In the Court of Principal District and Sessions Judge, Pudukkottai.

Present : Thiru.A.Abdul Kadhar, B.A., B.L.,

Principal District Judge, Pudukkottai

Tuesday, the 6th day of September, 2022

O.S.No.9/2018

(CNR No.TNPD010001492018)

Lakshmipriya **....Plaintiff**

//Versus//

1. Ramukannu (Died)
2. Manikandan
3. Karthikeyan
4. Mallika

(Amended as per order in
I.A.No.415/2021 dated 15.11.2021) **...Defendants**

This suit came before this court on 26.08.2022, in the presence of Thiru.V.G.Murugesan, Advocate for the Plaintiff and Thiru.V.S.Badrinath, Advocate for the Defendant No.2 to 4 and 1st defendant died and upon hearing both sides arguments and on perusal of records this court delivers the following …..

JUDGMENT

This suit is filed by the Plaintiff prays to pass a preliminary decree and to declare the plaintiffs the ¼ share in the suit property and to pass a final decree by forming an Advocate commissioner for partition of suit properties into 4 equal shares and to hand over one share to the plaintiff and for separate possession of the plaintiff with cost and to direct the defendant not to interfere in the suit properties by passing the permanent injunction and to grant other reliefs.

2. The averments in the plaint are briefly as follows :

The 1st defendant is the father and 4th defendant is the mother and 2nd and 3rd defendants are the brother of the plaintiff. The suit property was originally belonged to the plaintiff and the defendants being their ancestral property. As per the amendment of Hindu Succession Act 39/2005, the plaintiff is entitled for ¼ share and the defendants No.1 to 3 are entitled for ¼ share in the property. The defendants have created a forged and fake documents in order to cheat the plaintiff. Hence the plaintiff had sent legal notice for partition of the property to the defendants on 04.01.2018 and the defendants also sent reply notice on 10.01.2018 by saying false statements. The defendants have stated that when the grandfather is alive, the grandchildren is not entitled for any share and the plaintiff's father alone has full rights to sell, to execute a settlement and possession over the property. Further it is false that the plaintiff was given 100 sovereigns of jewels, 5 kilograms of silver items and Rs.25,00,000/- cash and a car worth of Rs.5,00,000/- and other sridhana articles at the time of her marriage in the year 2005 by the defendants and in the year of 2014, the defendants have given the plaintiff a sum of Rs.10,00,000/- cash, 50 sovereigns of gold at the time of the plaintiff's daughter and sons ear piercing ceremony and in the year of 2017 the defendants have given Rs.5,00,000/- cash, 10 sovereigns of jewels and 2 kilograms of silver articles at the time of the plaintiff's daughter's puberty function to the plaintiff. Further it is false in the reply notice that the plaintiff had demanded for Rs.20,00,000/- for her husband's business from the defendants and at the time of argument the plaintiff slapped the 1st defendant with her slipper and scolded the

defendants in a filthy language. The suit schedule property was in the joint possession of the plaintiff and the defendants and the defendants are duty bound to give the share of the plaintiff. Therefore the petitioner prays to pass a preliminary decree and to declare the plaintiffs the ¼ share in the suit property and to pass a final decree by forming an Advocate commissioner for partition of suit properties into 4 equal shares and to hand over one share to the plaintiff and for separate possession of the plaintiff with cost and to direct the defendant not to interfere in the suit properties by passing the permanent injunction and to grant other reliefs.

3. Written statement filed by the 1st Defendant which was also admitted by the Defendants No.2 to 4 in brief :-

All the averments made in the plaint are denied and false except that those are admitted herein and the plaintiff is put to strict proof thereof. The averments that the plaintiff has ¼ share over the suit property and the defendants No.1 to 3 have ¼ in the suit property are totally denied and it is false that the defendants have created a fake document in an intention to cheat the plaintiff and the suit property was in joint possession of the plaintiff and the defendant. The suit property was originally belonged to one Thirupathi Chettiar and the 1st Defendant Ramukannu is the son of said Thirupathi Chettiar and the 1st defendant have entered into partition with his brother regarding the suit schedule property. When the grandfather is alive, the grandchildren have no rights over the property. The 1st defendant has the only rights to encumber the property in any ways. The defendants No.1 to 3 have given 100 sovereigns of gold jewels, 5 kilogram of silver articles, Rs.25,00,000/- of cash, and a

