

IN THE COURT OF THE SENIOR CIVIL JUDGE, REPALLE

PRESENT:- Smt.G. Deena,  
Senior Civil Judge, Repalle

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Friday, this the 15th day of November, 2019.

**ORIGINAL SUIT NO.105/2014**

**Between:-**

Ghantasala Sujatha

... Plaintiff.

Vs.

1. Dandibhotla Sundaramma
2. Juturi Sunanda
3. Ravuru Janaki
4. Dandibhotla Srinivas
5. Jandhyala Venkateswara Rao (Died)
6. Jandhyala Seshagiri Rao
7. Bandreddy Veera Naga Mallikarjuna Rao
8. Jandhyala Hema Latha
- (Added as party as per Orders in I.A.No.24/2017 dated 14.11.2018).
9. Allaparthi Ramana Rao
10. Damerla Raja Rao
11. Panuganti Mangamma
- (Defendants 9 to 11 added as party as per Orders in I.A.No.26/2017, dated 22.11.2018).

... Defendants

This suit coming on 15-11-2019 before me in the presence of Sri P.L.Prabhakar, Advocate, Vijayawada for the Plaintiff, Sri P.N.B.Sharma, Advocate for the defendants 7, 9 and 10, Sri B. Venkateswara Rao, Advocate for 11<sup>th</sup> defendant, suit dismissed against the 1<sup>st</sup> and 4<sup>th</sup> defendants, defendants 2, 3, 6 and 8 are remained exparte, and 5<sup>th</sup> defendant died, and having stood over for consideration till this day, this court made the following :-

**JUDGMENT**

This suit filed by the Plaintiff under section 26 and Order 7 Rule 1 and 2 of C.P.C. prays to pass a Decree and Judgment and Preliminary decree in favour of the plaintiff and against the defendants for; (a) for partition, the plaint schedule 'A' property into 2 equal shares in between the defendants 1 and 5 and out of 1<sup>st</sup> defendant share, partition the same into 5 equal shares and allot one such share to the plaintiff and deliver separate possession to plaintiff by metes and bounds and good and bad; (b) for partition, the plaint schedule 'B' property into 2 equal shares in between the defendants 1 and 5 and out of 1<sup>st</sup> defendant share, partition the same into 5 equal shares and allot one such share to the plaintiff and deliver separate possession to plaintiff by metes and bounds and good and bad; (c) also pass a final decree in terms of the preliminary decree subsequently by

a pointing a Commissioner to divide the plaint schedule properties by metes and bounds and delivery of possession; (d) Consequential relief to declare the sale deeds Sale Deeds bearing No.1744/2014, dt. 23.06.2014 and Document No.4319/2013, dt. 27.11.2013 on the file of SRO, Repalle, Guntur Dist., executed by the defendants 5 and 6 in favour of the defendant 7 and subsequent documents bearing No.760/2015, dt. 04.03.2015 and 2311/2015, dt. 09.07.2015 executed by the 7<sup>th</sup> defendant in favour of the defendants 9 to 11 are null and void and not binding upon the plaintiff (Added as party as per Orders in I.A.No.26/2017, dt. 14.11.2018) and (e) for the costs of the suit.

Heard both sides.

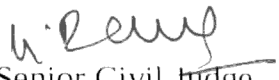
Admittedly plaintiff did not pay the process to issue summons to defendants 1 to 4, as such on 12.12.2014 the suit against D1 and D4 is dismissed for default. As per the record and the contention of plaintiff, Defendants 1 and 4 are necessary parties to the suit. As the necessary parties are not brought on record due to the fault of the plaintiffs, the suit has to be dismissed in toto.

At the time of hearing, plaintiff contended at present he is intending to bring the 1<sup>st</sup> defendant as the 2<sup>nd</sup> plaintiff and he is not intending to bring the 4<sup>th</sup> defendant on record as he is not a necessary party, she only inherits the property through 1<sup>st</sup> defendant. But as per the record and the initial contention of plaintiff, both 1<sup>st</sup> and 4<sup>th</sup> defendants are necessary parties to the suit. At the time of hearing, plaintiff pleaded about the nature of plaint schedule properties, the point which cannot be determined at this stage, basing on his contention of nature of properties, he wanted to exclude 1<sup>st</sup> defendant. As stated above, the point of nature of properties and the rights of the parties which were already mentioned by the plaintiff can only be determined after full-trial. More over plaintiff failed to state the reasons for not dismissing the suit in toto for his default. More over the new contention raised by plaintiff is not maintainable. Defendants also objected for continuing the suit even after the default of plaintiff.

In view of above, as the plaintiff failed to state reasons for continuing the suit in the absence of necessary parties D1 and D4 and for not dismissing the suit in toto in view of his default, hence, the suit is dismissed for default.

In the result, the suit is dismissed for default.

Pronounced by me in open court, this the 15<sup>th</sup> day of November, 2019.

  
Senior Civil Judge,  
Repalle.

**APPENDIX OF EVIDENCE**  
**WITNESSES EXAMINED**

For Plaintiff:-

P.W-1 : Ghantasala Sujatha

For Defendants:

NIL

**DOCUMENTS MARKED**

For Plaintiff :-

Ex.A1 – Attested copy of the Sale Deed bearing No.669/1932 on the file of SRO, Repalle in favour of grand father of the plaintiff, dated 31.03.1932.

Ex.A2 – Attested copy of the Sale Deed bearing No.93/1948 on the file of SRO, Repalle in favour of grand father of the plaintiff, dated 17.01.1948.

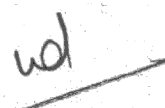
Ex.A3 – Attested copy of death certificate Jandhyala Sessaiah ie., grand father of the Plaintiff, dated 6.2.2009.

Ex.A4 – Original School Certificate of the mother of the plaintiff, dated 16.4.1998.

Ex.A5 – Attested copy of the Sale Deed bearing No.1744/14 on the file of the SRO, Repalle executed by defendants 5 and 6 in favour of the 7<sup>th</sup> defendant, dated 23.6.2014.

Ex.A6 – Attested copy of the Sale Deed bearing No.4319/2013 on the file of the SRO, Repalle executed by defendants 5 and 6 in favour of the 7<sup>th</sup> defendant, dated 27.11.2013.

For Defendants: NIL

  
S.C.J.  
Repalle.