

IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE AT
BHADRADRI KOTHAGUDEM

TUESDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

Present:- Sri **K. KIRAN KUMAR**,
PRINCIPAL SENIOR CIVIL JUDGE,
BHADRADRI KOTHAGUDEM.

O.S.No. 43 OF 2017

BETWEEN:

Medipalli Bala Raju, S/o.Sundar Rao, Age.34 years,
Occ.Badili Filler, Singareni Collieries Company
Limited, R/o.Q.No.OHD-5, Main Hospital Area,
Kothagudem Town, Bhadradri Kothagudem District.

...PLAINTIFF

AND

1. Medipalli Madhusudan Rao, S/o.Sundar Rao,
Age.adult, Occ.Employee, R/o.Q.No.T2-1297, B-Incline,
near Singareni School, Godavarikhani.
2. Mandha Baby Sujatha, W/o.Venkat, Age.42 years,
Occ.RMP Doctor, R/o.13-1-196/1A, Peon Basthi,
Kothagudem Town, Bhadradri Kothagudem District.
3. Kalloji Sunitha Rani, W/o.Rajendar, Age.40 years,
Occ.Sagar Colour Lab, R/o.H.No.13-1-182/4, Peon
Basthi, Kothagudem Town, Bhadradri Kothagudem
District.
4. Kandi Jyothi Anitha Kumari, W/o.Raj Kumaar, Age.38
years, Occ.House wife, R/o.H.No.2-4-171/1,
Budidagadda Basthi, Kothagudem Town, Bhadradri
Kothagudem District.

...DEFENDANTS

This suit is coming on 26.11.2025 before me for hearing in the

*presence of Sri **Y.Babu Rao**, counsel for the plaintiff and of Sri **G.V.K.Manohar Rao**, counsel for the defendant No.2 and of Smt. **A.Parvathi**, counsel for the defendant No.3 and 4 and the defendant No.1 remained exparte and upon hearing arguments, upon considering the material available on record and the matter having stood over for consideration, till this day, the Court deliver the following:*

:: J U D G M E N T ::

1. The sole plaintiff instituted the suit for partition praying the court (a) to pass preliminary decree for partition of suit schedule property into one share to the plaintiff and again four shares to the defendants be divided in total five equal shares and for allotment of 1/5th share to the plaintiff from and out of suit schedule property without any encumbrances, (b) to pass final decree for allotment of 1/5th share from and out of suit schedule property to the plaintiff, with metes and bounds and to put the plaintiffs in possession of the same, (c) for grant of past mesne profit of Rs.72,000/- for the last 36 months prior to filing of the suit, (d) to grant 1/5th share future mesne profit out of Rs.10,000/- @ Rs.2,000/- per month thereof or to any to other higher amount as assessed by the Hon'ble Court from the date of suit till delivery of share of the plaintiff, (e) to grant perpetual injunction restraining the defendants from transferring the suit schedule property in any manner including sale, gift, mortgage, exchange till the suit properties are partitioned among the plaintiff and defendants and to award costs of the suit.

Suit Schedule Property:

AC sheet roofed house bearing No.13-1-196/1 and RCC Building bearing H.No.13-1-196/1A consisting of ground and first floor in a single block with its appurtenant vacant site of an extent of 848.47 Sq.yards situated in Peon Basthi, Kothagudem, Bhadrachalam District.

2. Averments of plaint, in succinctly, as follows:

(i) That the plaintiff and defendants are sons and daughters and they are Class-I Legal Heirs of late Medipalli Sunder Rao and during his life time, the said Sunder Rao acquired the suit schedule property out of his earnings and constructed two houses in that suit schedule property and that the said Medipalli Sunder Rao was died on 03.01.1992 leaving behind the plaintiff and all the defendants as his Class-I legal heirs to succeed his property and after the death of Sunder Rao, his wife Jeeva Mani contracted second marriage in the year 2013 with one Busa Seethaiah, R/o.Enkoor and settled with him.

(ii) It is further stated by the plaintiff that the defendant No.2, i.e., 1st daughter and mother of plaintiff and defendants in collusion with each other got executed an unregistered agreement and as per the said agreement, defendant No.2 is entitled for two shop rooms situated in the suit schedule property and that the mother of plaintiff and all the defendants and defendant No.2 were allotted two shop rooms to

plaintiff. It is further stated by the plaintiff that in the year 2010 the mother of plaintiff and all the defendants were executed an agreement in favour of plaintiff and allotted house bearing No.13-1-196/1 to plaintiff. Accordingly, the plaintiff applied for change of name in Municipal records on 26.04.2012 and later applied for regularization patta on 03.07.2012 to the revenue authorities.

(iii) It is further stated by the plaintiff that the mother of plaintiff and all the defendants by colluding with each other, made a complaint to the District Collector, Khammam, accordingly, the revenue authorities enquired the matter and requested the plaintiff to obtain partition deed.