car worth Rs.5,00,000/- and other sridhana articles to the plaintiff at the time of her marriage in the year 2005. Further in the year of 2014, the defendant have given Rs.10,00,000/- cash, 50 sovereigns of gold jewels, 2 kg of silver, diamond earring and sridhana worth Rs.1,00,000/- to the plaintiff's son and daughter's ear piercing ceremony and in the year of 2017, at the time of plaintiff's daughter's puberty function the plaintiff have given Rs.5,00,000/- cash, 10 sovereigns of gold jewels, 2 kg of silver articles and the defendants have obtained many loans and the plaintiff also knows what are the properties given to the 2nd and 3rd defendants through settlement deed from the 1st defendant. The respondents states that the actual fact is on 03.01.2018 the plaintiff and her husband have approached the defendants for Rs.20,00,000/- for the business of the plaintiff's husband and the defendants refused by saying the loss obtained by the plaintiff's husband in the share market and in the event of argument the plaintiff slapped the 1st defendant with her slipper and scolded the defendants in a filthy language. Later a legal notice was sent on the next day and the defendants have given a reply notice. It is false that the suit property was in joint possession of the plaintiffs and the defendants. Hence the suit is not maintainable. Therefore, it is prayed to dismiss the suit with cost.

4. On the side of the plaintiff P.W.1 was examined and Ex.A.1 to Ex.A.9 were marked and on the side of the defendants D.W.1 and D.W.2 were examined and Ex.B.1 to Ex.B.5 were marked.

5. On the above completed pleading issues were framed on 10.07.2019 reads as follows:-

Issues

1. Whether the plaintiff have 1/4th share in the suit properties ?
2. Whether the plaintiff is entitled for the preliminary decree as prayed for in the plaint ?
3. To what other relief ?

Issue No.1 :

6. The suit is filed by the daughter for partition as against her father since deceased / 1st defendant and the brothers 2nd and 3rd defendant and the mother the 4th defendant herein. The relationship between the parties are not disputed. The plaintiff claims that the suit properties are the ancestral properties of the family of the plaintiff and inspite of notice on 04.01.2018 marked as Ex.A.4 which was replied by the defendants by way of reply notice dated 10.01.2018 marked as Ex.A.5 by saying that she is not entitled for the property as the deceased 1st defendant being the father is alive she is not entitled for any property and she cannot claim the benefit of Act 39 of 2005. Hence the suit.

7. The defendants have resisted the suit by saying that the properties are belonging to Thirupathi Chettiar father of deceased 1st defendant Ramukannu and there was a partition among the brothers of the deceased 1st defendant Ramukannu by way of succession and hence, that while the 1st defendant is alive the daughter or son has no right in the property and she was given in marriage in the year 2005 and sridhana of 100 sovereigns of gold, 5 kilo gram silver articles and other household utensils were given and for all the functions she was given gifts and she was aware of the

settlement deed executed in favour of the defendant Nos.2 and 3 and hence, that she is not entitled for partition.

8. With the above admitted facts the first out turn would be regarding the nature of property. The plaintiff claims that the properties are ancestral properties of the deceased 1st defendant Ramukannu. But the defendants have neither denied the said fact nor specifically spelled out the said factum as to how the property was devolved but for saying the property was received by the deceased 1st defendant Ramukannu by way of partition between his brothers. Not even a evasive denial regarding the averments in the plaint as to the devolvement by succession through ancestral nucleus or not. But the factum of pleading that the property was succeeded by Thirupathi Chettiar namely the father of 1st defendant by ancestral source was not specifically denied. Further the learned counsel for the plaintiff would rely upon the evidence of D.W.1 the 4th defendant, the mother of all the parties herein and he would rely upon the cross examination as follows :

> **"1 முதல் 3 பிரதிவாதிகள் சேர்த்து தான் நான் சாட்சியம் அளித்தருக்கின்றேன். தாவா சொத்துக்கள் முழுவதும் என்னுடைய மாமனார் திருப்பதி செட்டியாரின் பூர்விக சொத்துககள் என்றால் சரிதான்."**

9. By relying upon the above admission of the defendant and the non denial of the ancestral nature of the property the learned counsel for the plaintiff would contend the suit properties are the ancestral properties of the family of the plaintiffs.

