

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
CHENGALPATTU.**

**Present:- Tmt.K.Kayathri, M.A.B.L.,
Additional District Judge, Chengalpattu
Thursday, the 24th day of August 2023
O.S.No.666/2022**

Mrs.V.Suguna

...Plaintiff

-Vs-

S.Devarajan

...Defendant

This Suit coming on 7.8.2023 for final hearing before this court in the presence of **Thiru.R.Ranjith Kumar**, Counsel for the plaintiff and the Defendant is called absent and set exparte and upon hearing the arguments of plaintiff side and upon perusing the entire material records having stood over for consideration till this date, this Court delivered the following:-

JUDGMENT

The suit filed for the relief of Preliminary decree of Partition of the suit property into two equal shares by meets and bounds and allot the one equal share to the plaintiff and for cost.

1. The Plaintiff averments in brief:-

The property measuring to an extent of 2400 sq.ft land identified as plot No.91 comprised in S.No.51/3, Hasthinapuram Village, currently Pallavaram Taluk, Chengalpattu District was originally purchased by one Mr.T.R.Sundaram through a registered sale deed dated 7.6.1982 from one Mrs.Susila and another out of his own funds which is the suit property. The said Mr.T.R.Sundaram is the father of the plaintiff and the defendant and further Mr.T.R.Sundaram after purchasing the suit property, he had raised

a super structure in the same out of his own funds and physically resided there with the family member until his life and died intestate on 19.5.2018 leaving behind his wife Mrs.Sivagami, the plaintiff and the defendant as the surviving legal heirs for him. Mrs. Sivagami mother of the plaintiff and defendant also died intestate on 15.6.2022, thereby the plaintiff as well the defendant alone become the surviving legal heirs for the deceased Mr.T.R.Sundaram, both are equally entitled for the suit property stands in the name of deceased Mr.T.R.Sundaram. The plaintiff was married to Mr.Vedaprakasam and living separate in her matrimonial home opposite to the subject property and the defendant currently occupying the premises, however the suit property which stands indivisible as on date and the plaintiff being the co-sharer is holding the joint possession of the suit property as per legal principles. The plaintiff kept demanding the defendant to come forward for amicable partition by meets and bounds and allot her equal half share in the suit property. But the defendant denying it under one pretext or the other, hence the plaintiff with no other alternate caused the legal notice dated 5.9.2022 to the defendant demanding him to come forward and partition the suit property into two equal shares and the said notice was received by the defendant on 7.9.2022 itself, but failed to yield to the lawful demand of the plaintiff. The defendant did not give any reply for the legal notice, but performed a peculiar act of resending the same legal notice dated 5.9.2022 sent on behalf of the plaintiff to the defendant, through register post to the plaintiff's counsel. The defendant alone is holding the original documents pertaining to the suit property as well as the death and legal heir certificates of her parents. The plaintiff filed the suit

for partition of the suit property.

3. The Defendant remained exparte.

4. Issues:-

1. Whether the plaintiff is entitled for the reliefs as prayed for?
2. Any other relief?

5. Issue Nos 1 and 2 :-

The suit is filed for the relief of Partition of the suit property. The consistent case of the plaintiff is that the suit property was purchased by the father of the plaintiff and the defendant. After purchase he raised a super structure in the same out of his own funds and he died intestate. Mrs. Sivagami mother of the plaintiff and defendant also died intestate on 15.6.2022, thereby the plaintiff as well the defendant alone become the surviving legal heirs for the deceased Mr.T.R.Sundaram, both are equally entitled for the suit property stands in the name of deceased Mr.T.R.Sundaram. It is the further case of the plaintiff that the plaintiff was married to Mr.Vedaprakasam and living separate in her matrimonial home opposite to the subject property and the defendant currently occupying the premises, however the suit property which stands indivisible as on date and the plaintiff being the co-sharer is holding the joint possession of the suit property as per legal principles. It is the further case of the plaintiff that the plaintiff kept demanding the defendant to come forward for amicable partition and the plaintiff caused the legal notice dated 5.9.2022 to the defendant demanding him to come forward and partition the suit property into two equal shares and the said notice was received by the defendant on 7.9.2022 itself, but failed to yield to the lawful demand of the plaintiff. The

defendant did not give any reply for the legal notice. It is the further case of the plaintiff that the defendant alone is holding the original documents pertaining to the suit property as well as the death and legal heir certificates of her parents. The defendant otherwise cannot deny the title of the suit property as well as the relationship between the parties and hence the plaintiff filed the suit for partition of the suit property and prayed to decree the suit.

In order to prove the case of the plaintiff, the plaintiff examined as PW1 and marked Ex.A1 to Ex.A9. On perusal of Ex.A1 to Ex.A9 which are all sale deed in the name of the father of the plaintiff and defendant, Encumbrance certificate, legal notice and acknowledgment card and reply cover with plaintiff's legal notice and guideline value, death certificate of the plaintiff's father and mother and legal heir certificate.

Per contra the defendant have not chosen to appear before this court and to file his Written statement and not disputed the claim of the plaintiff and was remained exparte. Considering the above facts and circumstances of this case and considering the PW1 evidence and the documents marked on the side of the plaintiff, this court finds that the plaintiff well established the fact that the plaintiff is entitled for 1/2 share in the suit property as prayed for in the suit and the issue is answered accordingly in favour of the plaintiff.

In the result, the suit is preliminarily decreed and the plaintiff is entitled for 1/2 equal share in the suit property. Considering the relationship of the parties there is no cost.

Dictated by me to the Stenographer and directly typed by her

corrected and pronounced by me in open Court this the **24th day of August 2023.**

Sd/-K.Kayathri,
Additional District Judge
Chengalpattu.

List of Witnesses on the side of the Plaintiff:-

PW1 : Tmt.Suguna

List of Exhibits on the side of the Plaintiff:-

Ex.A1	31.5.1982	Certified copy of Sale deed in favour of T.R.Sundaram
Ex.A2	26.8.2022	Copy of Encumbrance Certificate
Ex.A3	5.9.2022	Copy of Legal Notice issued by the Plaintiff counsel to the defendant with postal receipt
Ex.A4	7.9.2022	Acknowledgement card received by the defendant
Ex.A5	8.9.2022`	Reply cover with plaintiff's legal notice from the defendant to the plaintiff's counsel
Ex.A6	30.9.2022	Guideline value of the suit property
Ex.A7	28.8.2022	Death certificate of the plaintiff and defendant's father
Ex.A8	7.7.2022	Death certificate of the plaintiff and defendant's mother
Ex.A9	24.7.2022	Legal heir certificate

Sd/-K.Kayathri,
ADDITIONAL DISTRICT JUDGE,
CHENGALPATTU

/TRUE COPY/

Draft/Fair Judgment

O.S.No. **666/2022**

Dated: 24.8.2023

ADJC/Chengalpattu.
