

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE  
RAMANATHAPURAM**

Present: **Tmt.G.VIJAYA, B.A.M.L., PGDCFS**

Principal District Judge,

Ramanathapuram

**Tuesday , the 28<sup>th</sup> day of February 2023**

**ORIGINAL SUIT NO.13/2021**

**(CNR.No. TNRM 01-000854-2021)**

Salimullah

.... Plaintiff

/Vs/

Nabisathu Dhahira

.... Defendant

The suit was taken on file on 09.03.2021 and came up before me on 20.02.2023 for final hearing in the presence of Thiru.K.Muthukannan, Advocate for the plaintiff and of Thiru.R.Veerapan , Advocate for the defendant and perused the document and having stood over for consideration till this day, this court passed the following.

**JUDGMENT**

This suit is for passing a preliminary decree in favour of the plaintiff allotting 2/3 shares and to appointing an Advocate commissioner to divide the suit schedule properties as per shares allotted in the preliminary decree and pass

a final decree in terms of the respective specific shares and for mandatory and permanent injunction and for cost.

**2. BRIEF AVERMENTS CONTAINED IN THE PLAINT:-**

i) The suit properties are absolutely belongs to the mother of the Parties to the suit one Rasina Beevi. The father of the parties to the suit Jafarulla Khan died on 26.11.2016 and the mother of the parties to the suit died on 09.07.2019. The Plaintiff and the Defendant alone are the legal heirs of Jafarulla Khan and Rasina Beevi. After the demise of their parents as per the Muslim personal law the Plaintiff is entitled for 2 shares and the Defendant is entitled for 1 share in the properties owned by them.

ii) After the demise of their parents their properties were jointly enjoyed by both the Plaintiff and the Defendant without any partition. The Plaintiff worked at abroad and all his earnings at abroad were sent to his mother Rasina Beevi. In their family the Plaintiff alone was the earning of their family. The parents are aged and were without any separate income of their own. The marriage of the Defendant was performed in the year 1996 and with his income and with the income of his father 40 sovereigns of gold jewells were gifted to her and sridhana and house articles were also gifted to her worth of several lakh. The Defendant is very affluent and living along with her family members at Vellapuram. It is the Plaintiff who maintained his parents from his income

derived at abroad. And it is the Plaintiff who repaid his parents small loans and the funeral expenses were borne by the Plaintiff alone.

iii) The Plaintiff and the Defendant alone are entitled right over the suit properties. The first item of the suit property is a house and the second item of the suit property is cultivating land and the third property is a vacant plot. Out of the hard earned income of the Plaintiff the old house situated in the 3<sup>rd</sup> item of the suit property was demolished and a new house was constructed in the 1<sup>st</sup> item of the suit property and it is the Plaintiff who is living in the said house. And the 2<sup>nd</sup> and 3<sup>rd</sup> items of the suit properties are in the possession and enjoyment of the Plaintiff only.

iv) After the death of father Jafarulla mother Rasina Beevi was not keeping good health and hence she was under constant treatment for her ailments. It is the Plaintiff who used to send money from abroad for his mother's maintenance and for her medical expenses. During 2018 beginning mother was mentally affected and was not in her sense at all. At the Plaintiff was at abroad the Defendant and her husband misused the health condition of mother Rasina Beevi obtained an Inam Settlement deed on 31.01.2018 in respect of the 3<sup>rd</sup> item of the suit property.

v) The Inam settlement deed dated 31.01.2018 is not valid in the eye of law. further it is learnt that in respect of the share of the Plaintiff the Defendant has fabricated certain documents and hence those documents are not valid and not binding upon the Plaintiff.

vi) When the Plaintiff came to India for his mother's death he remained in India itself. When the Plaintiff approached the Defendant through panchayatars to give his share of properties she refused to give. The Defendant also openly declared that the except her the Plaintiff has no right or share in the suit properties. When panchayat was held on 20.10.2020 at Vellayapuram the Defendant refused to heed to the advice given by the panchayatars and also refused to given property to the Plaintiff. hence they asked the Plaintiff to seek his remedy through court of law. Hence the present suit is filed seeking for partition as the Plaintiff is entitled for 2 shares in the suit properties.

### **3. BRIEF AVERMENTS CONTAINED IN THE WRITTEN STATEMENT:-**

i) The averments contained in paragraph 1 of the plaint that the suit properties are absolutely belongs to the father of the parties to the suit Jafarulla Khan and to the mother of the Parties to the suit one Rasina Beevi and that the Plaintiff and the Defendant alone are the legal heirs of Jafarulla Khan and Rasina Beevi and as per the Muslim personal law the Plaintiff is entitled for 2 shares and the

Defendant is entitled for 1 share in the properties owned by them are denied by the Defendant and it is for the Plaintiff to prove the same.

ii) It is false to aver in paragraph 2 of the plaint that after the demise of their parents their properties were jointly enjoyed by both the Plaintiff and the Defendant without any partition. The Plaintiff worked at abroad and all his earnings at abroad were sent to his mother Rasina Beevi. In their family the Plaintiff alone was the earning of their family. Similarly it is also false to aver that as the parents are aged and were without any separate income of their own and the marriage of the Defendant was performed in the year 1996 and with his income and with the income of his father 40 sovereigns of gold jewells were gifted to her and sridhana and house articles were also gifted to her worth of several lakh and the Defendant is very affluent and living along with her family members at Vellapuram. It is the Plaintiff who maintained his parents from his income derived at abroad. And it is the Plaintiff who repaid his parents small loans and the funeral expenses were borne by the Plaintiff alone. As a matter of fact it is the Defendant who maintained her parents.