10. Per contra, the learned counsel for the respondent would submit merely because there was admission regarding the nature of the property that does not mean

automatically will lead to an inference that the property is an ancestral property and even the plaintiff has not disputed the fact there was a partition between the brothers of the deceased / 1st defendant Ramukannu. From the above rival contentions the following factors which are pleaded by one party and not denied by other party and culled out as follows :

a) The property is the ancestral property of the family of the parties particularly the deceased Ramukannu.

b) The property devolved upon Ramukannu by way of partition between his brothers.

11. The above statements were not denied by both the parties. Hence, if both the statements are considered to be true and with the help of the evidence of D.W.1 particularly she had stated as follows :

> **"தாவா சொத்துக்கள் திருப்பதி செட்டியாரின் பூர்விக சொத்து என்ற காரணத்தால் வாதிக்கு இதில் பங்கு உண்டு என்று சொன்னால் அவருக்கு உண்டான பங்கை நாங்கள் செய்துவிட்டோம்."**

12. Having regard to the above admissions I hold that the properties devolved upon Ramukannu and his father Thirupathi Chettiar through their ancestral source and hence, the properties has to be held as ancestral properties.

13. The learned counsel for the plaintiff would vehemently contend that Ex.A.8 is the Mortgage deed executed in respect of one of the properties which is the subject matter of the suit and in the said document there was a reference by showing that the deceased 1st defendant Ramukannu have been shown as guardian of the plaintiff for mortgaging the property and the learned counsel would rely upon the recital in Ex.A.8 as follows :

" DRL(T) 9 கரம்பக்குடி கூட்டுறவு நில வள வங்கி தனி அலுவலர் அவர்களுக்கு புதுக்கோட்டை மாவட்டம் ஆலங்குடி தாலுகா கரம்பக்குடி டவுன் நெல்மிசின் ரோட்டில் இருக்கும் இந்து செட்டியார் திருப்பதி செட்டியார் குமாரர் வியாபாரம் வங்கியின் மெம்பர் A2994 <u>T.ராமுக்கண்ணு தனக்காகவும் தனது மைனர் குமாரத்தி சுகஜீவணம் வங்கியின் இணை உறுப்பினர் மெம்பர் AM2953 லெட்சுமிபிரியா வயது 16 க்கு கார்டியனாகவும்–1,</u> மேற்படி ராமுக்கண்ணு மேஜர் குமாரர்கள் வியாபாரம் வங்கியின் இணை உறுப்பினர் மெம்பர் முறையே AM2954 மணிகண்டன் – 2 , AM 2955 கார்த்திகேயன் – 3 சேர்ந்து இதனடியில் அடமானம் வைப்பவர் என்று வழங்கப்படுபவர். அடமானம் வைப்பவர் என்றால் சந்தர்ப்பத்தையொட்டி அம்மொழிக்கு வேறு பொருள் ஏற்படாத வரையில் அவருடைய வாரிசுகள் அமுல் நடத்துகிறவர்கள்."

