present appeal has been filed challenging the dismissal of the suit in O.S.No.335 of 2004 in respect of item nos.146, 148 to 150. The second appellant, who is now prosecuting the appeal, is the son of the original plaintiff Raniammal. The main challenge made in this appeal is against the dismissal of the suit in respect of various items of suit properties, insofar as item nos. 1 to 29 are concerned, the learned counsel for the appellant has fairly submitted before this court that the lands were already acquired by the State Government under Exs.A.21 and A.22 and the compensation was already paid under Ex.A.23. Therefore, nothing is available for partition. Further, in respect of item nos.31, 32, 33, 36, 40, 41, 48, 50, 52 to 59, 62 to 65, 97 and 98, an extent of 7 acres and 61 cents have already been sold out, out of 7 acres and 91 cents and therefore, only 30 cents is available for partition which the second appellant is entitled to. It is submitted that the second appellant has also agreed to sell 30 cents to the 19th defendant in the suit which has also been recorded in the judgment in A.S.No.915 and 916 of 2012 vide judgment dated 22.07.2026. Hence, the learned counsel for the appellant submitted that the second appellant is giving up the rights in those items. The learned counsel has also submitted that in respect of item nos.42 and 49 of the suit schedule property, as the same has been repeated again, the same is deleted in the decree and the second appellant is not claiming any right in those properties. Therefor, now the main challenge is the dismissal of the suit in respect of item nos.146, 148, 149 and 150. According to the learned counsel for the appellants, in item no.150, after acquisition by the Government, still there is 1 acre and 70 cents available and according to him, the compensation amount has already been deposited in the LAOP Court. Therefore, the second appellant is having shares in respect of item nos.146, 148, 149 and 150. The learned counsel has submitted that the trial court has dismissed the suit in respect of those items without appreciating proper evidence.

7.It is contended by the learned counsel for the appellants/original plaintiff that item no.146 is the property in the name of Shri Shanmugananda Bus Service private limited. According to him, the bus service was operated by plaintiff's father and after his demise, the permission has been changed to his elder son K.C.Ramachandran. Therefore, according to him, this is also the property of the family. Similarly, item no.148 is also the property of the bus service and therefore, the plaintiff is certainly entitled to a share and suit item no.149

is also owned by her father and after his demise, the permission has been transferred to his elder son. Therefore, according to the learned counsel, the plaintiff is entitled to the share. It was further contended that, in the company, the father had 9000 shares in which the plaintiff is entitled to 1125 shares, but the shares have been transferred illegally in favour of the other defendants. It was therefore, contended that the transfer of shares to the other defendants is not valid in the eye of law. In this regard, the plaintiff has also filed a company petition in C.P.No.1006/111/SRB/2007 before the Company Law Board, Southern Region Bench, Chennai, wherein the Company Law board had directed the company to transmit 1125 shares in the name of the plaintiff/petitioner and the said order has now been challenged by the defendants. Therefore, the learned counsel submitted that as per the evidence of P.W.2, the bus was originally owned by the father Chinnaiya Naidu and after his death, the permit has been transferred. Admittedly, there is no evidence to show that the plaintiff has given no objection for transfer of the permit. Therefore, the learned counsel would submit that in the absence of any evidence to show that the plaintiff has also given consent to transfer the permit, transferring the permit in the name of other legal heir will not give absolute right to the permit holder and it is only a joint property and therefore, the plaintiff is entitled to share in the company property also.

8.The learned counsel for the appellants/plaintiff has further submitted that in respect of item no.150, though the property was purchased in the name of sons of Chinnaiya Naidu in the year 1969, the same has been purchased by the father only as joint family property. Therefore, the plaintiff is entitled to share in that property also which has not been taken note of by the trial court. According to the learned counsel, Ex.A.13, a copy of the plaint in O.S.No.307 of 1984 filed by the plaintiff and other sons would show that the father was the only earning member in the joint family. Though the sale deed dated 08.01.1969 in respect of item no.150 stood in the name of the sons of Chinnaiya Naidu, the other sons pleaded in the above plaint that the purchase was only for the benefit of the joint family members. Therefore, when such a stand was taken by the other sons, according to the learned counsel for the plaintiff, though item no.150 was purchased in the name of the sons, the said property also should be treated as joint family property. In item no.150, out of 4 acres and 8 ¼ cents, most of the extent have also been acquired by the government for laying railway line cross bridge and remaining extent of 1 acre and 70 cents is available for partition and that the land acquisition compensation has also been deposited in the said land acquisition proceedings. Therefore, according to the learned counsel, the plaintiff is entitled to partition.