iii) It is false to aver in paragraph 3 of the plaint that the first item of the suit property is a house and the second item of the suit property is cultivating land and the third property is a vacant plot and out of his hard earned income of the Plaintiff the old house situated in the 3<sup>rd</sup> item of the suit property was

demolished and a new house was constructed in the 1<sup>st</sup> item of the suit property and it is the Plaintiff who is living in the said house and the 2<sup>nd</sup> and 3<sup>rd</sup> items of the suit properties are in the possession and enjoyment of the Plaintiff only and it is for the Plaintiff to prove the same.

iv) It is false to aver in paragraph 4 of the plaint that after the death of father Jafarulla mother Rasina Beevi was not keeping good health and hence she was under constant treatment for her ailments and it is the Plaintiff who used to send money from abroad for his mother's maintenance and for her medical expenses and during 2018 beginning mother was mentally affected and was not in her sense at all and as the Plaintiff was at abroad the Defendant and her husband misused the health condition of mother Rasina Beevi obtained an Inam Settlement deed on 31.01.2018 in respect of the 3<sup>rd</sup> item of the suit property. further it is also false to state that the 3<sup>rd</sup> Defendant has illegally mutated the revenue record and obtained Patta in her favour.

v) It is false to aver in paragraph 5 of the plaint that when the Plaintiff came to India for his mother's death he remained in India itself and when the Plaintiff approached the Defendant through panchayatars to give his share of properties she refused to give and the Defendant also openly declared that the except her the Plaintiff has no right or share in the suit properties. Further when panchayat was held on 20.10.2020 at Vellayapuram the Defendant refused to heed to the

advice given by the panchayatars and also refused to given property to the Plaintiff and hence they asked the Plaintiff to seek his remedy through court of law and hence the present suit is filed seeking for partition as the Plaintiff is entitled for 2 shares in the suit properties.

vi) As a matter of fact at the time of the marriage of the Defendant during 1996 the Plaintiff was 10 year old minor boy. Hence it is utter false to aver that at that age out of his income he gifted 40 sovereigns of jewells and gifted house hold articles worth of several lakh. In the certificate issued by the Jamath it is clearly mentioned that no jewells were given. As the husband of the Defendant is very affluent without any sridhana and jewells they married the Defendant. Whereas the Plaintiff from the childhood itself lead a wayward life style without perusing his education. Even after he went to Malaysia he spent all his income and never gave any money to the mother for her maintenance. The Plaintiff also never maintained the Defendant out of his income.

vii) Further during 1986 her mother Rasina Beevi was affected with cancer and it is she who took care of her and borne all the medical expenses. The case index in respect of the cancer treatment given to the mother and the other medical records relating to the treatment for diabetic etc are filed along with the written statement. The 1<sup>st</sup> item of the suit property is settled on mother Rasina Beevi by her grandfather Noorudhin on 05.07.2004 vide a settlement deed and

from that date onwards it is mother Rasina Beevi who was in possession and enjoyment of the said property and when she was down with ailments out of love and affection she settled the same on the Defendant as it is the Defendant who took care of her. Further in the settlement deed itself mother has stated that the Plaintiff has failed to maintain her and also failed to bore the funeral expenses of father Jabarulla. Hence as the Defendant took care of mother Rasina Beevi and the medical expenses were also borne by her she executed a WILL dated 06.03.2019 before a Notary Public which is enclosed along with the written statement. The tax receipt in the name of the Defendant is also enclosed herewith. Further the 3<sup>rd</sup> item of the suit property she purchased the same from one Anthonysamy during 2017 for a sum of Rs.90,000/- and she is possession and enjoyment of the same from the date of purchase. The Patta stands in the name of the Defendant in respect of the 3<sup>rd</sup> item of the suit property is enclosed herewith. The crop insurance for the years 2018 to 2020, the Adangal are also enclosed herewith. In respect of the 3<sup>rd</sup> item of the suit property joint Patta stood in the name of mother Rasina Beevi and out of her love and affection she settled the same on the Defendant vide Inam Settlement deed dated 31.01.2018. the document pertaining to the 3<sup>rd</sup> item of the suit property is enclosed herewith.

Viii) Though the Plaintiff worked at Malaysia where father was also working however he did not help him when he met with accident and died during 2016

and he did not even bother to spend for his funereal and it is her Aunt Ilmunisha who spent a sum of Rs.75,000/- for his funeral. Thereafter it is the Defendant who repaid the said amount to her Aunt. Further it is false to state that the Plaintiff came to India to attend his mother funeral. As a matter of fact he refused to come to mother's funeral and it is the Defendant who spent money for her mother's funeral. It is for the Plaintiff to prove that he came to India for the mother's death by producing his Passport.

ix) The Plaintiff never cared for the welfare of the family members and lead a wayward lavish life style. Further the Plaintiff is having illegal contact with one Sarabunisha of Vellaiyapuram for long time and along with her the Plaintiff attempted to disposes the Defendant from her house. Hence she lodged a complaint against the same on 26.01.2020 on the file of S.P.Pattinam Police station in CSR.NO.17 of 2020. In the enquiry the Plaintiff undertook that he would not disturb the Defendant's peaceful possession and enjoyment of the house property constructed by her. The CSR is enclosed herewith. As the Plaintiff sexually harassed the daughter of the said Sarabunisha case was registered against the Plaintiff and the said Sarabunisha under the POCSO Act in crime No.3 of 2020 on the file of All Women Police Station, Thiruvadanai and hence both of them were arrested. The FIR lodged against the Plaintiff is enclosed along with the written statement. After he was enlarged on bail with the intention to harass the Defendant is acting against her.

x) The Plaintiff was never in possession of the suit properties and having no right over the suit properties it is untenable on the part of the Plaintiff to seek partition of the same. Hence the Plaintiff is also not entitled for any injunction as prayed for.