14. The above recitals would go to show that the deceased 1st defendant Ramukannu have executed Mortgage deed in respect of Karambakudi Primary Agricultural Co-operative rural development bank in the guise of guardian of the plaintiff which shows that the 1st defendant himself have admitted that the properties are joint family properties. Per contra, the learned counsel for the respondent would submit that mere recital in the document will not amount to estoppel merely because there was some recital which indicates as an ancestral property that does not mean it will be mean as an ancestral property and the facts available on record has to be appreciated with the applicable law and he would rely upon the judgment of the **Hon'ble High Court in Ramasamy Gounder and Others Vs. Chinnapillai and others 2022 (3) CTC 703 ruling as follows :**

<u>*" 28.It is clear from the above judgments that merely because a property is described as an ancestral property in the recitals of the document, that by itself is not a conclusive proof as to what is stated therein, more particularly when there are other materials to show that properties concerned are not*</u>

<u>ancestral properties.</u> In the present case, there is no pleading available in the plaint making reference to Ex.A3 and Ex.A4. Therefore, there was no occasion for the defendant to deny and to explain about the properties dealt with under Ex.A3 and Ex.A4. All of a sudden, these documents cropped up during evidence and it is clear from the parent documents that the properties concerned are not ancestral properties.

29.<u>Insofar as adding the name of the son while executing Ex.A3 and Ex.A4 documents, that by itself does not confer any right on the son. The above judgments have dealt with cases with almost similar facts and it has been held that such practice is 18 / 26 very common where the purchasers of the property insist for the son to join in the execution of the document along with the father.</u> Therefore, the son of the defendant joining the defendant in the execution of Ex.A3 and Ex.A4 documents, by itself does not convert the properties as ancestral properties".

15. The Hon'ble High Court by considering the plethora of decisions have reiterated that recital in the document is not conclusive merely because that it was referred as ancestral property that does not mean that it will be final and there are many causes such as insistent of the other party include sons / daughters though they are not co sharers and as a word of caution they are also added in many of the documents. Here is the case also mere reference in Ex.A.8 will not clothe the character of the property as ancestral property. There is no quarrel over the above said proposition of law. But as already held that there are materials to show that the properties are ancestral properties and the D.W.1 herself had admitted the said fact and hence the mere reliance on Ex.A.8 alone is not taken into consideration but the over all materials and

the preponderance and the probabilities of evidence would suggest the property is only an ancestral property.

16. The next out turn would be that the learned counsel for the defendant would vehemently contend that merely because the property was devolved from his ancestors the same cannot be coloured as ancestral property and when the father gets the property from whatever source from the grandfather or from other source be it separate property or joint Hindu family property that he will not take the property as a Kartha of his own family he would take as it an individual property is the contention of the learned counsel for the defendant.

17. It is to be noted both the parties are not disputing the documents namely, Ex.A.1 to Ex.A.9 and Ex.B.1 to Ex.B.5 as executed and they only claim that they are executed in the capacity of their legitimate right. Now let me consider the said point with regard to the fact whether when a father gets the property from the ancestral source by way of partition, whether he will get the property as a Kartha of his own family or as a successor . The said point have been discussed by the Hon'ble Supreme Court in **Yudhishter vs Ashok Kumar 1987 AIR SC 558 had held as follows :**

> "*Normally, therefore whenev- er the father gets a property from whatever source, from the grandfather or from any other source, be it separated property or not, his son should have a share in that and it will become part of the joint Hindu family of his son and grandson and other members who form joint Hindu family with him. This Court observed that this position has been affect- ed by section8 of the Hindu Succession Act, 1956 and, there- fore, after the Act, when the son inherited the property in the situation contemplated by section 8, he does not take it as Kar of his own undivided family but takes it in his individual capacity.*"

As per the above judgment would encipher even if the property was from the joint family nucleus that has to be termed only as a separate property or a self acquired property and the learned counsel for the defendant also relied upon the **Hon'ble Madras High Court in S.Murugan and others Vs. K.Sadayan and another 2019 4 LW 920** had held as follows :

“13. In the light of the abovesaid authorities, Kaveri having been succeeded by his wife and three sons and the suit property being the separate property of Kaveri, in such view of the matter, as per the devolution of interest under Section 8 of the Hindu Succession Act, 1956, during the life time of the father, the grand son or grand daughter cannot lay a claim of partition in the property derived by his father from his father and in such view of the matter, the plaintiffs being only the children and wife of the first defendant, the first defendant having derived the suit property, as put forth by him, as the separate property during his life time, the plaintiffs cannot lay any claim of share in the suit property and in such view of the matter, the Courts below are found to be justified in declining the reliefs prayed for by the plaintiffs.

