

In the court of the senior civil Judge, Gurazala
Present:- Sri M. Gandhi, B.Com., BL., Senior Civil Judge
Thursday the 2nd day of August 2012
OS No.110/2009

325
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Between:-

1. Nalla Ramyakrishna.
2. Nalla Srilakshmi.
3. Nalla Bhargavi.

..Plaintiffs.

(Plaintiffs 1 to 3 are minors and represented by their mother Nalla Rajyalakshmi at the time of filing the suit. Later plaintiff No.1 was declared as Major as per orders dated 23-6-2011 in IA-588/11).

And

Nalla Nagarjuna.

Defendant.

This suit coming on 1-8-2012 for hearing before me in the presence of Sri A. Srinivasa Rao counsel for the plaintiff and the defendant remained exparte and having stood over for consideration till this day this court made the following:-

JUDGEMENT

The plaintiffs filed this suit for partition of the plaint schedule properties into four equal shares and allot three such shares to the plaintiffs and one share to the defendant by metes and bounds and for costs of the suit.

2. The substance of the plaint in brief is as follows:-

It is alleged by the plaintiffs that they are children of the defendant and Nalla Rajyalakshmi and the said Rajyalakshmi married the defendant about 20 years back and the defendant neglected the mother of the plaintiffs and wasted the ancestral properties for his bad vices and the suit schedule properties are ancestral properties situated at Gamalapadu village and the plaintiffs are in joint possession and enjoyment of the plaintiffs along with the defendant and the defendant who is managing the properties neglected them and their mother and thereby wasting the joint family properties and its income for illegal purpose and each of them got 1/4th share in the plaint schedule properties and the defendant so as to defeat their legitimate claim in the schedule properties trying to sell away the same and therefore, they are compelled to file the suit for partition of the plaint schedule properties.

3. Originally the suit was filed by the plaintiffs who are minors represented by their mother Nalla Rajyalakshmi as next friend and natural guardian. During

pendency of the suit the 1st plaintiff Nalla Ramyakrishna declared as major and accordingly the plaint is amended.

4.The defendant having appeared through counsel, failed to file written statement and thereby remained exparte.

5.During the course of trial the next friend of plaintiffs is examined asPW1 and Ex.A1 is marked.

6.Now the point for consideration is –

Whether the plaintiffs are entitled to seek for partition of the plaint schedule properties as prayed?

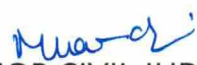
7. Heard the plaintiffs' counsel.

8.Point:- It is the case of the plaintiffs that the defendant is the father of plaintiffs and they are son and daughters of the defendant and Rajyalakshmi and the defendant who is in physically control over the plaint schedule properties and trying to alienate the same to meet his expenses for bad vices and the defendant is acting against their interest by neglecting them and by driving away their mother Rajyalakshmi along with children from the matrimonial home. The evidence of PW1 goes to show that it is not beneficial for the plaintiffs to live along with the defendant jointly. Ex.A1 adangal pahani speaks of property as ancestral property. Therefore, the plaintiffs who are the children of the defendant are entitled equal share along the defendant in the plaint schedule property. The defendant cannot deny the same and in such circumstances it is fit case to decree the suit. Accordingly the above point is answered.

9.In view of the above discussion and finding on the above point, I have come to a conclusion that the plaint schedule properties are ancestral and joint family properties of the plaintiffs and the defendant, and the plaintiffs 1 to 3 have got birth right over the plaint schedule property along with the defendant and therefore each of them are entitled to ¼ share in the plaint schedule properties.

10.In the result, the suit is decreed with costs partitioning the plaint schedule properties into four equal shares and allot one such share to each of the plaintiffs aggregating three shares and the remaining one share to defendant by metes and bounds.

Dictated to the personal assistant, transcribed by him, corrected and pronounced by me in open court on this the 2nd day of August 2012.


SENIOR CIVIL JUDGE,
 GURAZALA.

Appendix of Evidence
Witnesses examined

For Plaintiffs:

PW1 – Nalla Rajyalakshmi.

For Defendant:

--None--

Documents marked

For Plaintiffs:

Ex.A1/25-2-2012 –No.3 adangal of Gamalapadu village for fasali 1421.

For Defendant:

--Nil--

Huaw-zi
SCJ, GURAZALA.

[Signature]