3. Based on the Plaint, Written Statement and the documents on 07.07.2022 the following issues were framed;

1. Whether it is true that Rasina Beevi has executed a WILL dated 06.03.2019 in favour of the Defendant in respect of item 1 of the suit property and whether it is valid in the eye of law?
2. Whether it is true that Rasina Beevi has executed a settlement deed dated 31.01.2018 in favour of the Defendant in respect of item 3 of the suit property and whether it is valid in the eye of law?
3. Whether the Plaintiff is entitled for the relief of partition?
4. Whether the Plaintiff is entitled for Mandatory Injunction?
5. Whether the Plaintiff is entitled for permanent Injunction?
6. To what other relief the parties are entitled for?

4. On behalf of the Plaintiff he was examined as PW-1 and Ex.A1 to Ex.A7 marked and one Kasim Kithoor was examined as PW-2. On behalf of the Defendant she was examined as DW-1 and Ex.B1 to Ex.B14 was marked and one Saifur Rehman was examined as DW-2 and one Altaf Husai was examined as DW-3.

**ISSUE NOS. 1 to 3:-**

Whether it is true that Rasina Beevi has executed a WILL dated 06.03.2019 in favour of the Defendant in respect of item 1 of the suit property and whether it is valid in the eye of law?

Whether it is true that Rasina Beevi has executed a settlement deed dated 31.01.2018 in favour of the Defendant in respect of item 3 of the suit property and whether it is valid in the eye of law?

Whether the Plaintiff is entitled for the relief of partition?

5. The present suit is filed by the plaintiff seeking for partition of the suit properties. The case of the Plaintiff is that the suit properties are absolutely belongs to the mother of the Parties to the suit one Rasina Beevi. The father of the parties to the suit Jafarulla Khan died on 26.11.2016 and the mother of the parties to the suit died on 09.07.2019. the Plaintiff and the Defendant alone are the legal heirs of Jafarulla Khan and Rasina Beevi. After the demise of their parents as per the Muslim personal law the Plaintiff is entitled for 2 shares and the Defendant is entitled for 1 share in the properties owned by them.

6. Further case of the Plaintiff is that after the demise of their parents their properties were jointly enjoyed by both the Plaintiff and the Defendant without any partition. The Plaintiff worked at abroad and all his earnings at abroad were sent to his mother Rasina Beevi. In their family the Plaintiff alone was the

earning of their family. The parents are aged and were without any separate income of their own. The marriage of the Defendant was performed in the year 1996 and with his income and with the income of his father 40 sovereigns of gold jewells were gifted to her and sridhana and house articles were also gifted to her worth of several lakh. The Defendant is very affluent and living along with her family members at Vellapuram. It is the Plaintiff who maintained his parents from his income derived at abroad. And it is the Plaintiff who repaid his parents small loans and the funeral expenses were borne by the Plaintiff alone.

7. Further case of the Plaintiff is that the Plaintiff and the Defendant alone are entitled right over the suit properties. The first item of the suit property is a house and the second item of the suit property is cultivating land and the third property is a vacant plot. Out of the hard earned income of the Plaintiff the old house situated in the 3<sup>rd</sup> item of the suit property was demolished and a new house was constructed in the 1<sup>st</sup> item of the suit property and it is the Plaintiff who is living in the said house. And the 2<sup>nd</sup> and 3<sup>rd</sup> items of the suit properties are in the possession and enjoyment of the Plaintiff only.

8. Further case of the Plaintiff is that after the death of father Jafarulla mother Rasina Beevi was not keeping good health and hence she was under constant

treatment for her ailments. It is the Plaintiff who used to send money from abroad for his mother's maintenance and for her medical expenses. During 2018 beginning mother was mentally affected and was not in her sense at all. At the Plaintiff was at abroad the Defendant and her husband misused the health condition of mother Rasina Beevi obtained an Inam Settlement deed on 31.01.2018 in respect of the 3<sup>rd</sup> item of the suit property.

9. Further case of the Plaintiff is that the Inam settlement deed dated 31.01.2018 is not valid in the eye of law. Further it is learnt that in respect of the share of the Plaintiff the Defendant has fabricated certain documents and hence those documents are not valid and not binding upon the Plaintiff.

10. Further case of the Plaintiff is that when the Plaintiff came to India for his mother's death he remained in India itself. When the Plaintiff approached the Defendant through panchayatars to give his share of properties she refused to give. The Defendant also openly declared that the except her the Plaintiff has no right or share in the suit properties. When panchayat was held on 20.10.2020 at Vellayapuram the Defendant refused to heed to the advice given by the panchayatars and also refused to given property to the Plaintiff. hence they asked the Plaintiff to seek his remedy through court of law. Hence the present suit is filed seeking for partition as the Plaintiff is entitled for 2 shares in the suit properties. In order to prove his case the plaintiff has marked Ex.A1 to A7.

11. Per contra the contention of the Defendant is that the averments contained in paragraph 1 of the plaint that the suit properties are absolutely belongs to the father of the parties to the suit Jafarulla Khan and to the mother of the Parties to the suit one Rasina Beevi and that the Plaintiff and the Defendant alone are the legal heirs of Jafarulla Khan and Rasina Beevi and as per the Muslim personal law the Plaintiff is entitled for 2 shares and the Defendant is entitled for 1 share in the properties owned by them are denied by the Defendant and it is for the Plaintiff to prove the same. In order to prove his case the defendant has marked Ex.B1 to B14.