14. In the light of the abovesaid discussions, the contention of the plaintiffs' counsel that the Courts below had misread Section 8 of the Hindu Succession Act, 1956 and erred in holding that the suit http://www.judis.nic.in S.A.No.224 of 2016 and C.M.P. No.16392 of 2019 property is the separate property of Sadayan and erred in holding that the plaintiffs are not entitled to claim share in the suit property cannot at all be countenanced and in such view of the matter, the reasonings and conclusions of the Courts below for declining the reliefs prayed for by the plaintiffs being founded on the proper appreciation of the materials available on record and the principles of law governing the issues involved between the parties in the matter, as above pointed out and not suffering from any infirmity or perversity in any manner, in such view of the matter, the same do not warrant any interference.”

18. The above judgment relied upon by the learned counsel for the defendant to the effect that when the property was devolved by way of succession u/s.8 of Hindu Succession Act by the father then the sons or daughters have no rights over the property. But admittedly in the present case, that the property was not succeeded by the father Ramukannu u/s.8 is the contention of the learned counsel for the plaintiff. According to him, it is true when a Hindu male gets the property under a partition or

any other source he will take the property as his own property and not as a Kartha of his own Hindu joint family. But the position will be treated as such until a son is born and at once son is born he will be entitled to claim the property by way of birth as a member of Hindu joint family property and he would rely upon the judgment of the **Hon'ble Supreme Court in Rohit Chauhan Vs.Surindhar singh and others 2013 2 LW 672 had held as follows :**

"We have bestowed our consideration to the rival submission and we find substance in the submission of Mr. Rao. In our opinion coparcenary property means the property which consists of ancestral property and a coparcener would mean a person who shares equally with others in inheritance in the estate of common ancestor. Coparcenary is a narrower body than the Joint Hindu family and before commencement of Hindu Succession (Amendment) Act, 2005, only male members of the family used to acquire by birth an interest in the coparcenary property. A coparcener has no definite share in the coparcenary property but he has an undivided interest in it and one has to bear in mind that it enlarges by deaths and diminishes by births in the family. It is not static. We are further of the opinion that so long, on partition an ancestral property remains in the hand of a single person, it has to be treated as a separate property and such a person shall be entitled to dispose of the coparcenary property treating it to be his separate property but if a son is subsequently born, the alienation made before the birth cannot be questioned. But, the moment a son is born, the property becomes a coparcenary property and the son would acquire interest in that and become a coparcener. The view which we have taken finds support from a judgment of this Court in the case of M. Yogendra v. Leelamma N., (2009) 15 SCC 184, in which it has been held as follows:

"29. It is now well settled in view of several decisions of this Court that the property in the hands of a sole coparcener allotted to him in partition shall be his separate property for the same shall revive only when a son is born to him. It is one thing to say that the property remains a coparcenary property but it is another thing to say that it revives. The distinction between the two is absolutely clear and unambiguous. In the case of former any sale or alienation which has been done by the sole survivor coparcener shall be valid whereas in the case of a coparcener any alienation made by the karta would be valid." Now referring to the decision of this

Court in the case of Bhanwar Singh (supra), relied on by respondents, the same is clearly distinguishable. In the said case the issue was in relation to succession whereas in the present case we are concerned with the status of the plaintiff vis-à-vis his father who got property on partition of the ancestral property.

A person, who for the time being is the sole surviving coparcener as in the present case Gulab Singh was, before the birth of the plaintiff, was entitled to dispose of the coparcenary property as if it were his separate property. Gulab Singh, till the birth of plaintiff Rohit Chauhan, was competent to sell, mortgage and deal with the property as his property in the manner he liked. Had he done so before the birth of plaintiff, Rohit Chauhan, he was not competent to object to the alienation made by his father before he was born or begotten. But, in the present case, it is an admitted position that the property which defendant no. 2 got on partition was an ancestral property and till the birth of the plaintiff he was sole surviving coparcener but the moment plaintiff was born, he got a share in the father's property and became a coparcener. As observed earlier, in view of the settled legal position, the property in the hands of defendant no. 2 allotted to him in partition was a separate property till the birth of the plaintiff and, therefore, after his birth defendant no. 2 could have alienated the property only as Karta for legal necessity. It is nobody's case that defendant no. 2 executed the sale deeds and release deed as Karta for any legal necessity. Hence, the sale deeds and the release deed executed by Gulab Singh to the extent of entire coparcenary property are illegal, null and void. However, in respect of the property which would have fallen in the share of Gulab Singh at the time of execution of sale- deeds and release deed, the parties can work out their remedies in appropriate proceeding."

