

**IN THE COURT OF THE SUBORDINATE JUDGE,
AT MADURANTAKAM.**

**Present: Thiru.N.S.Srivathsan, M.L.,
Subordinate Judge,
Monday, the 20th day of November, 2017**

O.S.No.106/2015

1. Balu,
2. Vijayan,
3. Harikrishnan,
4. Parthiban
5. Durai
- 6., Poosanam
7. Amsaveni
8. Backiyam
9. Panjali
10. Parvathy

(Plaintiffs 3 to 10 amended as per order in I.A.No.04/2017 dated
04.01.2017)

....Plaintiffs

/Vs/

1. Kalikrishnan
2. Narayanan

...Defendants

“This Suit, coming before this Court for final disposal on 30.10.2017 in the presence of Thiru.K.Vijayan, learned Counsel for the Plaintiffs and Defendants being set exparte having heard the Plaintiffs' arguments and having perused the case records and having stood over the same till date, this court delivers the following

JUDGMENT

The Plaintiffs have filed the above suit against the Defendants praying

for preliminary decree for partition of the suit mentioned properties into **20 equal shares** and allotment of **10 such shares** by metes and bounds through appointing an Advocate Commissioner to divide the suit mentioned property.

1. The brief facts of the Plaint are as follows:-

The Plaintiffs 1 and 2 are Power of Attorney agents of the Plaintiffs 3 to 10. The suit mentioned properties are ancestral properties and joint family properties belonging to the Plaintiffs and Defendants. The Plaintiffs and Defendants are entitled to equal shares in the said properties. There is no partition and the Plaintiffs' great grandfather namely Lakshmana Gramani and after death of his 2 sons namely Masilamani Gramani and Raghava Gramani being legal heirs continued to enjoy the said properties. Masilamani had 5 children namely Harikrishnan, Ramakrishnan, Vijayan, Amsaveni Poosanam. Ramakrishnan died and his children parthipan, Durai, Panchali, Backiyam, Parvathy are his legal heirs. The 1st Plaintiff and Durai are the legal heirs of Harikrishnan. The said Durai was not impleaded in this case as he did not press his claim for his share. The 1st Defendant and the 2nd Defendant's father Ponnurangam are sons of Ragava Gramani. Both the Masilamani and Ragava Gramani died without partition of the joint family properties. After death of both their legal heirs including the 1st Plaintiff father, 2nd Plaintiff, 1st Defendant are in joint possession and enjoyment of the same. The 1st Plaintiff's father was working as line man, TNEB and he retired from service in 2004. The Plaintiffs' father was residing with the 1st Plaintiff. The 2nd Plaintiff settled at Pondichery. Therefore the 1st Defendant is maintaining the suit properties and the 1st Defendant paid taxed to the Government and gave shares of yield from the properties to the Plaintiff and other legal heirs. The 1st Plaintiff's father was receiving the share in the yield of from the property without any protest after retirement in 2004. The Plaintiffs' father

demanded partition from the 1st Defendant, but he did not come forward to divide the suit mentioned properties in 2006. When the 1st Plaintiff's father demanded partition of the suit mentioned properties, the Defendants scolded him in filthy language and also threatened him. Subsequently it was revealed that the Defendants have created false documents in respect of the suit mentioned properties. The 1st Plaintiff's father sent a legal notice to the Defendants on 04.08.2006 demanding partition of the suit mentioned propriety and allotment of the shares. Even after receipt of said notice they did not come forward for partition. The reply was sent on 19.08.2006. They stated in the reply that the Plaintiff and legal heirs of Masilamani are not entitled to make any claim in the said properties. Further it is stated in the reply that they did not have any objection and they have given the reply on their own without engaging any Advocate. The legal heir of Masilamani Gramani have executed the General Power of Attorney dated 05.04.2010 for collection of documents and for filing the suit for partition. The Plaintiffs and Defendants are entitled equal shares in the suit mentioned properties. The Defendants are bound to divide the suit mentioned property. The documents executed by the Defendants in respect of the suit mentioned property are not valid. Further the Defendants have no objection in filing the suit for partition. The suit is not barred by limitation. There is no secret agreement between the Plaintiff and Defendants. Therefore the Plaintiffs pray for preliminary decree for partition of the suit mentioned property in to 20 equal shares and allotment of 10 such shares by way of appointing of Advocate Commissioner and for cost.

The Defendants were set exparte in the above suit.