12. Further contention of the Defendant is that it is false to aver in paragraph 2 of the plaint that after the demise of their parents their properties were jointly enjoyed by both the Plaintiff and the Defendant without any partition. The Plaintiff worked at abroad and all his earnings at abroad were sent to his mother Rasina Beevi. In their family the Plaintiff alone was the earning of their family. Similarly it is also false to aver that as the parents are aged and were without any separate income of their own and the marriage of the Defendant was performed in the year 1996 and with his income and with the income of his father 40 sovereigns of gold jewells were gifted to her and sridhana and house articles were also gifted to her worth of several lakh and the Defendant is very affluent and living along with her family members at Vellapuram. It is the

Plaintiff who maintained his parents from his income derived at abroad. And it is the Plaintiff who repaid his parents small loans and the funeral expenses were borne by the Plaintiff alone. As a matter of fact it is the Defendant who maintained her parents.

13. Further contention of the Defendant is that it is false to aver in paragraph 3 of the plaint that the first item of the suit property is a house and the second item of the suit property is cultivating land and the third property is a vacant plot and out of his hard earned income of the Plaintiff the old house situated in the 3<sup>rd</sup> item of the suit property was demolished and a new house was constructed in the 1<sup>st</sup> item of the suit property and it is the Plaintiff who is living in the said house and the 2<sup>nd</sup> and 3<sup>rd</sup> items of the suit properties are in the possession and enjoyment of the Plaintiff only and it is for the Plaintiff to prove the same.

14. Further contention of the Defendant is that it is false to aver in paragraph 4 of the plaint that after the death of father Jafarulla mother Rasina Beevi was not keeping good health and hence she was under constant treatment for her ailments and it is the Plaintiff who used to send money from abroad for his mother's maintenance and for her medical expenses and during 2018 beginning

mother was mentally affected and was not in her sense at all and as the Plaintiff was at abroad the Defendant and her husband misused the health condition of mother Rasina Beevi obtained an Inam Settlement deed on 31.01.2018 in respect of the 3<sup>rd</sup> item of the suit property. Further it is also false to state that the 3<sup>rd</sup> Defendant has illegally mutated the revenue record and obtained Patta in her favour.

15. Further contention of the Defendant is that it is false to aver in paragraph 5 of the plaint that when the Plaintiff came to India for his mother's death he remained in India itself and when the Plaintiff approached the Defendant through panchayatars to give his share of properties she refused to give and the Defendant also openly declared that the except her the Plaintiff has no right or share in the suit properties. Further when panchayat was held on 20.10.2020 at Vellayapuram the Defendant refused to heed to the advice given by the panchayatars and also refused to given property to the Plaintiff and hence they asked the Plaintiff to seek his remedy through court of law and hence the present suit is filed seeking for partition as the Plaintiff is entitled for 2 shares in the suit properties.

16. Further contention of the Defendant is that as a matter of fact at the time of the marriage of the Defendant during 1996 the Plaintiff was 10 year old minor boy. Hence it is utter false to aver that at that age out of his income he

gifted 40 sovereigns of jewells and gifted house hold articles worth of several lakh. In the certificate issued by the Jamath it is clearly mentioned that no jewells were given. As the husband of the Defendant is very affluent without any sridhana and jewells they married the Defendant. Whereas the Plaintiff from the childhood itself lead a wayward life style without perusing his education. Even after he went to Malaysia he spent all his income and never gave any money to the mother for her maintenance. The Plaintiff also never maintained the Defendant out of his income.

17. Further contention of the Defendant is that during 1986 her mother Rasina Beevi was affected with cancer and it is she who took care of her and borne all the medical expenses. The case index in respect of the cancer treatment given to the mother and the other medical records relating to the treatment for diabetic etc are filed along with the written statement. The **1<sup>st</sup> item of the** suit property is settled on mother Rasina Beevi by her grandfather Noorudhin on 05.07.2004 vide **Ex.A1** a settlement deed and from that date onwards it is mother Rasina Beevi who was in possession and enjoyment of the said property and when she was down with ailments out of love and affection she settled the same on the Defendant as it is the Defendant who took care of her. Further in the settlement deed itself mother has stated that the Plaintiff has failed to maintain her and also failed to bore the funeral expenses of father Jabarulla. Hence as the Defendant took care of mother Rasina Beevi and the medical expenses were also borne by

her she executed a WILL dated 06.03.2019 before a Notary Public vide **Ex.B4** which is enclosed along with the written statement. The tax receipt in the name of the Defendant is also enclosed herewith. Further the **3<sup>rd</sup> item of the** suit property she purchased the same from one Anthonysamy during 2017 for a sum of Rs.90,000/- and she is possession and enjoyment of the same from the date of purchase. The Patta stands in the name of the Defendant in respect of the **3<sup>rd</sup> item of** the suit property is enclosed herewith. The crop insurance for the years 2018 to 2020, the Adangal **Vide Ex B7** .are also enclosed herewith. In respect of the **3<sup>rd</sup> item of** the suit property joint Patta stood in the name of mother Rasina Beevi and out of her love and affection she settled the same on the Defendant **vide Ex.B8** Inam Settlement deed dated 31.01.2018. the document pertaining to the **3<sup>rd</sup> item of** the suit property is enclosed herewith.

18. Further contention of the Defendant is that though the Plaintiff worked at Malysia where father was also working however he did not help him when he met with accident and died during 2016 and he did not even bother to spend for his funereal and it is her Aunt Ilmunisha who spent a sum of Rs.75,000/- for his funeral. Thereafter it is the Defendant who repaid the said amount to her Aunt.

19. Further it is false to state that the Plaintiff came to India to attend his mother funeral. As a matter of fact he refused to come to mother's funeral and it is the Defendant who spent money for her mother's funeral. It is for the Plaintiff to prove that he came to India for the mother's death by producing his Passport.

