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IN THE COURT OF 5TH ADDL. SR. CIVIL JUDGE, ANAND.

Regular Civil Suit No. 84/2016

Exh. :- 45 .

Plaintiff :-

Manjulaben d/o. Raijibhai Devajibhai Thakor,
w/o. Sharadbhai Raijibhai Patanwadia,
Age : 42 Occup.:- Household,
R/o at - Dhuleta, Punjaji Bhaivaly Faliyu,
Tal. Umreth, Dist. Anand.

V/s.

Defendants :-

1. Rameshbhai Raijibhai Thakor,
Age :- Adult, Occup.:- Agricultural,
2. Harmanbhai Raijibhai Thakor,
Age :- Adult, Occup.:- Agricultural,
3. Jashbhai Raijibhai Thakor,
Age :- Adult, Occup.:- Agricultural,

Defendant no. 1 to 3 all are residence at
Oppo. Bus stand, Po. Tranol,
Maganpura, Tal. & Dist. Anand,

4. Kamlaben d/o. Raijibhai Devajibhai Thakor,
w/o. Ranchhodbhai Maganbhai Thakor,

Age :- Adult, Occup.:- Household,
Res. :- Bandhipura, at farm, Po. Ratanpura,
 Tal. & Dist. Anand.

Suit Valuation :- Suit Valued at Rs. 1213.52/-
Subject :- Partition Suit

Appearance :-

For Plaintiff Ld. Adv. C. R. Zala.
For Defendant no. 1 Ld. Adv. N. H. Raval,
For Defendant no. 2 to 4 Ld. Adv. N. K. Vora.

J U D G M E N T

PLAINT :-

1. The fact dossier of the plaintiff's case that the lives at the above address with her family members and defendants are her real brother and sisters and plaintiff is heir of late. Raijibhai Devajibhai Thakor and her mother also died and plaintiff married at Village Dhuleta, and defendant no. 4 is sister and married at Bandhipura.

As per the plaint, the joint ancestral properties like agricultural lands, houses, and well are situated in a village Tranol, and defendant no. 1 to 3 managed the said above properties and cultivated the lands and taken the mens profit.

While the defendant no. 1 resides in the joint property house which Revenue Survey no. 229/1 and plaintiff has not any claim regarding the houses and well but he to the arise question in the future she will remain claim of the above properties and filed the suit

before the following Agricultural Lands Partition :-

	Survey no.	Heq. Area,	AKAR Rs.
1.	229/1	1-19-38	13-00
2.	229/2	1-34-56	14-69

As per above properties partition purpose, the plaintiff demanded before the defendant no. 1 to 3 and they denied and also sent the notices to the defendants but not given proper answer for the said notice and they wouldn't live to give the shame of properties which plaintiff has 1/5 share in the above properties and for the her share, she filed the suit for her portion in the properties and prayed before the Court.

WRITTEN STATEMENT :-

2. As per the provision of C. P. C., after hearing on the admissibility of the suit, thenafter, the court issues a notice to the defendants for the reply. In the present case, notice duly served to the defendants side and they appeared before the Court. The defendant no. 1 filed the Written Statement at vide Exh. 21 and denial all the averments of the plaint and further stated that they are five brothers and sister, one sister is plaintiff and second is Kamlaben both are married and after that as per social customs, he gave his contribution for the marriage of plaintiff and sister Kamlaben also stated that they jointly gave contribution of the funeral expenses of his parents. And further stated that, Survey no. 229/1 and Survey no. 229/2 are properties which situated at Tranol on joint name and

they undivided properties. He denial the mesne profit Survey no. 229/1 & Survey no. 229/2 properties and never claimed for partition of the said properties and never arised any dispute and never did rough behavior and never tried to do anything wrong for the partition of the properties. In spite of false notice given and filed the bogus suit which hasn't any cause of action. Further, stated that he never declines about the share of the plaintiff in the said properties and also further stated that he hasn't any objection to give 1/5 share of the plaintiff and further stated that plaintiff and defendant no. 2 & 3 have collusion and intentionally filed the suit for harry to the defendant no. 1, while defendant no. 2 to 4 appeared before the Court but not files the any written statement before the Court.

3. Plaintiff's Evidence :-

Moving towards the discussion of the facts and the material of the case, at brief is shown that the plaintiff has adduced the following oral and documentary evidences in the support of averments :-

ORAL EVIDENCE

Exh. 33 :- Deposition of Munjulaben d/o. Raijibhai Devajibhai Thakor and w/o. Sharadbhai Raijibhai Patanvadia, under C. P. C. Order-18, Rule-4.