(iv) It is further stated by the plaintiff that the defendant No.2 in collusion with the defendant No.1, 3 and 4 tentatively got mutated her name and entered in the Municipal records for payment of property tax, but in fact the said property tax was not partitioned through registered partition deed. It is further stated by the plaintiff that the plaintiff demanded his share of property from and out of the suit schedule properties, but all the defendants are postponing the partition on one pretext or the other and that the defendant No.2 is managing the suit schedule properties left by father of plaintiff and also the defendant No.2 let out the two shop rooms to third parties and taking rent of Rs.10,000/- for he said shop rooms without paying any amount to plaintiff.

(v) It is further stated by the plaintiff that all the defendants are making hurried attempts and trying to sell the suit schedule properties and that the plaintiff finally demanded the defendants on 03.11.2016 for partition of the suit property with metes and bounds and to allot his share to the plaintiff from and out of the property left by late Sunder Rao and that on 25.11.2016 the plaintiff got issued a legal notice dated 25.11.2016 demanding the partition of suit schedule property. Again on 06.12.2016 the plaintiff got issued legal notice and the said notice was returned as unclaimed. Hence, the suit.

3. Having received the summons, the defendant No.1 did not appear before the court, hence, he was set exparte on 13.03.2017.

4. Having received the summons, the defendant No.2 filed written statement

Averments of written statement, in conspectus, as follows :

(i) It is contended by the defendant No.2 that the plaintiff filed the suit by suppressing all the facts. The suit schedule property is not joint family and the plaintiff shown the suit schedule property with wrong extent and wrong boundaries and that the plaintiff did not file a single document to show that Medipalli Sundar Rao acquired the suit schedule property and any municipal records. It is further contended

by the defendant No.2 that the petitioner/plaintiff shown two house numbers in the suit schedule property i.e., H.No.13-1-196/1 and H.No.13-1-196/1A, but in the list of documents filed by the plaintiff at Serial No.6 shown only H.No.13-1-196/1, as such, within the suit schedule property only one house i.e., house bearing No.13-1-196/1 is in existence and the house bearing No.13-1-196/1A is not within the boundaries of suit schedule property and shown wrong boundaries.

(ii) It is further contended by the defendant No.2 that in 1999 the defendant No.2 occupied the Singareni Collieries Company Limited land to an extent of 390 Sq.yards and raised hut in the said place, due to heavy rains, the said hut was collapsed. Subsequently, she raised a RCC building consisting ground floor and first floor in her site and in the ground floor she is running hospital and she is residing in the first floor. It is further contended by the defendant No.2 that she constructed the above said building in the year 2005 and the Municipality, Kothagudem has assessed tax in her name and allotted house number 13-1-196/1A with electricity service connection No.841 to the ground floor and 705 to the first floor. At the end, the defendant No.2 prays to dismiss the suit.

5. Having received the notice, the defendant No.3 filed written statement and the defendant No.4 filed adoption memo, adopting the written statement filed by defendant No.3. It is further contended by the

defendant No.3 and 4 that the suit schedule property is belongs to the father of plaintiff and husband of defendant No.2 and the father of defendant No.1, 3 ad 4, as such, the defendant No.1 to 4 are the Class-I legal heirs along with the plaintiff, as such, all are entitled for equal shares of the suit schedule property and now the plaintiff is trying to alienate the property after filing the presnt suit with an intent to avoid the share of defendant No.3 & 4, but, in fact, the defendant No.3 and 4, being the Class-I legal heirs are entitled for 1/5th share each and they have no objection if the suit schedule property is partitioned equally among the Class-I legal heirs of deceased Sundar Rao, who is father of defendant No.3 and 4. Finally, the defendant No.3 and 4 prayed to dismiss the suit.

6. The plaintiff has stepped into witness box and testified as PW-1 ant through her the documents under Ex.A-1 to A-27 to were presented, to further the case of plaintiff, he has got examined as PW-2. After reporting no further evidence on behalf of plaintiff, plaintiff side evidence was closed. In resistance, defendant No.2 herself got examined as DW-1 and placed reliance upon documents under Ex.B-1 to B-9. The defendant No.3 and 4, themselves got examined as DW-2 and DW-3 and no documents were marked on their behalf.

7. Heard the learned counsel for the plaintiff and the learned counsel appearing on behalf of defendants.

8. Perused the material available on record.

9. Basing on above pleadings, the following issues are formulated for determination and adjudication:

- (i) Whether the plaintiff is entitled for partition of suit schedule into five equal shares and for allotment of one such share as paid for ?
- (ii) Whether the plaintiff is entitled for perpetual injunction restraining the defendants from transferring the schedule as prayed for ?
- (iii) To what relief ?

Additional Issues

- (i) Whether the suit schedule property is the self acquired property of the 2nd defendant as prayed by the defendant No.2 ?
- (ii) Whether the plaintiff is entitled for partition of suit schedule property ?
- (iii) Whether the plaintiff is entitled for preliminary decree for partition of suit schedule property by allotting the shares 1/5th to the plaintiff ?
- (iv) Whether the plaintiff has shown the wrong boundaries in the suit schedule property ?
- (v) To what relief ?