20. Further contention of the Defendant is that the Plaintiff never cared for the welfare of the family members and lead a wayward lavish life style. Further the Plaintiff is having illegal contact with one Sarabunisha of Vellaiyapuram for long time and along with her the Plaintiff attempted to disposes the Defendant from her house. Hence she lodged a complaint against the same on 26.01.2020 on the file of S.P.Pattinam Police station in CSR.NO.17 of 2020. In the enquiry the Plaintiff undertook that he would not disturb the Defendant's peaceful possession and enjoyment of the house property constructed by her. The CSR is enclosed herewith. As the Plaintiff sexually harassed the daughter of the said Sarabunisha case was registered against the Plaintiff and the said Sarabunisha under the POCSO Act in crime No.3 of 2020 on the file of All Women Police Station, Thiruvadanaï and hence both of them were arrested. The FIR lodged against the Plaintiff is enclosed along with the written statement. After he was enlarged on bail with the intention to harass the Defendant is acting against her.

21. Further contention of the Defendant is that the Plaintiff was never in possession of the suit properties and having no right over the suit properties it is untenable on the part of the Plaintiff to seek partition of the same. Hence the Plaintiff is also not entitled for any injunction as prayed for.

22. This court has given its anxious consideration on the rival contentions of both the parties. As taken earlier the present suit is filed seeking for partition of

the suit properties. The father of the parties to the suit Jafarulla Khan died on 26.11.2016 and the mother of the parties to the suit Rasina Beevi died on 09.07.2019 and the Plaintiff and the Defendant alone are the legal heirs of Jafarulla Khan and Rasina Beevi. In respect of the above there is no dispute between the parties.

23. However the case of the plaintiff is that the suit properties are absolutely belongs to the mother of the Parties to the suit one Rasina Beevi. After the demise of their parents the Plaintiff and the Defendant alone are entitled right over the suit properties and hence their properties were jointly enjoyed by both the Plaintiff and the Defendant without any partition and hence after the demise of their parents as per the Muslim personal law the Plaintiff is entitled for 2 shares and the Defendant is entitled for 1 share in the properties owned by them.

24. Whereas the contention of the Defendant is that the 1<sup>st</sup> item of the suit property is settled on mother Rasina Beevi by her grandfather Noorudhin on 05.07.2004 vide **Ex.A1** a settlement deed and from that date onwards it is mother Rasina Beevi who was in possession and enjoyment of the said property and when she was down with ailments out of love and affection she settled the same on the Defendant as it is the Defendant who took care of her. Further in the settlement deed itself mother has stated that the Plaintiff has failed to maintain her and also failed to bore the funeral expenses of father Jabarulla.

Hence as the Defendant took care of mother Rasina Beevi and the medical expenses were also borne by her she executed a WILL dated 06.03.2019 before a Notary Public which is enclosed along with the written statement. The tax receipt in the name of the Defendant is also enclosed herewith.

25. The Defendant would further contend that, the 2<sup>nd</sup> item of the suit property she purchased the same from one Anthonysamy during 2017 for a sum of Rs.90,000/- and she is possession and enjoyment of the same from the date of purchase. The Patta stands in the name of the Defendant in respect of the 3<sup>rd</sup> item of the suit property is enclosed herewith. The crop insurance for the years 2018 to 2020, the Adangal are also enclosed herewith.

26. The Defendant would further contend that, in respect of the 3<sup>rd</sup> item of the suit property joint Patta stood in the name of mother Rasina Beevi and out of her love and affection she settled the same on the Defendant vide **Ex.B8** Inam Settlement deed dated 31.01.2018. the document pertaining to the 3<sup>rd</sup> item of the suit property is enclosed herewith. Hence the Defendant would contend that, the Plaintiff was never in possession of the suit properties and having no right over the suit properties and it is untenable on the part of the Plaintiff to seek partition of the same.

27. On a careful perusal of the pleadings of both sides and upon consideration of the records, the present suit is filed seeking for partition in respect 3 properties. Though the Plaintiff claims that all the three properties belonged to his parents however during cross examination he admitted that originally it belongs to one Noordheen, grandfather of the parties to the suit, who executed an Inaam settlement dated 5.7.2004 **vide Ex.A1** in favour of one Rasina Beevi, the mother of the parties to the suit. The clear admission of the Plaintiff would go to prove that the 1<sup>st</sup> item of the suit property is the absolute property of the mother of the parties to the suit.

28. No doubt after the death of the mother of the parties to the suit both the Plaintiff and the Defendant are entitled for share in her properties as their personal laws. However in the case in hand it is the claim of the Defendant that after the Inaam settlement was executed in favour of Rasina Beevi. She was in possession and enjoyment of the 1<sup>st</sup> item of the suit property and subsequently a WILL dated 6.3.2019 **vide Ex.B4** she bequeathed the same in favour of the defendant and after the death of mother Rasina beevi, she is in possession and enjoyment of the same.

29. Though as per the Muslim Personal Law Rasina Beevi cannot execute a WILL in respect of the entire extent of the 1<sup>st</sup> item of the suit property and can

execute a WILL in respect of 1/3<sup>rd</sup> alone, Rasina Beevi has executed an unregistered WILL in favour of the Defendant in respect of the entire extent of the 1<sup>st</sup> item of the suit property.

30. Now let us discuss as to whether the WILL is valid in respect of the 1/3<sup>rd</sup> share in the 1<sup>st</sup> item of the suit property. Before going into the merits of the case it is relevant to reproduce the principles which are culled out from various judgments of the Hon'ble Apex court and the Hon'ble High courts with regard to the proof of WILL.

