

In the Court of the Principal District Judge, Chengalpattu.

Present:- Thiru. P. Rajamanickam B.Sc. B.L  
Principal District Judge.

Thursday the 12 th day of March 2015.

**Original Suit No. 55/2014**

Ambika Rajendra Prasad

..Plaintiff.

//Versus//

1. S.Anjana.
2. The Branch Manager  
Indian Overseas Bank,  
Ekkattuthangal, Chennai – 97.
3. The Branch Manager  
UCO Bank,  
Purasawakkam, Chennai – 7.

..Defendants.

This Suit is coming on 18.02.2015 before me for final hearing in the presence of M/s. P.S.Ratnamani, C.T.Murugappan M.Venkatesan Advocates for Plaintiff, the Defendants called absent and set exparte and upon hearing the arguments of Plaintiff's side and upon perusing the records, having stood over for consideration till this day and this Court delivered the following -

**JUDGMENT**

This suit has been filed by the Plaintiff for partition and for separate possession of the Schedule-I mentioned property by metes and bounds by allotting ½ share to her and for ½ of the movable assets left behind by her mother B.Radha described in Schedule-II, For mandatory injunction compelling the Defendants 1 to 3 to divulge details about the

movable assets of her mother late B.Radha lying with them and for costs.

**2. The averments made in the Plaint are in brief as follows :**

The Plaintiff and the first defendant are sisters and both of them are the surviving children of late Major T.N.Balasubramanian and late Tmt.B.Radha. The said Major T.N.Balasubramanian while alive purchased the property described in Schedule-I from the Tamil Nadu Area Defence Services Co-operative House Construction Society Ltd described as Plot No. 27, as per the Sale Deed dated 08.07.1971 and he constructed a super structure on the said Plot to an extent of 2200 sq.ft and he died on 18.01.1984 leaving behind his wife Radha and his daughters viz the plaintiff and the first defendant, before completion of the building. The super structures were completed by Tmt.B.Radha in 1984 and thereafter the property was assessed to Property Tax by the Nandhambakkam Town Panchayat, Chennai -89. The Executive Officer, Nandhambakkam Town Panchayat vide his Proceedings dated 13.09.1986 in Na.Ka.No. 215/86 ordered for the name transfer and there from the municipal records. But no mutation to the revenue records. Tmt.B.Radha also died intestate on 11.05.2013 leaving behind her daughters viz the plaintiff and the first defendant as her legalheirs. Apart from the suit schedule-I property the plaintiff understands that her mother Tmt.B.Radha left behind movable assets in the form of Share Certificates of various Companies, gold jewellery, cash in account and fixed deposits with the Indian Overseas Bank, Ekkatuthangal Branch and cash in account and fixed deposits with UCO Bank, Purasawakkam Branch, Chennai either in the form of bank deposits or in the safety lockers of the bankers mentioned in the Schedule-II. After the

death of the mother, the plaintiff had been persuading her sister viz the first defendant for an amicable partition of the properties but the first defendant evaded the same. While the plaintiff approached the Branch Managers of Indian Overseas Bank, Ekkatuthangal Branch and UCO Bank Purasawalkam Branch Chennai to ascertain the assets left behind by her mother and their customer Tmt.B.Radha which in the form of Share Certificate of various companies, gold jewellery, cash in account and fixed deposits lying in the custody of the first defendant. But both the bank Managers refused to give the particulars. The plaintiff's efforts to ascertain the exact quantity and value of the movable assets of her parents are in vain. Hence the plaintiff tentatively valued the movable assets lying in the custody and possession of the defendants as Rs.10,00,000/-. She undertakes to value the movable assets exactly and pay the appropriate Court fee as and when this actual value are disclosed to her. Hence she filed this suit for partition and for mandatory injunction.

3. Summons were sent to the defendants. After receipt of summons, M/s. Mary Femin Advocate for the Defendant No. 3 undertakes to file vakalath but she has not filed any vakalath. Hence the defendants were set exparte.

4. Thereafter the Plaintiff was examined as PW1 and through her 9 documents were marked as Ex.A.1 to A.9 as Exhibits.

5. Plaintiff's side arguments heard.

6. The points for consideration in this Suit are :-

- 1) Whether the Plaintiff is entitled for mandatory injunction as prayed for?
- 2) Whether the plaintiff is entitled for partition as prayed for?
- 3) To what relief the Plaintiff is entitled to?

