

IN THE COURT OF THE SUBORDINATE JUDGE , METTUPALAYAM

**PRESENT: TMT.S.INDULATHA,B.A., B.L.,  
SUBORDINATE JUDGE, METTUPALAYAM**

Tuesday this the 10<sup>th</sup> Day of March 2020  
(2051 Thiruvalluvar Aandu, Vihari Aandu, Masi thingal 27<sup>th</sup> day)

**ORIGINAL SUIT No.146/2018**

Mrs. Karthiga

...Plaintiff

--Versus--

1. Mr.R.Saravanakumar

2. Mr.R.Loganathan

3. Mrs. N.Mallika

4. Mr.R.Balakumar

5. Mrs. M.Jeyalakshmi

6. Mr.Selvaraj

7. Mr.Balamurugan

8. The Sub Registrar, Mettupalayam Taluk,

Mettupalayam, Coimbatore.

....Defendants

This suit coming up for final hearing before me on 20.02.2020 in presence of Thiru.N.Srinivasan, Advocate for the Plaintiff and D7 and D8 summon served called absent set exparte and Thiru.M.Santhosh kumar, Advocate for 4<sup>th</sup> defendant and written statement of D4 not filed remained exparte and D1 to D3, D5 ,D6 paper publication effected called absent set exparte and after perusing the records and hearing the plaintiff side arguments , this Court doth pass the following

**JUDGMENT**

This is a suit for Partition for division of the suit property into 10 equal shares and allot and give separate possession of 1 such share to the plaintiff by appointment of a court commissioner to order mesne profits to be paid to the

plaintiff for the period from 09.04.2017 to 09.03.2018 with interest from the date of suit to order future Mesne profits till the date of partition and separate possession of plaintiffs share, to be paid to the plaintiff and for cost of the suit.

**02.** The case of the plaintiff is the grand daughter of one late Mr.Raju, through his daughter Mrs. Indirani, The said Mr.K.Raju purchased an extent of 4.52 Acres of land in S.F.No.700 and 701 with the present sub division number S.F. No.701/3 in Ballepalayam Village, Mettupalayam Taluk, Coimbatore District via document No.568/1977, the sale deed registered before The Sub Registrar of Mettupalayam and dated 03.06.1977, which is described as item No.1 property the said Mr.Raju also purchased an other extent of 10 cents of land in S.F.No.78, in Sirumugai Panchayat, Mettupalayam Taluk, Coimbatore District, the said Mr.Raju constructed many residential houses, which are all at present rented out to some third parties. The said properties purchased in S.F. No.78 is described as Item-II property after the purchase of Item No.1 properties, the said Mr.Raju laid the said properties into plots and sites and sold out most part of the total extent and retained only an extent of 7 cents and in the retained extent of 7 cents, the said Mr.Raju built 1 house and 2 shop buildings to an extent of 3 cents. The residential house built in Item No.1 property is presently rented out to Mr.Selvaraj who is the tenant at present the remaining 4 cents remains as vacant land. The said Mr.Raju died on 28.06.2015 leaving behind the following persons as his legal heirs to succeed to his properties. Mrs. Indirani who is the daughter of Mr.K.Raju and the mother of the plaintiffs also died on 05.04.2016 and also Mr.Selvaraj H/o. Indirani also died on 11.03.2017 and further Mrs. Kannammal W/o. Mr. Raju also died on 08.04.2017. The plaintiff therefore approached the defendants for sharing the rents and profits arising out of the schedule mentioned properties several times but there was no positive response from the defendants. And hence with no other go, the plaintiff approached the defendants for amicable partition of the schedule mentioned properties both personally and through well wishers and mediators. But

the defendants never agreed for partition also. The defendants on 13.12.2017 have made attempts to alienate the suit properties to some 3<sup>rd</sup> parties and thus are attempting to create encumbrances without knowledge to the plaintiff. The plaintiff issued a legal notice dated 29.12.2017 calling for amicable partition of the suit properties, also ended in vain. The plaintiff adds defendant 8 as formal party to the suit, and no relief is claimed against this defendant. Hence the suit.

**03** Despite of service summon for D7,D8 and D1 to D3, D5,D6 paper publication effected and set exparte 4<sup>th</sup> Defendant appeared through the counsel and not filing written statement and remained set exparte and the plaintiff had been examined as PW.1 Ex.A1 to Ex.A15 had been marked.