31. The propounder has to show that the WILL was signed by the testator; that he was at the relevant time in a sound disposing state of mind, that he understood the nature and effect of the dispositions, that he put his signature to the testament of his own free WILL and that he has signed it in the presence of the two witnesses who attested it in his presence and in the presence of each other. Once these elements are established, the onus which rests on the Propounder is discharged. But there may be cases in which the execution of the WILL itself is surrounded by suspicious circumstances, such as, where the signature is doubtful, the testator is of feeble mind or is overawed by powerful minds interested in getting his property, or where in the light of the relevant circumstances the dispositions appear to be unnatural,

improbable and unfair, or where there are other reasons for doubting that the dispositions of the WILL are not the result of the testator's free WILL and mind. In all such cases where there may be legitimate suspicious circumstances those must be reviewed and satisfactorily explained before the WILL is accepted. Again in cases where the propounder has himself taken a prominent part in the execution of the WILL which confers on him substantial benefit that is itself one of the suspicious circumstances which he must remove by clear and satisfactory evidence. After all, ultimately it is the conscience of the court that has to be satisfied, as such the nature and quality of proof must be commensurate with the need to satisfy that conscience and remove any suspicion which a reasonable man may, in the relevant circumstances of the case, entertain.

32. Now based on the above said solemn principles of law now it is to be seen that whether the Defendant has proved the WILL dated 06.03.2019 [Ex.B4] said to have been executed in favour of the Defendant. In-order to prove the due execution of the WILL dated 06.03.2019 the Defendant examined the attesting witness as DW-2 and DW-3.

33. In respect of the execution of WILL in favour of the defendant she examined DW-2 and DW-3. During chief examination DW-2 would categorically deposed that the said Rasina Beevi executed a WILL in respect of

the 1<sup>st</sup> item of the suit property in favour of the defendant in the presence of a Notary Public. In which he and DW-3 made their signatures as witnesses to the said WILL. Similarly during chief examination DW-3 also deposed the same. Though both DW-2 and DW-3 were elaborately cross examined by the Plaintiff however their evidence was not shaken by him.

34. On perusal of the deposition of DW-2 and DW-3 are the close relatives of the parties to the suit and they are not strangers to them. Hence as the 1<sup>st</sup> item of the suit property is bequeathed to the Defendant leaving the Plaintiff, it cannot be gainsaid that the WILL is not valid and DW-2 and DW-3 are the men of the Defendant. Therefore from the deposition of DW-2 and DW-3 it is evident that Ex.B4 WILL was duly executed in favour of the Defendant though it is not valid in respect of the entire extent of the 1<sup>st</sup> item of the suit property. Moreover the WILL was executed in favour of the Defendant on 06.03.2019. After execution nearly for four months she was alive and died on 09.07.2019. Though the Plaintiff alleges that he was in contact with his mother and used to send money for her maintenance however he has not taken any action against the execution of the WILL in favour of the Defendant. Further even after the death of Rasina Beevi the Defendant dealt with the property and the Plaintiff has not raised any objection till 2020.

35. In respect of the above it is also relevant to mention about the cross examination of the Plaintiff for better understanding of the case in hand;

"...நான் பிறந்த தேதி 05.09.1981. பிரதிவாதிக்கு 1996 ல் திருமணம் நடந்தது. பிரதிவாதிக்கு திருமணம் நடக்கும்போது எனக்கு 15 வயது இருக்கலாம். அப்பொழுது எனது மாமா மளிகைகடையில் வேலை பார்த்து வந்தேன். நான் வெளிநாட்டிற்கு செல்லும்போது 23 வயது இருக்கலாம். நான் வெளிநாடு சென்று சம்பாதித்து தான் பிரதிவாதிக்கு 1996 ல் திருமணம் செய்து வைத்தேன் என்று நான் கூறியிருந்தால் அது தவறு ஆனால் நான் உள்ளூரில் இருக்கும்போது வேலை செய்து திருமணத்திற்கு உதவியுள்ளேன். இந்த விவரத்தை நான் பிரதிலோ முதல் விசாரணையிலோ கூறவில்லை என்றால் சரிதான். எனது பெற்றோருக்கு தனிப்பட்ட வருமானம் இருந்தது. எனது பெற்றோருக்கு தனிப்பட்ட வருமானம் இருந்ததில்லை என்று நான் கூறியிருந்தால் அது தவறு. எனது தாயார் 2019 ல் காலமானார். அதன் பின்னர் தான் நான் இந்தியாவிற்கு வந்தேன். வெளிநாட்டில் இருந்து சம்பாதித்து எனது பெற்றோருக்கு நான் பணம் அனுப்பியுள்ளேன். எனது முதலாளி ஆட்கள் மூலமாக எனது தாயாருக்கு நான் பணம் கொடுப்பேன் ஆனால் அதற்கு தற்பொழுது என்னிடம் ஆதாரம் இல்லை. எனது முதலாளி எனது அம்மாவிற்கு பணம் கொடுத்ததை போல மீதியை நான் அங்கு சம்பளமாக பெற்று கொள்வேன்.