19. The above judgment makes it categorically clear on partition of an ancestral property in the hands of a single person has to be treated as a separate property and such a person is also entitled to dispose of the property by treating it to be his separate property even if a son is born later cannot question the same . But the moment the son is born the property available becomes a coparcenery property and the son would acquire the interest of the coparcener and here is the case Ramukannu have got the property by way of partition from his brothers and it was already held

that the properties are from ancestral nucleus and hence, that when the son is born he will get the right of coparcener by birth and hence the learned counsel for the plaintiff would submit having regard to the nature of the property the plaintiff is entitled to succeed the suit being a member of joint family as per the mandate of the amendment to Hindu Succession Act under Act 39 of 2005.

20. The next question would be though the above judgment spells out only when son is born he will become a coparcener admittedly the petitioner / plaitniff is a woman whether she is entitled to suceed the estate of the family of Ramukannu by placing him as a Kartha. The said issue was set at rest by the 3 judges bench of the **Hon'ble Supreme court in Vineet sharma Vs. Rakesh Sharma and others 2020 (5) LW 300 had held as follows :**

“(i) The provisions contained in substituted Section 6 of the Hindu Succession Act, 1956 confer status of coparcener on the daughter born before or after amendment in the same manner as son with same rights and liabilities.

(ii) The rights can be claimed by the daughter born earlier with effect from 9.9.2005 with savings as provided in Section 6(1) as to the disposition or alienation, partition or testamentary disposition which had taken place before 20th day of December, 2004.

(iii) Since the right in coparcenary is by birth, it is not necessary that father coparcener should be living as on 9.9.2005.

(iv) The statutory fiction of partition created by proviso to Section 6 of the Hindu Succession Act, 1956 as originally enacted did not bring about the actual partition or disruption of coparcenary. The fiction was only for the purpose of ascertaining share of deceased coparcener when he was survived by a female heir, of

ClassI as specified in the Schedule to the Act of 1956 or male relative of such female. The provisions of the substituted Section 6 are required to be given full effect. Notwithstanding that a preliminary decree has been passed the daughters are to be given share in coparcenary equal to that of a son in pending proceedings for final decree or in an appeal.

(v) In view of the rigor of provisions of Explanation to Section 6(5) of the Act of 1956, a plea of oral partition cannot be accepted as the statutory recognised mode of partition effected by a deed of partition duly registered under the provisions of the Registration Act, 1908 or effected by a decree of a court. However, in exceptional cases where plea of oral partition is supported by public documents and partition is finally evinced in the same manner as if it had been affected by a decree of a court, it may be accepted. A plea of partition based on oral evidence alone cannot be accepted and to be rejected outrightly."

21. The above judgment by over ruling all the earlier precedents have held that Act 39 of 2005 is retroactive in nature and under the amended section 6 the right is given by birth that is an antecedent event and the provisions will operate concerning claimed rights on and from the date of amendment act and hence, as per the above judgment the daughters who had born before 09.09.2005 should be treated as coparceners by placing themselves as a son or a male and any document subsequent to cut off date 20.12.2004 is invalid in the eye of law when the properties are from the joint family nucleus or coparcenery properties. Now, by applying the above law to the present facts that it was already held the defendants have not disputed the fact, the properties were devolved upon Ramukannu the deceased 1st defendant by way of partition and it was admitted that the properties are not the self acquired properties of Thirupathi Chettiar Father of Ramukannu and it devolved ancestrally and the D.W.1

have admitted the said fact and in no part of the pleadings the defendants have disputed the said fact.