**7. Point Nos. 1 and 2 :-**

According to the Plaintiff, she and the first defendants are the daughters of late Major T.N.Balasubramanian and late Tmt.B.Radha and while the Major T.N.Balasubramanian was alive, purchased the property described in Schedule-I from the Tamil Nadu Area Defence Services Co-operative House Construction Society Ltd described as Plot No. 27, as per the Sale Deed dated 08.07.1971 and constructed a super structure on the said Plot to an extent of 2200 sq.ft. Her further case is that on 18.01.1984 her father Major T.N.Balasubramanian died leaving behind his wife Radha, she and the first defendant and that her mother Tmt.B.Radha also died on 11.05.2013 leaving behind her daughters. Her further case is that even though the Executive Officer, Nandhambakkam Town Panchayat vide his Proceedings dated 13.09.1986 in Na.Ka.No. 215/86 ordered for the name transfer but no mutation to the revenue records. Her further case is that apart from the suit schedule-I property, she understands that her mother Tmt.B.Radha left behind movable assets in the form of Share Certificates of various Companies, gold jewellery, cash in account and fixed deposits with Indian Overseas Bank, Ekkatuthangal Branch and cash in account and fixed deposits with UCO Bank, Purasawakkam Branch, Chennai. Her further case is that after the death of her mother, she insisted the first defendant for an amicable partition of the properties but she evaded the same. Her further case is that, when the plaintiff approached the second and third defendant Banks to ascertain the assets left behind by her mother, Tmt.B.Radha who is the customer of them both the bank Managers refused to give the particulars and the plaintiff's efforts to ascertain the exact quantity and value

of the movable assets of her parents are ended in vain, but she tentatively valued the movable assets lying in the custody and possession of the second and third defendants as Rs.10,00,000/-.

8. In order to prove her case, the Plaintiff examined herself as PW1 and also marked Ex.A1 to Ex.A9 as exhibits. The oral evidence of PW1 and Ex.A1 to Ex.A9 would prima facie show that the plaintiff is entitled for the prayers sought for. To controvert the evidence of PW1, the defendants have not adduced any evidence. On the contrary, the defendants remained exparte. Under the said circumstances accepting the evidence of PW1 and Ex.A1 to Ex.A9, I hold that the plaintiff is entitled for the reliefs sought for as prayed for. Accordingly these points are answered.

**9. Point No. 3:**

In the result the suit is decreed and a Preliminary Decree is passed as follows:

- 1) that the suit Schedule 1 and II properties be divided into two equal shares and allot one such share to the plaintiff;
- 2) that a mandatory injunction is granted against the Defendants 1 to 3 to divulge the details about the moveable assets of late Tmt.B.Radha lying with them within two months; and
- 3) that the defendants are directed to pay the costs of the suit to the Plaintiff.

Typed to my dictation by the Steno typist corrected and pronounced by me in Open Court, this the 12 th day of March 2015.

Principal District Judge  
Chengalpattu.

**Plaintiffs side Exhibits:**

Ex.A1/	08.07.1971	Xerox copy of the Sale deed executed by the Director Secretary of the Tamilnadu Area Defence Service Cooperative House Construction Society Limited infavour of Major Balasubramanian.
Ex.A2/	17.03.1984	Xerox copy of the Form No. 10.
Ex.A3/	18.04.1985	Xerox copy of the Legalheirship Certificate.
Ex.A4/	30.09.1986	Proceedings of the Executive Officer, Nandhambakkam Panchayat Union.
Ex.A5/	16.05.2013	Xerox copy of the Death Certificate of Radha Balasubramanian.
Ex.A6/	07.06.2013	Legalheirship Certificate.
Ex.A7 series/	..	Tax Receipts
Ex.A8/	..	Property Tax Demand Card.
Ex.A9/	..	Encumbrance Certificate.

**Plaintiff's side Witness:**

PW1/ Tmt. Ambika Rajendra Prasad,

Defendants side Exhibits and Witnesses: NIL.

P.D.J.

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**Fair Judgment**  
**O. S. 55/2014**  
**Dated : 12.03.2015**  
**Principal District Court**  
**Chengalpattu**  
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