காரணத்தினாலும் எனது நடவடிக்கை சரியல்லாத காரணத்தினாலும் தான் எனது தாயார் என்னை கண்டித்தார்கள் என்று சொன்னால் சரியல்ல. எனக்கு திருமணமாகி விட்டது. எனது மனைவி பெயர் சரபு நிஷா. அவருக்கு ஏற்கனவே திருமணமாகி விவகாரத்து பெற்றிருந்தார். 2003 ல் விவகாரத்து பெற்றிருந்தார். அதன் பின்னர் அவர்கள் சேர்ந்து வாழவில்லை. குழந்தையை பார்க்க அவ்வ பொழுது வருவார். எனது மனைவிக்கு தேவை என்றால் நான் வெளிநாட்டிலிருந்து பணம் அனுப்புவேன். 5 வருடங்களுக்கு முன்பு இருந்து எனது மனைவி பணம் கேட்டால் அனுப்பிவைப்பேன். கடந்த 26.01.2020 ல் எனக்கும் எனது மனைவிக்கும் நாசூர் பள்ளி வாசலில் திருமணம் நடந்தது என்றால் சரிதான். அதற்கு முன்பு அவர் எனது மனைவி இல்லை. அவர் பக்கத்து வீட்டிலிருந்தார். பழக்கத்தின் அடிப்படையில் பணம் கேட்பார் நான் அனுப்புவேன். எனது தாயாருக்கு பணம் அனுப்பியதற்கான ஆதாரம் என்னிடம் இல்லை. சரபு நிஷாவின் மகள் பெயர் சபிகா பர்வீன். சபிகா பர்வீனும், அவரது தந்தையும் திருவாடனை அனைத்து மகளிர் காவல் நிலையத்தில் எனக்கு எதிராக போக்ஸோ வழக்கு தாக்கல் செய்துள்ளார்கள் என்றால் சரிதான் ஆனால் அது பொய்யான வழக்காகும். ஆரம்பத்திலிருந்தே எனது நடவடிக்கைகள் எதுவும் சரியில்லாத காரணத்தினால் தான் எனது தாயார் பிரதிவாதி பெயரில் தாவா 1 மற்றும் 3

இலக்க சொத்துகளை எழுதினார். தாவா சொத்துகளில் நான் அனுபவத்தில் இல்லை என்று தெரிந்தே எனது மனைவியின் தூண்டுதலில் இந்த வழக்கை தாக்கல் செய்துள்ளேன் என்று சொன்னால் சரியல்ல. இந்த சொத்துகள் சம்பந்தமா எனக்கும் எனது சகோதரிக்கும் இடையில் ஜமாத்தில் பஞ்சாயத்து எதுவும் நடக்கவில்லை. ஆனால் ஜமாத்தில் நீதிமன்றத்தின் மூலம் சுமுகமாக பிரித்து கொள்ளுமாறு கூறினார்கள். பஞ்சாயத்து எதுவும் நடைபெறவில்லை என்றும் வழக்கிற்காக தவறாக கூறுகிறேன் என்று சொன்னால் சரியல்ல. தாவா 1 ம் இலக்க சொத்தில் பிரதிவாதி குடியிருப்பது சம்பந்தமாக நான் பிரச்சனை செய்தேன் என்றால் சரியல்ல. எனக்கு எதிராக பிரதிவாதி எஸ்.பி.பட்டினம் காவல் நிலையத்தில் புகார் கொடுத்தார் என்றால் சரிதான். காவல் நிலையத்தில் சொத்து சம்பந்தமாக நீதிமன்றத்தின் மூலம் நான் பார்த்து கொள்கிறேன் என்று எழுதி கொடுத்தேன். நான் காவல் நிலையத்தில் அதுவரை பிரதிவாதிக்கு தொல்லை கொடுக்க மாட்டேன் என்று சொன்னால் சரிதான். தற்பொழுது என்னிடம் காண்பிக்கப்படும் வாக்குமூலம் நான் எழுதி கொடுத்ததுதான் அது பி.வா.சா.1 ஆக குறியீடு செய்யப்படுகிறது. தாவா சொத்துகளில் நான் ஆரம்பத்திலிருந்தே கூட்டு அனுபவத்தில் இருந்ததில்லை என்று சொன்னால் சரியல்ல. கூட்டு அனுபவத்தில் இருந்தேன் என்று நான் தாவா தாக்கல் செய்துள்ளது தவறு

என்று சொன்னால் சரியல்ல. நான் கேட்கும் பரிகாரம் எனக்கு கிடைக்க  
கூடியதில்லை என்று சொன்னால் சரியல்ல.

36. On a careful perusal of the above though the plaintiff claims that right in the 1<sup>st</sup> item of the suit property however when he was confronted with the WILL allegedly executed by his mother in favour of the defendant, he would feign ignorance of the same. Further though the Plaintiff claims that the Defendant has fraudulently obtained the WILL from his mother however nowhere he has denied the signature of his mother found in the Ex.B4. Further though the Plaintiff contend that the WILL was obtained by the Defendant fraudulently however no piece of evidence is available in respect of the same.

37. Further it is the case of the Plaintiff that using undue influence she obtained the WILL and hence it is for him to prove the case of undue influence and fraud played by the Defendant and her husband in obtaining the alleged WILL. In a line of Judgments it has been categorically held by Hon'ble High Court and Hon'ble Apex court that where the validity of WILL is challenged on the ground of fraud, coercion and undue influence the burden of proof would be on the caveator. Person pleading forgery, has to establish such plea by cogent evidence and the initial burden of proof of forgery is on the person alleging forgery. When no such evidence is let in to establish forgery the burden of proof will not shift to the other person. In the same judgment it has been held

that mere reduction or deprivation of share of natural heir under a WILL, will not throw any suspicious circumstances and that such disinheritance will have to be considered while appreciating evidence and attending circumstances under which testator chose to disinherit such natural heir.

38. Further though the Plaintiff alleges that, after the death of father Jafarulla mother Rasina Beevi was not keeping good health and hence she was under constant treatment for her ailments and it is the Plaintiff who used to send money from abroad for his mother's maintenance and for her medical expenses and during 2018 beginning mother was mentally affected and was not in her sense at all and as the Plaintiff was at abroad the Defendant and her husband misused the health condition of mother Rasina Beevi; however no piece of evidence was produced by him to prove the same.