Additional Issues

- (i) Whether the suit is bad for non joinder of necessary parties ?

- (ii) Whether the agreement dated 19.11.2016 is no legal sanctity in the eye of law ?
- (iii) Whether the suit schedule property is not joint property ?
- (iv) Whether the suit is barred by limitation ?
- (v) Whether the description and boundaries of suit property are not correct as prayed by the defendant ?
- (vi) To what relief ?

POINT

10. This being a suit for partition, the settled legal preposition is that the party asserting that the property is joint family or co-owned must prove the existence of such joint ownership and establish his definite share, as held in **Mallesappa Bandeppa Desai Vs. Desai Mallappa** ¹ and **Appalaswami Vs. Suryanarayana Murthy** ². When a defendant resists partition by claiming exclusive possession or title, the law requires him to prove ouster with clear, open and continuous assertion of exclusive right to the knowledge of other co-owners, mere long possession or construction is not sufficient. It is also settled that revenue records or mutation entries do not confer title and cannot defeat a claim of partition, as held in **Prahlad Prathan Vs. Sonu Kumhar** ³. The Hon'ble Supreme Court held that the possession of one

1 AIR 1961 SC 1268

2 AIR 1947 PC 189

3 (2019) 10 SCC 259

co-owner is presumed to be in possession of all unless ouster is strictly proved as reiterated in **Karbalai Begum Vs. Mohd. Sayeed**⁴

11. The plaintiff has stepped into witness box and testified as PW-1 and through him the documents under Ex.A-1 to A-27 were presented, to further the case of plaintiff, he has got examined as PW-2. After reporting no further evidence on behalf of plaintiff, plaintiff side evidence was closed. In resistance defendant No.2 got examined as DW-1 and placed reliance upon documents under Ex.B-1 to B-9. On behalf of defendants No.3 and 4 they themselves examined as DW-2 and DW-3 and no documents were marked on their behalf.

12. The plaintiff seeks partition of entire suit schedule property on the basis that the said property was originally acquired and possessed by their father during his life time and therefore, constitutes joint family property in which all legal heirs are entitled to their respective shares. It is evident defendant No.3 and defendant No.4 are sailing with the plaintiff. On the other hand, defendant No.2 who is the elder sister of the plaintiff, contends that she had been in exclusive occupation of a specific portion of the suit schedule property for several years, that she has independently developed the said portion by constructing a

4 (1980) 4 SCC 396

residential house from her own resources and that she has been residing therein continuously. Thus, while the plaintiff asserts his right to partition the whole property as ancestral or joint family property, whereas the defendant No.2, asserts a separate and exclusive right over the portion she claims to have occupied or improved. The dispute, therefore, centers on whether the property retains its character as joint family property or whether the long standing exclusive possession and construction by defendant No.2 confers a legally recognizable independent right in her favour.

13. On examining the sets of issues formulated by the predecessor of office dated 31.08.2018, 09.09.2022 and 31.03.2023, it becomes very clear that several issues are repetitive, overlapping or irrelevant to the real controversy. In a suit for partition, the court must frame only those issues that touches the core dispute, namely, the character of the suit property, the entitlement of parties to their respective shares and any legal bar effecting the maintainability of the suit. Question relating to injunction, repeated boundary dispute and the agreement dated 19.11.2016 do not materially assist the court in deciding the partition claim and instead complicate the trial. Under Order-XIV, Rule-V of the Code of Civil Procedure, the court is expressly empowered, at any stage of the proceedings to “*strike out any issue* “ that appears to be

wrongly framed or introduced and to amend or frame additional issue as may be necessary for determining the matter in controversy. The Hon'ble Supreme Court in **Makhan Lal Bangal Vs. Manas Bhunia** ⁵ has held that correctly framed issue forms the back bone of a fair civil trial and in **Girijanandini Devi Vs. Bijendra Narain Chowdhary** ⁶, it was affirmed that courts must remove or recast issues that distract from the real dispute. In the light of these principles, basing on the nature of relief sought in the suit and upon considering the averment of the pleadings of both rival contenders, only the essential issues germane and the remaining unnecessary issues are struck off by invoking Order-XIV, Rule-V of the Code of Civil Procedure.

- (1) Whether the suit schedule property is joint or self acquired property ?
- (2) Whether the plaintiff is entitled for partition, if so to what extent ?
- (3) Whether any legal bar exists for non-joinder of necessary parties ?
- (4) Whether the suit schedule property is properly described and the same is needed to be retained by defendant No.2 ?
- (5) To what relief ?