9.Further, the annual return of Shanmugananda Bus Service Private Limited marked as Ex.A.27 would show that the father Chinnaiya Naidu had 9000 shares. Therefore, once the entire bus service company is run by the family, the plaintiff being the joint family member is certainly entitled to share in the property.

10.The learned Senior counsel appearing for some of the respondents / defendants would submit that the company was established in the year 1961 during the life time of their father and it is the property of the company and therefore, the same cannot be the subject matter of partition. Though the plaintiff has filed an application before the company law board to claim the share of her father, which was allowed by the Company Law Board, the same is challenged in the appeal before the appellate forum. In any event, as far as the company's asset is concerned, the remedy lies before the Company Law Board and not in the partition suit. Further, admittedly there is no evidence to show that the joint family runs the company. The father died in the year 1978 and the transfer of the permit happened in the year 1979. The transfer of permit would not have happened unless the other legal heirs of the permit holder gives their no objection as per the Motor Vehicles Act which was also clearly spoken to by P.W.2. Therefore, when the bus service permit has been transferred in the name of one son and the partnership firm was constituted among them, the business at no stretch of imagination is the joint family business.

11.Further, it is contended that in the entire plaint, there is absolutely no pleading as to the nature of the joint family business, how the joint family was constituted and when the company came into existence, etc., Whereas from the pleadings of the plaintiff in the earlier suit filed by her in the year 1984 in O.S.No.307 of 1984, it clearly shows that there was no joint family nucleus available in the family and it is only the individual property, out of which he has purchased certain properties. Therefore, in the absence of any pleadings as to the existence of the joint family nucleus, the plaintiff cannot lay any share in the property, particularly in the company's property. Further, in respect of item no.150, this property was purchased in the name of sons of Chinnaiya Naidu and as they were minors at the relevant point of time, as guardian, the father has purchased the property. Even assuming that the father has contributed money, there is no bar under the law to purchase the property in the name of the sons by the father for their benefit.

Therefore, the moment the transfer is effected in the name of the sons as early as in the year 1969, now over the passage of so many years, the plaintiff without any basis or pleadings cannot base her case as if the properties are also joint family properties.

12.Further, it was contended that under Ex.A.5, the father and sons have already partitioned the property on 05.12.1959 and certain properties were allotted to sons. Later, under Ex.A.6, the property was purchased by K.C.Ramachandran and others when he was aged about 30 years. Though the brother of K.C.Ramachandran were minors and represented by their father, the fact remains that Ramachandran had separate properties by virtue of partition under Ex.A.5 as early as on 05.12.1959. Therefore, at no stretch of imagination, item no.150 which is the subject matter of Ex.A.6 should be treated as joint family property. Further, it was contended that in the original plaint, this property was not included and later it was included by amended plaint. All the facts clearly show that it is only a speculative litigation in order to claim the share in the company and in the property. Hence, the learned counsel opposed the appeal.

13.In the light of the above submissions, now the points that arise for consideration in this appeal are as follows:

(i)Whether the properties comprised in item nos.146, 148, 149 and 150 are joint family properties of late Chinnaiya Naidu?

(ii)Whether the plaintiff can claim share in the company's properties?

(iii)To what other relief, the parties are entitled to?

Points (i) to (iii) :

14.The main issue is with regard to item nos.146, 148 and 149 being the company properties and item no.150 which was purchased under Ex.A.6 by K.C.Ramachandran, the elder son of Chinnaiya Naidu and other sons who are minors. A careful perusal of plaint pleadings would show that absolutely there is no pleadings as to when and how the joint family was constituted and how the properties have been dealt with. The plaintiff at the time of filing of the suit was aged about 60 years. Except stating that the properties belonged to Chinnaiya Naidu, the plaint does not disclose as to how item nos.146, 148 and 149 came into existence and how item no.150 was purchased. A careful perusal of Ex.A.5 partition deed would indicate that the properties have been partitioned among the father and sons and some of the properties have been allotted to all the sons. On a careful perusal of Ex.A.6, it is seen that the first son was aged about 30 years of age and other sons were minors represented by the father and the property was purchased in the name of sons. It was purchased in the year 1969. This aspect was never pleaded in the plaint, whereas it is pleaded as if the properties are joint family properties, only in the evidence.

