

IN THE COURT OF DISTRICT JUDGE, NAGAPATTINAM.

Present: Thiru.A. Kanthakumar, M.L.,
District Judge.

Wednesday, the 12th day of March 2025

CNR No.TNNG010031712023
ORIGINAL SUIT NO. 23 of 2023

1. Prema
2. S. Vasanthi
3. A. Shanthi

....Plaintiffs

-VS-

R. Muralidharan

.... Defendant

This suit came up before me for final hearing on 20.02.2025 in the presence of Thiru.S. Raman, counsel for the plaintiffs and the defendant remained absent and set exparte and upon hearing the argument of plaintiffs' side, upon perusal of all connected material records and having stood over for consideration till this date, this court pronounced the following....

// JUDGMENT//

This is a suit filed by the plaintiffs praying to pass a preliminary decree that they are entitled for 3/4th share in the suit properties and also to pass a final decree by appointing an Advocate Commissioner to inspect the properties to effect a fair and equitable divisions of the same, earmarking the plaintiffs' 3/ 4th share with a right to take separate possession and to get a report and plan and for costs.

2) The case of the plaintiffs in brief is as follows:

The 1st plaintiff's husband, namely, Rathnam died intestate on 18.08.2004. The 1st plaintiff being his wife and the other plaintiffs and the

defendant being his daughters and son are the available legal heirs of deceased Rathnam. The suit properties were allotted as “A” schedule properties to late Rathnam in the family partition deed, dated 09.09.1983 registered as document No.1095/1983 at Sub Registrar Office, Nagapattinam. After the demise of Rathnam, the plaintiffs and the defendant are enjoying the properties in common and the same are in joint possession. Due to age old, they expressed their desire to divide the properties by means and bounds with the defendant and the defendant has postponing the same under one pretext or another. Therefore finally the plaintiffs issued a lawyer’s notice on 10.12.2022 demanding partition to the address known to the plaintiffs. The defendant since he is in the habit of changing residence frequently maneuvered to return the same as unserved. The defendant with an intention to avoid his contact officially is not disclosing his actual present residential address and the plaintiffs also do not know his exact address. Hence this suit for partition.

3. The defendant has left the suit for exparte.

4. The following issue has been framed:

1) Whether the plaintiffs are entitled for the relief of partition as prayed for?

5. On the side of the plaintiffs, PW.1 was examined and Exs.A1 to A4 were marked.

6) Issue No.1:

The learned counsel for the plaintiffs argued that the 1st plaintiff’s husband, namely, Rathnam died intestate on 18.08.2004, the 1st plaintiff being his wife and the other plaintiffs and the defendant being his daughters and son are the available legal heirs of deceased Rathnam and after the demise of Rathnam, the plaintiffs and the defendant are enjoying the properties in common and the same are in joint possession and due to age

old, they expressed their desire to divide the properties by means and bounds with the defendant and the defendant has postponed the same and hence the plaintiffs were forced to file the present suit and hence the same may be decreed as prayed.

7) Records perused. In order to substantiate the case of the plaintiffs, the 2nd plaintiff who was examined as P.W.1 had filed her proof affidavit and marked Exs.A1 to A5. On perusal of the evidence of P.W.1 and the documents filed before this court, it is evident that in pursuance of the registered Partition deed dated 09.09.1983 marked as Ex.A-1, the “A” schedule property mentioned in the partition deed was allotted to the husband of the 1st plaintiff and father of the plaintiffs 2 & 3 and the defendant. Ex.A2 Patta proves that the suit property absolutely belonged to the above said Rathnam. On 18.08.2004, he had died intestate. On perusal of the xerox copy of legal heirs certificate filed by the plaintiffs through memo, it is seen that the plaintiffs and the defendant alone are the legal heirs of the deceased Rathnam. The defendant has postponed for partition under one pretext or another, the plaintiffs have laid the present suit for partition and for other reliefs. After service of paper publication, the defendant had not entered appearance and he was set exparte. The plaintiffs have proved their case through oral evidence and Exs.A1 & A2. Hence this court comes to a conclusion that the plaintiffs are entitled for the relief of partition as prayed for and this issue is answered infavour of the plaintiffs herein.

In the result, this suit is decreed and a preliminary decree is passed that the plaintiffs are entitled for 3/4th share in the suit properties. The plaintiffs are entitled to initiate separate proceedings to obtain final decree

in respect of suit properties. Considering the relationship between the parties, both parties are directed to bear their own costs.

Dictated to the steno-typist by me and directly typed by her and corrected and pronounced by me in the Open Court, on this the 12th day of March 2025.

Sd/- A. Kanthakumar
DISTRICT JUDGE,
NAGAPATTINAM.

Witness examined on the side of Plaintiffs:

P.W.1 Tmt. S. Vasanthi (2nd Plaintiff)

Documents marked on the side of Plaintiffs:

Ex.A1	09.09.1983	Partition Deed	Certified copy
Ex.A2	---	Patta (No.383)	E-copy
Ex.A3	18.10.2022	Death certificate of Rathnam	Xerox copy
Ex.A4	10.12.2022	Advocate Notice sent to the defendant with postal receipt	Office Copy
Ex.A5	---	Returned notice	original

Sd/- A. Kanthakumar
DISTRICT JUDGE,
NAGAPATTINAM.