Arguments for plaintiff:

14. It is the contention of the plaintiff that he along with defendants

⁵ (2001) 2 SCC 652

⁶ AIR 1967 SC 1124

are the Class-I legal heirs of late Medipalli Sundar Rao and he has died intestate, leaving behind them as his successors. It is further contended that late Medipalli Sundar Rao during his life time, had acquired an extent of land admeasuring 848.47 Sq.yds situated at Peon Basthi, Kothagudem and out of his hard earned money, he has constructed two separate houses in the said property. It is further contended that the property was never partitioned and the same is joint property, further any unilateral acts of occupation or construction by the defendants without the consent of plaintiff, cannot defeat or extinguish his vested right in the undivided property. It is further contended that the defendants have not produced any document or cogent evidence to show that the said property was exclusive property or self acquired property of any individual member or that there was any relinquishment or partition. To support the pleadings, the plaintiff has placed reliance upon the decision of PW-1 and PW-2 coupled with documents under Exs.A-1 to A-27. Arguments of plaintiff was adopted by defendant No.3 and defendant No.4. Thus, the plaintiff claims that he is entitled for partition and separate possession over the suit schedule property with metes and bounds.

Arguments for the defendants:

15. The defendant No.2 has submitted that the plaintiff is not entitled

to seek partition of the suit schedule property, as the property in question is not joint family property, but has been exclusively enjoyed, possessed and developed by the defendant No.2. It is submitted that the plaintiff has filed this suit with ulterior motive and due to covetous eye and further the suit is bad for non joinder of necessary party and the plaintiff has designed this suit by showing wrong boundaries. Thus, the defendant No.2 prayed to dismiss the suit with costs.

16. As can be seen from the averment⁷ of the original written statement filed on behalf of defendant No.2, defendant No.2 has tried to portrait the history of incarceration of Kothagudem. The averment made in the written statement has prompted this court to independently verify the historical back ground of the Kothagudem Town. Upon such examination and research⁸ , it is revealed that Kothagudem, now the Head Quarters of Bhadrachalam District in Telangana State has its origins in the old Palvanchooram Zamindari which was part of Husnabad Shankargiri Estate under the Nizam's rule. Kothagudem originally began as a small settlement which gradually expanded following discovery of coal deposit during the British period. The establishment of coal mines, a large influx of workers migrated from various regions, leading to the development of residential colonies. As the area was

7 Unnumbered 2nd para, page 2 of written statement

8 G.O.Ms.274, dated 29.03.1971, G.O.Ms No.219MA dated 08.05.1995 , G.O.Ms.373 Revenue (Assignment-VII) dated 24.03.2005, G.O.Ms 1249 Revenue(Assignment-V) dated 29.10.2008

newly developed, it came to be referred as "*Kotha-gudem*" meaning "*new village*". Over time, with the expansion of mining activities and development initiatives of the Singareni Collieries Company Limited (SCCL) the region evolved into a prominent mining town, resulting in the present layout and extent of habitations within Kothagudem. It is evident that the village gradually transformed into the present day town. Much to the land historically fell within survey numbers 141, 142 and 143, which were originally leased to the mining companies and later regulated by the Government Order such as G.O.Ms.No.373 of 2005 for regularization of occupants. Originally, the entire area was under the Nizam's rule and the Nizam Government had leased these three survey numbers to the Deccan Company Limited, which later became Singareni Collieries Company Limited (SCCL). These lease was for 99 years from 01.08.1886 to 31.12.1984. After independence when the lease expired, the Government lands continued to remain in the possession of SCCL. Door numbers were allotted to houses through the Notified Area Committee and later regulated by Government Order such as G.O.Ms.No.373 of 2005 for regularization of occupation. Regularization of intrusion is condition precedent for claiming any kind of right.

17. In **Maria Margarida Sequeira Fernandes Vs. Erasmo Jack De**

Sequeira ⁹ the Hon'ble Supreme Court reiterated that pleadings are very foundation of civil litigation and that no amount of evidence can be considered on the fact which is not specifically pleaded. It was further emphasized that parties must present clear, specific and truthful pleadings, as vague or incomplete pleadings lead to confusion, delay and miscarriage of distress. It was further held that proper pleadings enable the court to identify the real issue in controversy, frame appropriate issues and ensure a fair trial. The Judgment stress that truth and full disclosure must guide every litigation and relief cannot be granted on unpleaded facts, making precise pleading indispensable for effective adjudication.

ISSUE No.1 & 2 :

These issues are taken-up together as they are intertwined.

18. The evidence of PW-1 establishes that the suit property consists of an extent of 848.47 square yards along with two houses bearing Nos. 13-1-196/1 and 13-1-196/1A, which he claims were originally acquired by his late father, who died on 03-01-1992, leaving behind the plaintiff, the defendants and their mother as Class-I legal heirs. PW-1 asserts that the property remained joint and that no registered partition ever took place, but he alleges that certain unregistered agreements were created by his

⁹ (2012) 5 SCC 370

mother and defendants, though he admits these documents lack legal validity as they are unregistered and not on requisite stamp paper. He further alleges that Defendant No.2 fraudulently mutated her name to house No. 13-1-196/1A and has been collecting rent of (Rupees Ten Thousand only) ₹10,000 per month from the shop rooms therein. PW-1 claims to have demanded partition orally on 03-11-2016 and later through a legal notice dated 25-11-2016. However, in cross-examination, PW-1 makes several significant admissions: *he concedes that the mother, being a Class-I heir and residing in the subject property, has not been impleaded as a party, creating a defect of non-joinder; he further admits he has no proof of his allegation that the mother contracted a second marriage in 2013.*

