

IN THE COURT OF THE MUNSIFF OF CHITTUR

Present :- Sri. Raphael.E.V., Munsiff, Chittur
Thursday the 27th day of October, 2022
5th day of Karthika, 1944 S.E.

ORIGINAL SUIT No: 301/2013

Parameswaran, S/o.Kunju, : Plaintiff
aged 56 years, Pothampadam,
Muthalamada Village,
Chittur Taluk.

Vs.

- 1 Balan, aged 68 years,
S/o.Kunju, Joshi Bhavanam,
Pothampadam,
Muthalamada Village,
Chittur Taluk.
- 2 Padmanabhan, aged 66 years,
S/o.Kunju,
Pothampadam,
Muthalamada Village,
Chittur Taluk.
- 3 Subrahmanyam, aged 57 years, : Defendants
S/o.Appukuttan,
Melepura House,
Kannannur Village,
Palakkad Taluk
- 4 Rajagopalan, aged 56 years,
S/o.Appukuttan,
Paruvasser, Thenidukku,
Vadakkanchery Village,
Alathur Taluk.

- 5 Gandhikumar, aged 52 years,
S/o.Appukuttan,
Mele Veedu, Navakode,
Kodunthirappully Village,
Palakkad Taluk.
- 6 Ajayan, aged 46 years,
S/o Appukuttan,
Melepura House,
Kannannur Village,
Palakkad Taluk
- 7 Santha, aged 49 years,
W/o Gopalakrishnan,
Melepura House,
Kannannur Village,
Palakkad Taluk
- 8 Jini, aged 19 years, : Defendants
D/o.Gopalakrishnan,
Melepura House,
Kannannur Village,
Palakkad Taluk
- 9 Abhinand, Minor, aged 16 years,
S/o.Gopalakrishnan
Melepura House,
Kannannur Village,
Palakkad Taluk
represented by his mother and guardian of
7th defendant Santha.
- 10 Leelavathy, aged 70 years,
D/o.Kunju, Pothampadam,
Muthalamada Village,
Chittur Taluk.
- 11 Radha, aged 69 years,
W/o.N.Krishnan,
1/24 , Pazhaniswamy 2nd Street,
Saibaba Colony, K.K.Puthur,
Coimbatore District.

- 12 Arunthathi, aged 60 years, : Defendants
W/o.S.Rajan,
Puthuthamarapatty,
Othakadai, Madura District.
- 13 Baby @ Ajayaghosh,
aged about 30 years,
S/o.Balan, Joshi Bhavan,
Pothampadam,
Muthalamada Village,
Chittur Taluk.

This suit is coming on this day for hearing before me in the presence of Sri.K.Ramakrishnan and Sri.N.S.Bivin, advocates for the plaintiff and defendants called absent set exparte and the court delivered the following:-

J U D G M E N T

Suit for partition.

2. Plaint averments in brief are as follows :- The plaintiff as well as the defendants 1, 2, 10 to 12 are the children of deceased Kunju. Apart from that, the plaintiff had three siblings by name Smt.Janaki, Yesoda, and Sri.Muthukrishnan. Muthukrishnan died in the year 1996 as unmarried. Janaki died in the year 2008 and her husband pre-deceased her about 10 years back. Yesoda died in the year 1992 and her legal heirs are the defendants 3 to 6 as well as the defendants 7 to 9, who in turn are the legal heirs of deceased son Sri.Gopalakrishnan. The 13th defendant is the son of the 1st defendant.

3. The plaint schedule property is the A-schedule property in the partition deed

bearing No.849/1983 of S.R.O.Kollengode executed between the family members of the plaintiff and the defendants 1 to 12 which inturn was allotted in favour of Muthukrishnan excluding the property assigned out of the same. After the death of Muthukrishnan who was unmarried, and as his mother Smt.Valliyammal and sister Yesoda had pre-deceased him, on the death of Muthukrishnan his property above mentioned devolved upon his siblings namely, the plaintiff as well as the defendants 1, 2 and 10 to 12 as well as Janaki. On the death of Janaki and her son Gopalakrishnan, the plaint schedule property is presently in the co-ownership right and possession of the plaintiff as well as the defendants 1 to 12. The plaintiff has 1/7 share over the plaint schedule property. The defendants 1, 2 and 10 to 12 have 1/7 share each over the plaint schedule property. The defendants 3 to 9 jointly have 1/7 share over the plaint schedule property. The plaintiff asked the defendants for effecting partition of the plaint schedule property, the 1st defendant has not been ready for the same. The 1st defendant is relying upon fabricated deed for some how obtaining exclusive right over the plaint schedule property. The plaintiff caused to issue lawyer notice, the 1st defendant replied raising the false averments.