2. The point for consideration whether the Plaintiffs are entitled for preliminary decree in the above suit?

The 1st Plaintiff was examined as PW1 and Exhibits A1 to A29 were marked on the side of the Plaintiffs. The legal notice dated 04.08.2006 sent by the Plaintiff's father to the Defendants is Ex.A1. The reply notice dated 19.08.2006 sent by the 1st Defendant is Ex.A2. The reply given by the 2nd Defendant is Ex.A3. The legal heirs of Ramakrishnan executed General Power of Attorney in favour of the 1st Plaintiff's father on 05.04.2010 and the said document was marked as Ex.A4. The Ex.A5 to A12 are Kist receipts issued in the name of the 1st Plaintiff's father namely Masilamani Gramani. Ex.A13 to A24 are house tax receipts issued in the name of Masilamani Gramani. The certified copy of General Power of Attorney of the 1st Defendant dated 26.02.1991 was marked as Ex.A25. Ex.A26 to A28 are Adangal extract in respect of the suit mentioned properties. The certified copy of the General Power of Attorney dated 23.01.2006 in favour of the 1st Defendant is Ex.A29. The exhibits marked on behalf of the Plaintiff reveal that the suit mentioned properties are ancestral undivided properties belonging to the Plaintiffs and Defendant's family and as such the Plaintiff and Defendants are entitled to equal shares in the said property. The Plaintiffs also sent legal notice under Ex.A1 demanding partition of the suit mentioned properties. The Defendants have sent reply under Ex.A2 and A3. In the reply notice also the Defendants have stated that the Plaintiffs may institute a suit for partition of the suit mentioned properties. The Defendants remained exparte and they did not come forward to contest the case. Therefore this court is inclined to grant the relief of preliminary decree to the Plaintiffs as prayed for in the suit.

In the result, this suit is decreed as prayed for. No cost. Preliminary decree is passed for partition of the suit mentioned properties into 20 equal shares and allotment of 10 shares to the Plaintiffs by way of appointing an Advocate Commissioner under Order 26 Rule 13 of C.P.C

Dictated to Steno-Typist, transcribed and typed by him and corrected and pronounced by me in open court this the 20th day of November 2017.

Subordinate Judge,
Madurantakam.

List of Witnesses on the side of Plaintiffs

PW1.Thiru.Balu

List of Exhibits on the side of Plaintiff

Ex.A1. 04.08.2006 Legal notice issued to the Defendants

Ex.A2. 10.08.2006 Reply notice issued by 1st Defendant

Ex.A3. 11.08.2006 Reply notice issued by 2nd Defendant

Ex.A4. 05.04.2010 General Power of Attorney

Ex.A5. ---- Tax Receipt

Ex.A6. ---- Tax Receipt

Ex.A7. ---- Tax Receipt

Ex.A8. ---- Tax Receipt

Ex.A9. ---- Tax Receipt

Ex.A10. ---- Tax Receipt

Ex.A11. ---- Tax Receipt

Ex.A12. ---- Tax Receipt

Ex.A13. ---- Tax Receipt

Ex.A14. ---- Tax Receipt

Ex.A15. ---- Tax Receipt

Ex.A16. ---- Tax Receipt

Ex.A17. ---- Tax Receipt
Ex.A18. ---- Tax Receipt
Ex.A19. ---- Tax Receipt
Ex.A20. ---- Tax Receipt
Ex.A21. ---- Tax Receipt
Ex.A22. ---- Tax Receipt
Ex.A23. ---- Tax Receipt
Ex.A24. ---- Tax Receipt

Ex.A25. 26.02.1991 Certified copy of General Power of Attorney\

Ex.A26. 30.08.2010 Certified copy of "A" Register

Ex.A27. 30.08.2010 Certified copy of "A" Register

Ex.A28. 30.08.2010 Certified copy of "A" Register

Ex.A29. 23.01.2006 Certified copy of General Power of Attorney\

List of Witnesses and Exhibits on the side of Defendants

-Nil-

SJ/MKM

O.S.No.106/2015

2011.2017

Exparte Judgment Pronounced

In the result, this suit is decreed as prayed for. No cost. Preliminary decree is passed for partition of the suit mentioned properties into 20 equal shares and allotment of 10 shares to the Plaintiffs by way of appointing an Advocate Commissioner under Order 26 Rule 13 of C.P.C

Subordinate Judge,
Madurantakam.

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