19. PW-1 confirms that Defendant No.2 has been paying the property tax for house No. 13-1-196/1A, has independent electricity connections for both floors and has been in possession of that property, thereby supporting the defendant's claim of separate enjoyment. PW-1 also admits that he himself has been residing in Singareni Collieries Company Limited Quarters since 2015, weakening his assertion of joint possession. He further acknowledges that the newly filed documents (Exs.A17 to A26) pertain only to house No. 13-1-196/1 and do not relate to house No.13-1-196/1A and he shows *uncertainty regarding the nature*

of the land being Government land, Singareni Collieries Company Limited leased land or land regularized under G.O. 373/376. He concedes that until pattas are formally issued under the regularization scheme, no party can claim perfect title. His evidence also reveals contradictions concerning boundaries of the property and discrepancies in market value certificates showing different extents, which weaken the plaintiff's case. Overall, PW-1's testimony contains assertions supporting joint family ownership but also several admissions and inconsistencies that significantly strengthen the defence plea.

20. PW-2 supports the plaintiff's case by stating that the suit schedule property was originally acquired by late Medipalli Sundhar Rao, who constructed residential houses and remained in possession till his death and thereafter the mother, Jeevamani, continued in possession. He further states that defendant No.2, after marital issues, returned to her parental home and was only permitted to construct two rooms on the four-room basement already laid by the mother, with financial help provided by her, indicating that defendant No.2 had no independent source to construct the house. PW-2 claims that defendant No.2 later attempted to occupy additional land and entered her name in municipal records without any right and he asserts that H.No.13-1-196/1A forms part of the joint family property acquired by the father. However, in

cross-examination, PW-2 made significant admissions favourable to defendant No.2 including that house No.13-1-196/1A belongs to defendant No.2, that her parents gifted her the open space on which she constructed the said house and that her name is duly recorded in municipal records as owner. He also admitted that D.No.13-1-196/1 and D.No.13-1-196/1A are separate and independent houses with separate bathrooms and that the open land *in the suit schedule property is government land, where rights accrued only after issuance of patta*. PW-2 nevertheless affirmed that the suit schedule property, particularly D.No.13-1-196/1, is joint family property and that all legal heirs, including defendant No.3 and defendant No.4 have equal rights. He denied all suggestions intended to discredit him, including allegations of past disputes or misconduct towards defendant No.2. Overall, the essential favourable aspects are that the property was originally joint family property and that defendant No.2 constructed two rooms only with permission and family support, while the most damaging aspect is PW-2's contradictory admission in cross-examination acknowledging defendant No.2's ownership over H.No.13-1-196/1A.

21. The evidence of defendant No.2/DW-1 reveals several important aspects. She has asserted that the suit schedule property is not joint family property and alleged that the plaintiff wrongly mentioned

boundaries and included her property bearing H.No.13-1-196/1A. However, she admitted that *she has not produced any document to show that H.No.13-1-196/1A was separately allotted to her or that it is an independent property carved out of H.No.13-1-196/1*. Her own documents, namely Exs.B-1 to B-9, consist mainly of recent property tax receipts and electricity-related receipts, none of which establish title or long-standing possession, and some of the electricity receipts do not even mention the house number. In cross-examination, she admitted that her father, Late Medipalli Sunder Rao, lived and died in the suit schedule property and that in 1993 her paternal uncle conducted an arrack business in a portion of the same premises which clearly suggests that the property was in common use of the family. She further admitted that she lived at Khammam in accommodation provided by her employer between 1999 and 2003, thereby weakening her claim of continuous possession over the alleged 1A portion. She also accepted that she has not filed any tax receipts for the year 1999 and *that the entire land in Kothagudem belonged to the Government/Singareni Collieries Company Limited, which later issued pattas to occupants*, thus making it necessary to prove lawful possession, which she failed to do. DW-1 also acknowledged that the plan marked as Ex.A-27 pertains to H.No.13-1-196/1, which contradicts her allegation that boundaries were fabricated by the plaintiff. Ex.A-27 demonstrate that the suit property is conjoint.

22. At several stages, she denied suggestions without producing any supporting document, including her claim that the plaintiff permitted her to stay due to financial issues or that she attempted to regularize the property. She admitted *strained relations with family members, including filing criminal cases against her brother, indicating animosity and possible bias*. Overall, her admissions, lack of documentary evidence, inconsistent statements, and contradictions substantially weaken her claim of exclusive rights over H.No.13-1-196/1A and support the plaintiff's case that the property is a common family property falling within the original house bearing No.13-1-196/1.