4. It is stated in the reply notice issued by the 1st defendant that Muthukrishnan had executed a Will which is claimed to have come into force hereby Sri.Baby @ Ajaya Kosh who is the son of the 1st defendant has obtained exclusive right over the plaint

schedule property and it in possession thereof. The said averments are false. Muthukrishnan has not executed any Will and there was no necessity or circumstances warranting the same. It is on impersonation committed by the 1st defendant and his son along with the scribe and witnesses to the Will, that the signature of Muthukrishnan has fabricated the Will. Although the plaintiff is not claiming any relief as against the 13th defendant, for the purpose of effective adjudication of the suit, the 13th defendant is arrayed in the suit. Hence the suit.

5. The defendants 1 and 13 filed joint written statement denying the averments in the plaint. But when the case was taken up in the list, the defendants 1 and 13 reported no instruction for the defendants. Hence the defendants 1 and 13 were called absent and set exparte. The defendants 2 to 12 were already called absent and set exparte.

6. To prove the plaint claim, plaintiff was examined as PW1 and he filed proof affidavit in lieu of chief-examination and Exts.A1 to A7 and C1 were marked. No contra evidence were tendered on the side of the defendants. The unchallenged testimony of the plaintiff as PW1 and Exts.A1 to A7, and C1 the suit is decreed and a preliminary decree for partition is passed as follows :-

In the result, the suit is decreed and a preliminary decree for partition is hereby passed as follows :-

- 1) That the plaint schedule property be divided into 7 equal shares by metes and bounds and plaintiff is allotted with 1/7 shares; and

defendants 1, 2 and 10 to 12 are allotted with 1/7 each shares; and the defendants 3 to 9 are jointly entitled to 1/7 share over the plaint schedule property and they are entitled for separation and allotment of shares only on payment of requisite court fee;

- 2) Cost of the suit shall come out of the estate;
- 3) Any of the parties paying Court fee be entitled to apply for passing of final decree;
- 4) Suit is adjourned sine die;

Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me in open court on this the 27th day of October, 2022.

Munsiff

Plaintiff's Witness Examined :

PW1 : Parameswaran

Plaintiff's Exhibits :

- | | | | |
|----|------------|---|---|
| A1 | 03-06-1983 | : | Certified copy of Partition deed No.849/1983 entered in to between Muthukrishnan and others |
| A2 | 07-10-2017 | : | Basic tax receipt issued by Village Officer Muthalamada-II in the name of Muthukrishnan |
| A3 | 14-10-2020 | : | Copy of Basic tax receipt issued by Village Officer Muthalamada-II in the name of Parameswaran and others |
| A4 | 17-04-2021 | : | Basic tax receipt issued by Village Officer Muthalamada-II in the name of Parameswaran and others |
| A5 | 26-04-2022 | : | Basic tax receipt issued by Village Officer Muthalamada-II in |

the name of Parameswaran and others

- A6 28-06-2013 : Lawyer Notice sent by Advocate K.Ramakrishnan
A6(a) 01-07-2013 : Acknowledgement card
A6(b) 28-06-2013 : Postal receipt
A7 09-07-2013 : Reply Notice sent by Advocate R.Jayakrishnan

Defendant's Witness and Exhibits : Nil

Court Witness Examined: Nil

Court Exhibits :

- C1 : Finger Print Expert Report

Munsiff

Typed by : Sreela.K.S

Compared by : Santhosh.C

Fair / Copy of Judgment in
O.S.No.301/2013
Dated : 27/10/2022