DOCUMENTARY EVIDENCE

Sr. No.	Documentary Evidences	Exh.
1	Pedhinamu of Late. Raijibhai Devajibhai Thakor (Heir list)	28
2	7/12 record for the land bearing survey no. 229/1	29
3	7/12 record for the land bearing survey no. 229/2	30
4	Village form no. 8-A	31
5	Office copy of Notice	32

4. Defendant's Evidence :-

ORAL EVIDENCE

No oral evidences have been produced by the defendants.

DOCUMENTARY EVIDENCE

Sr. No.	Documentary Evidences	Exh.
1	Reply of notice	41
2	Original copy of acknowledgement receipt	42

Closing evidence cum argument :-

5. Once the parties moved their evidences than the plaintiff side was closed the evidences and filed the closing pursis on exh. 43 and defendant no. 1 filed the closing pursis on exh. 44 while defendant no. 2 to 4 were not appeared than right was closed off them.

The plaintiff side Ld. Adv. Mr. C. R. Zala, argued for his side while defendant no. 1 side Mr. J. N. Raval

argued at length and stated that said properties are joint properties and further stated, no cause of action is there defendant no. 1 never denied the share of plaintiff, and plaintiff and defendant no. 2 to 4 has filed the suit in collusion. Hence, prayed to reject the suit with heavy cost.

I S S U E S

6. On basis of the facts and the pleadings Court has framed the issues, on dtd. 23/12/2016 at vide exh. 24 to decide the suit, which are as under :-

- 6.1 Whether the plaintiff proves that she and defendants are belonging to joint Hindu Family Members?
- 6.2 Whether the plaintiff proves that disputed properties are ancestral properties?
- 6.3 Whether the plaintiff proves that she has 1/5 share in the disputed properties?
- 6.4 Whether the Plaintiff is entitled to get reliefs as claimed?
- 6.5 What order and decree?

7. Answer to above issues are as follows.

- 7.1 Affirmative.
- 7.2 Affirmative.
- 7.3 Affirmative.
- 7.4 Affirmative.
- 7.5 As per final order.

-: REASONS :-

Above mentioned issues being so interconnected and inter ,therefore, to avoid repetition they are discussed and decided to-gather :-

8. Issue no. 1 to 3.

As above issue no. 1 & 3 are so connected hence, to the discussed to-gather. The plaintiff stated that she and defendants are "Member of Hindu Joint Family" and averments are described in the plaint and also produced the Pedhinamu (Heirs list) on exh. 28. It is quite clear that the plaintiff and defendants are heirs of the Late. Shri Raijibhai Devajibhai Thakor and looking to the heirs list which has been signed by the Talati-cum-Mantri village Tranol and defendant's heirship of the plaintiff and defendants. Hence, as per issue no. 1 is concerned answer is affirmative.

ISSUE NO. 2 :-

Looking to the respective parties averments in the pleadings and also perused the document which are situated on exh. 29, Village Form No. 7/12 Revenue Survey no. 229/1 and exh. 30, Village Form No. 229/2, both are related to the properties which disputed properties, if the suit and also perused the exh. 31 of Village Form No. 8-A, account no. 170 of Tranol the disputed properties are ancestral properties and also looking to the reply of the defendant no. 1 is als

accepted that said properties are ancestral properties of the plaintiff and defendants. Hence, as per the issue no. 2, the plaintiff has been proved, so answer is affirmative.

ISSUE NO. 3 :-

After the read the plaintiff & acceptance of defendant no. 1 side that, they are the legal heirs of the Late. Shri Rajibhai Devajibhai Thakor, and perused the Pedhinama(Heirs list) on exh. 28, is clearly shown that they are total 5 heirs of the Rajibhai Devajibhai Thakor. After the discussed the above issue no. 1 and 2, the plaintiff has 1/5 share in the said disputed properties. Hence, answer is affirmative.

ISSUE NO. 4 :-

After, the discussed above issue no. 1 to 3 thoroughly, it is clear that the plaintiff is entitled to get relief as per prayed while issue no. 5 answer as per following final order.

-: ORDER :-

- The R. C. S. No. 84/2016 is hereby allowed.
- The plaintiff is entitled to get 1/5 of share for the said properties which are described in the plaint.
- As per O. XX Rule 18 of the C. P. C.,

Collector, Anand is hereby directed to divide the properties in 5 equal share and demarcated the same from boundary to boundary described in the plaint.

- If the demarcation is not possible, let the properties remain as joint properties and symbolic possession be handed over to the parties as per their share. Collector is also directed to make necessary changes in the Revenue record and prepared a map after partition of the properties and handed over the possession of the share comes to respective parties. He is further directed to report the same withing three months from the information of this order.

- Both parties shall bears their own costs.

- Preliminary decree be drawn accordingly.

Pronounced and Declared in open Court today on 13th day of October, 2017 by putting my signature.

Place :- Anand.

Date :- 13/10/2017.

[Pratap Dhirajlal Jethva]

5th Additional Senior Civil Judge,

Anand.

[GJ-00901]