15.It is relevant to note that much emphasis is made to Ex.A.13, plaint filed by the plaintiff in O.S.No.307 of 1984, wherein the plaintiff along with other brothers filed the suit for permanent injunction against first defendant therein, namely K.C.Ramachandran from alienating the properties. The said suit has been filed in respect of item no.150 and other properties. When the said plaint is carefully seen, it would really indicate that there was no ancestral nucleus of any kind and her father K.R.Chinnaiya Naidu alone was the only earning member in the joint family. Be that as it may, the said suit came to be dismissed as early as in the year 1990 and the same has not been prosecuted. The said suit was also resisted by K.C.Ramachandran denying the contentions of the plaintiff. Therefore, once the sons were already given sufficient properties in the year 1959 under Ex.A.5, partition deed and at the time of purchase in the year 1969, the elder son was aged about 30 years, merely because the father stood as guardian for other sons, it cannot be held that those properties were purchased only out of the father's income. Even assuming that such properties were purchased by the father, it should be held that such purchase was only for the benefit of the sons alone. If the intention of the father to treat such purchase only for the members of the family, the plaintiff and other daughter's name also would have been found place. Therefore, merely because the plaintiff and other brothers have joined together against the elder son and filed the suit in the year 1984, that cannot be a ground to hold that the entire property is the joint family property, particularly in the absence of any pleadings with regard to the joint family, etc.,

16.Further, there was no reason as to why the plaintiff has not prosecuted the suit in O.S.No.307 of 1984 but after 20 years, the present suit came to be filed. Therefore, the conduct of the parties cannot be ignored altogether. Once the properties stand in the name of the sons and that too purchased after the partition in the family and they were also allotted certain properties, merely because the father stood as guardian for some of the minors, now it is too late for the plaintiff to contend that these properties which stood in the name of the brothers, are also joint family properties. Absolutely, there is no pleadings whatsoever in the plaint to show that the suit properties are joint family properties. Except contenting that the suit properties belonged to the father, no other pleadings whatsoever was made. Further, a perusal of Ex.A.13 plaint clearly indicates that there was no joint family nucleus to purchase the property. Such being the position, it has to be held that it is the properties of brothers and the plaintiff cannot claim any share in the property in item no.150.

17.Item no.146 was admittedly purchased by the private limited company under Ex.B.1. Further, the Article of Association Ex.A.2 and the balance sheets Ex.A.3 and Ex.A.4 were also filed. The plaintiff has claimed share in her father's share. According to the plaintiff, the father had 9000 shares in the company in which she is entitled to 1125 shares. Therefore, having claimed shares of her father, now the plaintiff cannot lay her claim over the property of the company. Admittedly, the plaintiff has already approached the Company Law Board in C.P.No.1006/111/SRB/2007 for transfer of the share left by her father and by order dated 11.06.2008, the Company Law Board directed the company to transmit 1125 shares in the name of the plaintiff. The said order is now under challenge in the appeal before the appellate forum. Such being the position, having claimed right in respect of the shares held by her father, now she cannot lay her claim over the property of the company and therefore, she has to work out her remedy in respect of the shares held by her father in the Company Law Board appellate forum alone. Therefore, we are of the view that the plaintiff is not entitled to share in the company's property.

18.Similarly, it is the contention that the bus service is also a family property. It is relevant to note that when Ex.A.27 Annual return filed by the company is carefully perused, it is seen that the company is incorporated and registered on 27.05.1961 onwards. Therefore, without claiming any right over the property, now after several decades, i.e., after 40 years, the plaintiff claiming shares over the property of the company in our view is not maintainable.

