

**IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C. AT  
SEDAM.**

**F.D.P. No.1 OF 2014**

:Present:

**Sri.Vijaykumar.S. Jatla.**

B.Sc, LL.B.

Senior Civil Judge & JMFC, Sedam.

**Dated this the 13<sup>th</sup> day of April - 2023**

**PETITIONERS:**

Narshimlu Gowd S/o Moglayya  
Gowd and another.

/// Versus ///

**RESPONDENTS:**

Prahlad S/o Moglayya Gowd and  
others.

**C O M M O N - O R D E R O N I . A . N O . 1 A N D 2 F I L E D B Y T H E  
P E T I T I O N E R S U / S . 1 5 1 O F C P C**

The IA No.1 is filed by the petitioners U/s.151 of CPC praying this court to modify the preliminary decree and allot  $\frac{1}{2}$  share to the petitioner No.1 in suit item No.1 in view of execution of Gift of 1/4th undivided share by the petitioner No.2 in favour of petitioner No.1 vide registered Gift Deed document No.2215/2013-14 dated 30.11.2013.

2. The advocate for the petitioners contended that the petitioners had filed O.S.No.28/2012 against the respondents in this court. The said suit was partition and separate possession

which came to be decreed allotting plaintiffs/petitioner NO.1 and 2, 1/4th share each. The decree copy is filed. Petitioner No.2, his mother Moglamma has executed registered Gift deed and gifted her 1/4th undivided share in the suit item No.1 in his favour vide registered Gift Deed document No.2215/2013-14 dated 30.11.2013. So, the petitioner No.1 is entitled for  $\frac{1}{2}$  share in the suit item No.1. Hence, petitioners prayed to draw modify preliminary decree allotting petitioner No.1  $\frac{1}{2}$  share in the suit item No.1.

**3.** The IA No.2 filed by the petitioners U/s.151 of CPC praying this court to modify the preliminary decree allotting petitioner No.2's share in lands situated at Ekmai Telangana to petitioner No.1 and respondent No.1 and 2 equally.

**4.** Advocate for the petitioners contended that the petitioner No.2 is mother of petitioner No.1 and respondent No.1 and 2. Petitioner No.2 was allotted 1/4th share in plots located in Sedam and in land located at Ekmai of Telangana. The petitioner No.2 gifted her 1/4th undivided share in suit plots and filed application for modification of share by filing IA and same is pending. Now the petitioner No.2 is no more, she died without making any testament regarding suit land located in village Ekmai. Therefore, after her death, her 1/4th share is devolved in land

located in Ekmai by petitioner No.1 and respondent No.1 and 2.  
Hence, prayed for allowing IA No.2.

**5.** The respondents have not filed any objections to IA No.1 and 2.

**6.** I have heard the argument on the side of petitioners  
Perused the records.

**7.** The following points that arises for my determination is:

1. Whether the Petitioners have made out a grounds for modification of the preliminary decree as per IA No.1 and 2?
2. What order?

**8.** My findings on the above points are as under:

Point No.1: In the Affirmative.

Point No.2: As per final order, for the following:

### **REASONS**

**9. Point No.1:** The case of the petitioner No.1 is as discussed above. The petitioner No.1 seeking modification of the preliminary decree in OS No.28/2012 and drawing the final decree as per IA No.1 and 2 respectively.

**10.** It is seen from the records that the the petitioner NO.1 along with petitioner No.2 filed the O.S.No.28/2012 and same was decreed on 13.11.2013 by allotting 1/4th share each to the petitioner No.1 and 2. It is seen that the petitioner No.2 who is the mother of petitioner No.1, respondent No.1 and 2 died during

the pendency of this FDP proceedings and the petitioner No.1, respondent No.1 and 2 are the L.Rs of deceased petitioner No.2. It is seen that before the death of petitioner No.2 has executed registered gift deed dated 30.11.2013. Wherein the petitioner No.2 gifted the 1/4th undivided share in suit item No.1 i.e., 23 plots bearing No.Plot No.C.1 to P.23 in land bearing Sy.No.909/1/2 situated at Sedam, Tq: Sedam in favour of petitioner No.1. Under these circumstances the share which is liable to be allotted to the petitioner No.2 is to be allotted to petitioner No.1. Hence the petitioner NO.1 is entitled for  $\frac{1}{2}$  share in the suit item No.1 i.e., 23 plots bearing No.Plot No.C.1 to P.23 in land bearing Sy.No.909/1/2 situated at Sedam, Tq: Sedam in terms of registered Gift deed dated 30.11.2013. The preliminary decree is to be modified in terms of Registered Gift Deed dated 30.11.2013. As there is no testamentary document in respect of suit item No.2 i.e., the property situated at Ekmai Mandal, Bashirabad, Rangareddy District in Sy.No.110/12 measuring 6 acres executed by the petitioner No.2 due to the demise of petitioner No.2 the petitioner No.2 is to be devolved upon the petitioner No.1, respondent No.1 and 2 respectively being the legal representatives of deceased petitioner No.2. Hence, under these circumstances the petitioner No.1, respondent NO.2 and 3 are entitled for 1/3rd each in suit item No.2 i.e., the property

situated at Ekmai Mandal, Bashirabad, Rangareddy District in Sy.No.110/12 measuring 6 acres and petitioner No.1 is entitled for  $\frac{1}{2}$  share in suit item No.1 and the respondent No.1 and 2 are entitled for  $\frac{1}{4}$ th share each in suit item No.1 property i.e., 23 plots bearing No.Plot No.C.1 to P.23 in land bearing Sy.No.909/1/2 situated at Sedam, Tq: Sedam. The petitioner No.1 made out valid and reasonable grounds to modify the preliminary decree as prayed for in IA No.1 and 2. Hence I have answer Point No.1 in the Affirmative.

**11. Point No.2:-** As I have answered Point No.1 in the Affirmative. I proceed to pass the following

**ORDER**

IA No.1 and 2 filed by the petitioner No.1 U/s.151 of CPC are allowed with no cost.

The preliminary decree in OS No.28/2012 Dated 13-11-2013 is hereby modified.

The petitioner No.1/plaintiff No1 is entitled for  $\frac{1}{2}$  share in suit item No.1 and the respondent No.1/defendant No.1 and respondent No.2/defendant No.2 are entitled for  $\frac{1}{4}$ th share each in suit item No.1 property i.e., 23 plots bearing No.Plot No.C.1 to P.23 in land bearing Sy.No.909/1/2 situated at Sedam, Tq: Sedam.

The petitioner No.1/plaintiff No.1, respondent No.1/defendant No.1 and respondent No.2/defendant No.2 are entitled for  $\frac{1}{3}$ rd each in

suit item No.2 i.e., the property situated at Ekmai  
Mandal, Bashirabad, Rangareddy District in  
Sy.No.110/12 measuring 6 acres

Office is directed to draw modified  
Preliminary Decree Accordingly.

(Dictated to the Stenographer directly on computer, corrected  
and signed by me and then pronounced in the open court on this  
the **13<sup>th</sup> day of April- 2023**)

**( Vijaykumar.S.Jatla )**  
Senior Civil Judge & JM.F.C,  
Sedam.