**04** The point for consideration is that,  
Whether the plaintiff is entitled to partition  
as prayed?

**05** Point:-

05(1) The plaintiff is the grand daughter of one late Mr.Raju, through his daughter Mrs. Indirani, The said Mr.K.Raju purchased an extent of 4.52 Acres of land in S.F.No.700 and 701 with the present sub division number S.F. No.701/3 in Ballepalayam Village, Mettupalayam Taluk, Coimbatore District via document No.568/1977, the sale deed registered before The Sub Registrar of Mettupalayam and dated 03.06.1977, which is described as item No.1 property the said Mr.Raju also purchased an other extent of 10 cents of land in S.F.No.78, in Sirumugai Panchayat, Mettupalayam Taluk, Coimbatore District, the said Mr.Raju constructed many residential houses, which are all at present rented out to some third parties. On verification of Ex.A1 is sale deed Ex.A2 is family card of plaintiff Ex.A3 is Aadhar Card of plaintiff Ex.A4 is Death certificate of Raju Ex.A5 is Death

certificate of Indirani Ex.A6 is Death certificate of Selvaraj Ex. A7 is Death certificate of Kannammal Ex.A8 is legal heirship certificate Ex.A9 is Water tax receipt Ex.A10 is House Tax receipts Ex. A11 is Electric Bill receipt Ex.A12 is legal notice Ex.A13 is Postal Receipts Ex.A14 Acknowledgement card Ex.A15 is Returned Covers(4 nos). According to plaintiff here in she is the legal heir of deceased Raju through the daughter of said Raju one Indirani. The plaintiff is claiming 1/10th share in the suit properties as a legal heir of her deceased mother from her grandfather one Raju. The plaintiff's averments remain uncontroverted by the defendants who are remaining *exparte*.

05(2) As per the oral evidence of Pw1 she is entitled to 1/10th share in the suit property. The unchallenged testimony of plaintiff proves that she is entitled to 1/10th share of her grand father as a descendant of deceased daughter. Since the plaintiff failed to produce any evidence as to the income from suit property, her claim for mesne profits is negated and it is concluded that the plaintiff is entitled to 1/10<sup>th</sup> share in the suit property.

**06 In the result,**

1. The suit is partly Decreed.
2. Preliminary decree is passed in favour of plaintiff and the plaintiff is entitled to 1/10th share in the suit property;
3. The suit regarding the Mesne Profits is dismissed;
4. The defendants shall bear the cost of the proceedings.

Dictated to the typist, directly to computer corrected by me and pronounced in open Court, this the 10<sup>th</sup> day of March 2020.

Sd/-S.Indulatha,  
Subordinate Judge,  
Mettupalayam.

**LIST OF EXHIBITS MARKED:****FOR PLAINTIFF SIDE:**

Ex.A1	03.06.1977	Sale Deed	Original
Ex.A2	--	Family Card of Plaintiff	Xerox Copy
Ex.A3	--	Aadhar Card of Plaintiff	Xerox Copy
Ex.A4	06.10.2017	Death Certificate of Raju died on 28.06.2015	Original
Ex.A5	06.05.2016	Death Certificate of Indirani died on 05.04.2016	Original
Ex.A6	31.03.2017	Death Certificate of Selvaraj died on 11.03.2017	Original
Ex.A7	06.10.2017	Death Certificate of Kannammal died on 08.04.2017	Original
Ex.A8	26.07.2016	Legal heirship Certificate of Mrs. Indirani	Certified copy
Ex.A9	23.09.2015	Water Tax receipt	Certified copy
Ex.A10	23.09.2015	House Tax receipt	Certified copy
Ex.A11	18.01.2016	Electric Bill receipt	Certified copy
Ex.A12	29.12.2017	Legal Notice	Office copy
Ex.A13	29.12.2017	Postal receipts (5 Nos)	Original
Ex.A14	02.01.2018	Acknowledgement card	Original
Ex.A15	02.01.2018	Returned covers (4 Nos)	Original

**LIST OF WITNESSES EXAMINED:****For Plaintiff side:**

PW.1 Mrs.Karthiga

**For Defendants side:**

--Nil--

Sd/-S.Indulatha,  
Subordinate Judge,  
Mettupalayam.