23. The evidence of defendant No.3/DW-2 establishes that the plaintiff and all defendants are the sons and daughters of late Medipalli Sunder Rao and are therefore Class-I legal heirs entitled to equal shares in the suit schedule property. She states that the entire property, including the land measuring 848.47 sq. yards and the two houses constructed thereon, was self-acquired by her father. She further states that after the father's death, their mother, Jeeva Mani, remarried in 2013 and that her mother and Defendant No.2 acted together and created unregistered agreements which are not legally enforceable. She specifically denies that defendant No.2 has any exclusive right over House No.13-1-196/1A

and asserts that the mutation in defendant No.2's name since 2005 does not extinguish the rights of the other heirs. She also denies the allegation that defendant No.2 constructed any shopping complexes or that defendant No.2 maintained the family.

24. In cross-examination, she admits that after their father's death, the plaintiff took full responsibility for the entire family, worked as a lorry driver, supported them financially and even obtained employment later through his father-in-law. She states that due to his efforts, her mother intended to gift certain property, including a house and vacant site, to the plaintiff, while defendant No.1 obtained employment on compassionate grounds. She confirms that all siblings have equal rights over both houses 13-1-196/1 and 13-1-196/1A. She denies all allegations that plaintiff assaulted or attempted to harm their mother and states that the mother was living in House No.13-1-196/1 till her death in 2024 and was alive on the date of filing the suit, making her also a legal heir. She reiterates that she has no objection for partition of the entire property and asserts that no exclusive right belongs to defendant No.2. Overall, her testimony supports the stand that the entire suit property belonged to the deceased father, that all children are equally entitled and that no unregistered or unilateral documents create any exclusive right for defendant No.2 or any other party.

25. The defendantg No.4/DW-3 states that she is well acquainted with the facts of the case and that the plaintiff and defendants are the Class-I legal heirs of late Medipalli Sunder Rao, who acquired the suit schedule property of 848.47 sq. yards at Peon Basthi, Kothagudem, and constructed two houses from his own earnings. He died on 03-01-1992 leaving behind the plaintiff and defendants as his legal heirs, and thereafter their mother, Jeeva Mani, contracted a second marriage in 2013 and constructed shop rooms in the said property. She submits that the plaintiff and defendant No.2 colluded and filed a false complaint before the District Collector and that the alleged sale agreements relied upon are unstamped, unregistered and unenforceable. She asserts that all Class-I legal heirs, including herself, plaintiff and defendants, are entitled to equal shares in the property, and she has no objection for equal partition she also states that she received no stridhana from her father. She alleges that defendant No.2 filed a false police case in 2016 and often interfered in her life along with her husband and local persons.

26. In cross-examination on behalf of the plaintiff, she admitted that after their father's death the plaintiff took responsibility of the family by working as a lorry cleaner and that the suit property was acquired by

their father. In cross-examination by defendant No.2's counsel, she stated that she performed a love marriage in 1997 but denied that she avoided visiting her parents thereafter she stated that after their father's death, the family lived in Singareni Quarters, Rudrampur and confirmed that the plaintiff was a minor at that time. She denied allegations regarding plaintiff's behaviour and denied that house Nos.13-1-196/1 and 13-1-196/1A are different properties. She admitted that her mother also had rights in the property, that she was alive at the time of filing the suit, and that she died in 2024 at the age of around 65-70 years. She denied allegations that plaintiff harassed their mother or necked her out. She admitted that defendant No.2 is paying municipal and electricity charges but alleged that defendant No.2 manipulated the mutation. She denied that the plaintiff avoided impleading their mother in the suit intentionally. She confirmed that her mother married one Busa Seethaiah in 2013, allegedly due to defendant No.2's influence. She admitted that the plaintiff has criminal cases and that his wife filed one against him but attributed these issues to defendant No.2's actions. She admitted that defendant No.2 has been in possession of house No.13-1-196/1A since 2000 and alleged that defendant No.2 did not allow anyone to enter the property. She admitted that the suit property **is originally Government land**. She denied all suggestions that she has no right in the property or that she is deposing falsely.

27. The testimony of PW-1, PW-2, DW-2 & DW-3 does not establish the contention of the plaintiff, as they have not produced any documentary evidence to prove the exact nature of property, its origin, the flow of title showing that the suit schedule property is joint family property. Their evidence remains bare assertion without any supporting material. As a sequel, no finding could be recorded as to the nature of suit schedule property and the plaintiff failed to establish that the suit schedule properties are joint properties and liable for partition with metes and bounds. These issues are answered against the plaintiff.

ISSUE NO.3:

28. As admitted by plaintiff/PW-1¹⁰, his mother was alive as on the date of filing of this suit and she is not party to the present litigation nor any steps were initiated to implead the mother of parties to the proceedings. In a partition suit, every co-sharer is an indispensable and necessary party and failure to implead such a party strikes out the root of the suit. The *Hon'ble Supreme Court in Gangubai Raghunath Ayare Vs. Gangaram Sakharam Dhuri*¹¹ reiterated that a suit for partition or administration cannot be adjudicated in the absence of all necessary heirs and non-joinder of an indispensable party renders the suit not maintainable. The same principle was reaffirmed by the Hon'ble

10 2nd line, 5th line, 8th to 10th lines of 1st and 2nd unnumbered paras of cross examination of PW-1 dated 08.09.2023

11 2025 INS 355 dated 17.03.2025

Supreme Court in ***Smt.Arifa and others Vs.Abhiman Apartment Cooperative Housing Society Limited and others***¹² wherein the Hon'ble Supreme Court held that non impleadment of necessary parties vitiates the decree and the suit itself is liable for dismissal. Applying several principles, the present suit is liable to be dismissed for non-joinder of necessary party. This issue is answered against the plaintiff.