22. Now coming to the plea taken by the defendants that they have given sridhana to the plaintiff by way of gold, silver and other household utensils are concerned, are in the nature of gift given on a voluntary basis which cannot be termed as a share in the joint family property and even assuming that the plaintiff was given sridhana that will not in any way affect her right to claim share in the suit property being the ancestral properties of her family consisting of kartha namely the deceased 1st defendant Ramukannu.

23. In so far as the documents executed by the deceased Ramukannu and other plaintiffs namely documents Ex.A.1 infavour of the 3rd defendant and Ex.A.2 infavour of the 2nd defendant by deceased Ramukannu and the other defendants are concerned, that as already held that will not bind the right of the plaintiff to the extent of her share but however it will be binding upon the share of the deceased Ramukannu. Hence, the documents Ex.A.1 and Ex.A.2 will be valid to the extent of the share of the deceased Ramukannu and since the 4th defendant have also signed the said documents and her share on the demise of the deceased Ramukannu will also get affected by Ex.A.1 and Ex.A.2. In effect the plaintiff is entitled to succeed as a coparcener by way of 1/4th share in the suit property and the share of deceased Ramukannu the 1st defendant herein is concerned she will not be entitled to succeed the estate of Ramukannu over the suit properties as a survivor (as Ramukannu died

pending the suit after execution of documents). In effect, I hold the plaintiff is only entitled to 1/4th share in the suit property. The Issue No.1 is answered accordingly.

Issue No.2 :

24. In view of the answers to Issue No.1 that the documents executed by the defendants in between them styled as gift deeds is not binding on the plaintiff to the extent of the share of the plaintiff and hence, I have no other option except to hold the plaintiff is entitled for 1/4th share in the suit property as prayed for in the plaint.

Issue No.3 :

25. In view of the answers to Issue No.1 and 2 this issue has become redundant and otiose and the parties are not entitled for any other relief other than decided in the Issue No.1 and 2.

25. **In fine,** the Preliminary decree for partition is passed and the suit properties shall be divided into four equal shares by metes and bounds and one of such share shall be allotted to the plaintiff . No costs.

Suit adjourned sine die.

Directly dictated to the Steno-typist and typed by her in computer and corrected and pronounced by me in Open Court on this the 6th day of September, 2022.

S/d.A.Abdul Kadhar,

Principal District Judge,
Pudukkottai.

Plaintiff Side Witness :

PW1 – Tmt.Lakshmipriya

Plaintiff Side Documents :

Ex.A.1 – Sale deed in document no.1059/2012 dated 03.10.2012 – SRO Copy
Ex.A.2 – Settlement deed in document no.1423/2013 dated 18.09.2013 – SRO Copy
Ex.A.3 – Natham Land Tax Chitta in the name of Ramukannu – True Copy
Ex.A.4 – Legal Notice dated 04.01.2018 – Xerox Copy
Ex.A.5 – Reply Notice – Original
Ex.A.6 – Caviet Petition – Xerox Copy
Ex.A.7 – Property valuation report – Online Copy
Ex.A.8 – Mortgage deed in document no.98/2003 dated 04.02.2003 – SRO Copy
Ex.A.9 – Sale Agreement deed in document no.706/2018 dated 25.05.2018 – SRO Copy

Defendant Side Witness :

DW1 – Tmt.Mallika

DW2 – Thiru.Karthikeyan

Defendant Side Documents :

Ex.B.1 – Settlement deed in document no.1059/2012 dated 03.10.2012 – SRO Copy
Ex.B.2 – Sale Agreement deed in document no.300/2005 dated 23.03.2005 – Original
Ex.B.3 – Cancellation of Sale Agreement deed in document no.330/2008 dated 13.03.2008 – Original
Ex.B.4 – Sale Agreement deed in document no.735/2014 dated 15.07.2014 – Original
Ex.B.5 – Cancellation of Sale Agreement deed in document no.1563/2019 dated 19.11.2019 – Original

S/d.A.Abdul Kadhar,
Principal District Judge,
Pudukkottai.