19.The evidence of P.W.1 would clearly show that she never claimed any share in the properties for all these years and she does not even know the registration number of the bus, etc., She has no knowledge whatsoever with regard to the affairs of the company. Therefore, after 40 years, the plaintiff claiming share in the company's property in our view is an attempt to make an unjust enrichment. Further, it is to be noted that despite filing the suit in the year 1984 claiming right in the suit properties, when the same was contested by filing written statement by K.C.Ramachandran, the suit was allowed to be dismissed by the plaintiff and others. If really, there was any share for which the plaintiff is entitled to, her normal conduct would be to file a suit at the earliest point of time which was not done. Further, her evidence during cross examination clearly shows that she has admitted that during the life time, her father has given her properties and she has also sold one acre of the property. She has admitted in her evidence that 'என் அப்பா எனக்கு சொத்து கொடுத்துள்ளார் என்றால் அது சரி தான். அந்த சொத்தில் ஒரு ஏக்கர் மட்டும் விற்பனை செய்துள்ளேன்.'. It is relevant to note that she was given property by her father. Further, her admission in the cross examination, as extracted above, would clearly indicate that she had already sold one acre out of the property given by her father. This fact was never disclosed by the plaintiff. But, the plaint proceeds as if the entire properties are joint family properties. Further, she has also denied that her father had divided the share in the company during his life time. She has feigned ignorance to the said fact also. Admittedly, her father died in the year 1978.

20.The evidence of P.W.2, when carefully seen, would show that P.W.2 is an assistant in the RTO Office. His evidence clearly indicate that the bus stood in the name of the father K.R.Chinnaiya Naidu. After his death, permit of the bus has been transferred in the name of K.C.Ramachandran. The said transfer was effected on 20.12.1979 and another transfer was also effected on 20.12.1989, for which documents Exs.P.18, Ex.P.19 and Ex.P.20 were produced. It is relevant to note that when the permit was transferred on 20.12.1989, the Tamil Nadu Motor Vehicles Rules, 1989 came into force. Rule 214 clearly shows that the transfer of permit on death of permit holder can be done only on production of the legal heirship certificate issued by an officer of the revenue department not below the rank of a Tahsildar and No Objection Certificate from all the legal heirs other than the applicant, if there are more than one legal heir to the deceased permit holder. Therefore, only when no objection is given by others, the transfer is effected. P.W.2, in his evidence, also has clearly admitted that only on the basis of the no objection certificate given by the others, the transfer of permit is effected to one of the legal heirs.

21.Further, the another transfer was effected in the year 20.12.1979 which was governed by the Indian Motor Vehicles Act, 1939. Section 61 of the Indian Motor Vehicles Act, 1939 dealt with the transfer of permit on death of holder. As per this provision, the transport authority on application made within three months of the death of the holder of a permit can transfer the permit to the person succeeding to the possession of the vehicles covered by the permit. Therefore, when the evidence of

P.W.2 itself clearly indicates that only on the no objection certificate from the other legal heirs, the transfer was effected as early as in the year 1979 and 1989 under Ex.A.18, Ex.A.19 and Ex.A.20. Therefore, it is for the plaintiff to establish that no such no objection certificate whatsoever was given by her. There is nothing on record on the side of the plaintiff to deny the evidence of P.W.2 in this regard. But on the contrary, it is evident that no objection certificate was given by other legal heirs. Further, there is no contra evidence to the effect that no objection was not given by other legal heirs. Such being the position, once the permit has been transferred to one of the legal heirs in the year 1979 and 1989, it cannot be said that such transfer is also for the benefit of the joint family.

22.Admittedly, after the transfer of permit, there was partnership entered into between the defendants in respect of the bus service which was also clearly established on record. P.W.1 has also admitted in her evidence that the bus service is under the control of her brother for all these years. Since the permit was also transferred in individual name and operated by brothers from the year 1979 onwards, the plaintiff, after a lapse of many years, cannot contend that there are joint family properties and the same were dealt with by the joint family. Therefore, we are of the considered view that the trial court dismissing the suit in respect of item nos.146, 148, 149 and 150 is proper. Hence, we do not find any merit in the appeal preferred by the plaintiff. The petitioner was granted preliminary decree in respect of the suit item nos.30 to 41, 43 to 48, 50 to 98, 100 to 145, 147 for allotment of 1/7th share in those suit items. Therefore, the plaintiff has to work out her shares as declared in the preliminary decree by the trial court.

23.In the result, the present appeal suit filed by the plaintiff is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(N.S.K., J.) (M.J.R., J.)
31.07.2026

Index : Yes / No
Speaking Order /Non speaking order
Neutral Citation : Yes
vvk

To

1.The Additional District Judge,
Fast Track Court No.1,
Chengalpattu.

2.Section Officer,
VR Section,
Madras High Court,
Chennai.

N.SATHISH KUMAR, J.
and
M.JOTHIRAMAN, J.

vvk

judgment in
A.S.No.920 of 2012

31.07.2026