ISSUE NO.4:

29. As can be seen from the averment¹³ of the written statement of defendant No.2, it is the claim and contention of the defendant No.2 that (for brevity the relevant portion is extracted and reproduced hereunder) *"in the year 1999 she has occupied the SCCL land admeasuring an extent of 390 Sq.yards and raised hut in the said place, subsequently due to heavy rains, cyclone and gust effect the said hut was collapsed. The Defendant No.2 is a RMP Doctor and doing services to the needy patients as a nurse went to the patient's home and extend her services to the needy patients. Since last 20 years the Defendant No.2 is earning by doing services to the needy patients. The defendant no.2 with her hard earnings, sweat and blood constructed a RCC building consisting ground floor and first floor in her site as stated supra. In the ground*

12 2025 INS 875 dated 14.07.2025

13 Unnumbered 3rd para, page 2 of written statement

floor two rooms, the defendant No.2 running hospital in one room and medical shop in another room, the defendant No.2 is residing in the first floor two rooms along with her family members.” The above contents would make it clear that defendant No.2 has occupied and do not have Occupancy Certificate as required under G.O.Ms.No.373/2005.

30. As can be seen from the pleadings and the recitals of the chief examination of DW-1, the pleadings or the depositions does not mention the survey number or the specific identification of the property which is mandatory in any claim involving immovable property. There is also no proof placed on record to show that the land in possession truly belongs to Singareni Collieries Company Limited nor is there any document to demonstrate that Singareni Collieries Company Limited granted permissions, lease, allotted or regularization in favour of defendant No.2.

31. The defendant No.2 has not stated what was her monthly income in 1999 or thereafter, nor has she produced any proof showing a legitimate or sufficient source of income to construct a RCC building consisting of ground and first floor. Although she claims to be a an RMP doctor and to have earned to nursing service, yet she has not filed a single document to establish her qualification, license or any

certificate proving her profession or income. She has also not disclose under what authority or permission she constructed the building on the alleged Singareni Collieries company land. No building permission from the Municipality has been produced and in absence of such permission, ***the construction is clearly unauthorized***. The defendant No.2 has also failed to produce the mandatory occupancy Certificate/patta required under relevant Government Orders governing building construction. Nothing is placed on record to substantiate that she occupied the property within the specified boundaries. Thus, the entire claim is unsupported by revenue record, title documents, municipal approval or proof of lawful constructions, making a plea of title only untenable and defective.

32. In the cross examination, defendant No.2/DW-1¹⁴ has categorically admitted that after deserting her first husband, she has joined intermediate at Government Junior College, Kothagudem. Thereafter, she has studied Nursing course for 18 months at Suryapet and the two courses has taken four years for completion and the courses were concluded after separation from husband. She further admitted that ¹⁵ *she has worked as a nurse at Samatha Nursing Home, Khammam from 1999 to 2003 and at that time, she used to reside in a room provided by*

14 8th line of unnumbered para 2 of cross examination of DW-1 dated 31.07.2025 by

15 12th line of unnumbered para 2 of cross examination of DW-1 dated dated 31.07.2025 by counsel for plaintiff

the nursing home at Khammam. The admission of defendant No.2/DW-1 would falsify the contention that she had occupied the land admeasuring an extent of 390 Sq.yds in the year 1999. Further, the defendant No.2/DW-1 has produced record certificate vide ROC.No.A1/139/2017 issued by Municipal Commissioner, Kothagudem dated 08.03.2017 under Ex.B-9. On perusal of the said document, it demonstrates that the property claimed by the defendant No.2/DW-1 stands in the name of Manda Venkat, since 08.03.2017. Admittedly, the defendant No.2 has made her appearance before this court and filed her written statement on 10.04.2017 and Ex.B-9 is prior to her written statement but the same is not pleaded in her written statement for the reasons best known to the defendant No.2.

33. It is a settled legal preposition that a litigant who approaches the court is bound to disclose all the relevant and material facts within his knowledge. Any deliberate concealment, distortion or non-disclosure of such facts amounts to suppression of material facts striking at the very root.

34. The evidence of defendant No.2/DW-1 is insufficient,as she failed to produce any document demonstrating her exclusive allotment, valid title, regularization proceedings or an occupation Certificate as

mandated under the relevant Government Order governing Government/Singareni Collieries Company Limited lands. Further, in view of the applicable Government Orders requiring an occupancy Certificate for any valid construction, particularly G.O.Ms No.373/2005, the defendant No.2 cannot derive any right over the alleged structures, as no such certificate or municipal permission has been produced. The oral evidence failed to substantiate her claim of an independent right over house bearing No.13-1-196/1A. The evidence adduced on behalf of defendant No.2 coupled with the documents falls short of the standard required to establish the suit claim. Hence, the defendant No.2 is not entitled for retaining the suit schedule property and plaintiff is at liberty to work out his remedy. This issue is answered against defendant No.2.

Issue No.5:

35. Applying the principles laid down in the above Judgments to the facts of the present case and upon considering the evidence adduced by the plaintiff, it is clear that plaintiff has utterly failed to establish his claim. The nature of property and the flow of title have not been pleaded or proved by any acceptable evidence. In the absence of any documentary proof, the plaintiff oral assertion remain uncorroborated and cannot be relied upon. In view of the discussion held supra and

findings arrived supra, the plaintiff failed to establish that the suit schedule property is joint or self acquired property of late Medipalli Sundar Rao and thereby the suit schedule property is not liable for partition.

36. IN THE RESULT, the suit of the plaintiff is dismissed without costs.

Typed to my dictation, corrected and pronounced by me in the open Court on this the 9th day of December, 2025.

Prl. Senior Civil Judge,
Kothagudem.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

On behalf of plaintiff	
PW-1	Medipalli Bala Raju
PW-2	Pilli Shantha Kumar

On behalf of defendant No.2	
DW-1	Manda Baby Sujatha

On behalf of defendant Nos.3 & 4	
DW-2	Kalloji Sunitha Rani
DW-3	Kandi Anitha

DOCUMENTS MARKED FOR PLAINTIFF

Sl. No.	Date of document	Description of Document
Ex.A-1	--	Aadhar card of plaintiff
Ex.A-2	--	Ration Card of plaintiff
Ex.A-3	29.06.2012	Birth Certificate issued by Commissioner, Kothagudem Municipality pertaining to plaintiff.
Ex.A-4	15.10.2009	Demand Notice issued by Commissioner, Kothagudem Municipality
Ex.A-5	--	Certificate issued by MRI-II
Ex.A-6	25.11.2016	First office copy of legal notice
Ex.A-7	--	Postal Receipt of defendant No.1
Ex.A-8	--	Returned cover of defendant No.2
Ex.A-9	--	Returned cover of defendant No.3
Ex.A-10	--	Returned Cover of defendant No.4
Ex.A-11	06.12.2016	Second Office copy of legal notice
Ex.A-12	--	Returned cover of defendant No.2
Ex.A-13	--	Market Value Certificates
Ex.A-14	17.05.2018	RTI Letter No.A1/36/2018 issued by Commissioner, Kothagudem Municipality.
Ex.A-15	31.05.2018	Letter vide No.G1/36/2018 issued by Commissioner, Kothagudem Municipality
Ex.A-16	19.11.2018	Letter vide No.J/1983/2019 issued by RDO, Kothagudem.
Ex.A-17	23.02.2018	Certified copy of record certificate vide Rc.No.A1/132549/2018 in favour of father of plaintiff
Ex.A-18	31.05.2017	Original House tax paid receipt
Ex.A-19	03.01.2017	Original Market Value Certificate issued by Sub-Registrar vide Req.No.21/2017.
Ex.A-20	15.12.2016	Original Market Value Certificate issued by Sub-Registrar, vide req.No.1307/2016
Ex.A-21	07.07.2000	Original Property Tax paid receipt of the year 1997-99

Ex.A-22	12.02.1998	Original house tax paid receipt of the year 1995 to 1997 receipt No.003931
Ex.A-23	--	Original miscellaneous paid receipt in favour of father of plaintiff
Ex.A-24	22.02.1996	Original miscellaneous paid receipt in favour of father of plaintiff for the year 1994-95
Ex.A-25	21.02.1995	Original miscellaneous paid in favour of father of plaintiff for the year 1992-94
Ex.A-26	--	Electricity paid bills 4 in number in favour of father of plaintiff
Ex.A-27	--	Plan

DOCUMENTS MARKED FOR DEFENDANT No.2

Sl. No.	Date of Document	Description of Document
Ex.B-1	28.08.2005	Original Property Tax receipt
Ex.B-2	04.03.2008	Electricity Consumption Payment bill
Ex.B-3	01.10.2007	Property Tax receipt
Ex.B-4	26.03.2012	Permanent receipt issued by Assistant Accounts Officer, NPDCPL.
Ex.B-5	19.11.2012	Permanent receipt issued by Assistant Accounts Officer, NPDCPL.
Ex.B-6	07.07.2010	Property tax receipt
Ex.B-7	02.03.2017	Property tax receipt
Ex.B-8	--	Aadhar card of defendant No.2
Ex.B-9	08.03.2017	Record Certificate ROC No.A1/139/2017 issued by Municipal Commissioner, Kothagudem.

DOCUMENTS MARKED FOR DEFENDANT No.3 & 4

:: NIL ::

Prl. Senior Civil Judge,
Kothagudem