39. Further though the Plaintiff would contend that out of his hard earned income at abroad a house was built in the 1<sup>st</sup> item of the suit property, and it is the Plaintiff who is living in the said house, which is vehemently denied by the Defendant, the Plaintiff has not filed any document to prove the same and no evidence was let in by him to prove the same. Further it is also admitted by the Plaintiff that it is the defendant who is in possession and occupation of the 1<sup>st</sup> item of the suit property.

40. Hence from the foregoing discussions this court is of the considered view that while executing Ex.B4 Rasina Beevi was in sound disposing state of mind and there is no suspicious circumstances surrounded it to brush it aside and the Defendant /propounder has cogently proved the execution of WILL Ex.B4 to the satisfaction of this court.

41. Therefore taking into consideration of the above, this court is of the considered view that, the WILL dated 06.03.2019 in favour of the Defendant is valid in respect of  $\frac{1}{3}^{\text{rd}}$  of the 1<sup>st</sup> item of the suit property and is binding upon the Plaintiff. In respect of the remaining  $\frac{2}{3}^{\text{rd}}$  of the 1<sup>st</sup> item of the suit property, the Plaintiff is entitled for 2 shares and the defendant is entitled for 1 share as legal heirs of the said Rasina Beevi.

42. Now coming to the 2<sup>nd</sup> item of the suit property it is the case of the Plaintiff that he is entitled for his share in their parents property as per their personal law. However, the Plaintiff has not explained about the nature of the 2<sup>nd</sup> item of the suit property.

43. Whereas the contention of the Defendant is that, the 2<sup>nd</sup> item of the suit property was purchased by her from one Anthonysamy during 2017 for a sum of Rs.90,000/- and she is possession and enjoyment of the same from the date of

purchase and the Patta stands in her name. In-order to prove the same the Defendant has marked the Patta stands in her name and the crop insurance for the years 2018 to 2020 and the Adangal as exhibits.

44. Though during cross examination the Plaintiff deny the above said aspect and would depose that the 2<sup>nd</sup> item of the suit property is their ancestor property and his mother was in possession of the 2<sup>nd</sup> item of the suit property and Patta stood in her name and he was also in possession of the same however no iota of evidence is available in respect of his contention.

45 For better appreciation of the case in hand the cross examination of PW-1 is reproduced below;

"...தாவா 2 ம் இலக்க சொத்து பூர்விக சொத்து அதில் நான் அனுபவம் இருந்துள்ளேன். என் தாயார் அந்த சொத்தை அனுபத்திலிருந்தார் நான் வெளிநாட்டில் இருந்தேன். அந்த சொத்திற்கு எனது தாயார் வரி கட்டியுள்ளார். வரி ரசீதுகளை நான் நீதிமன்றத்தில் தாக்கல் செய்யவில்லை..."

46. Further during cross examination he also admitted that "...தாவா 2 ம் இலக்க சொத்திற்கு நானும் எனது தாயாரும் பயிர் காப்பீடு செய்து கொள்ளவில்லை. பிரதிவாதி பயிர் காப்பீடு செய்துள்ளார். கடந்த 2, 3 வருடங்களாக அவர் பயிர் காப்பீடு செய்துள்ளார்.

47. Further though he would depose during cross examination that "...தாவா 2ம் இலக்க சொத்தில் இருந்து நான் வருமானம் பெற்றுள்ளேன். எனது தாயார் பயிர் செய்து வருமானம் அடைந்தார். நான் பயிர் எதும் செய்யவில்லை காரணம் நான் வெளிநாட்டில் இருந்தேன்..." However in respect of the same no evidence is available.

48. Therefore taking into consideration of the above this court is of the considered view that as the Plaintiff failed to prove his right over the 2<sup>nd</sup> item of the suit property he is not entitled for a share in the 2<sup>nd</sup> item of the suit property.

49. Now coming to the 3<sup>rd</sup> item of the suit property, the case of the Plaintiff is that the suit properties are absolutely belongs to the mother of the Parties to the suit Rasina Beevi and after the demise of their parents their properties were jointly enjoyed by both the Plaintiff and the Defendant without any partition and as per the Muslim personal law the Plaintiff is entitled for 2 shares and the Defendant is entitled for 1 share in the properties owned by them and the 2<sup>nd</sup> and 3<sup>rd</sup> items of the suit properties are in the possession and enjoyment of the Plaintiff only. However nowhere it was specifically mentioned about the nature of the 3<sup>rd</sup> item of the suit property and no document is filed to prove the possession of the Plaintiff in the 3<sup>rd</sup> item of the suit property.

50. Further it is the case of the Plaintiff that, after the death of father Jafarulla mother Rasina Beevi was not keeping good health and hence she was under constant treatment for her ailments and it is the Plaintiff who used to send money from abroad for his mother's maintenance and for her medical expenses and during 2018 beginning mother was mentally affected and was not in her sense at all. At the Plaintiff was at abroad the Defendant and her husband misused the health condition of mother Rasina Beevi obtained an Inam Settlement deed on 31.01.2018 in respect of the 3<sup>rd</sup> item of the suit property and hence the Inam settlement deed dated 31.01.2018 is not valid in the eye of law.

51 Whereas the contention of the Defendant is that, in respect of the 3<sup>rd</sup> item of the suit property joint Patta stood in the name of mother Rasina Beevi and out of her love and affection she settled the same on the Defendant vide Inam Settlement deed dated 31.01.2018.

52. On analysing the pleadings of the parties to the suit though both of them claim that it is their mother who was in possession and enjoyment of the 3<sup>rd</sup> item of the suit property however during cross examination of PW-1 they both exhibited a different story in respect of the ownership of the 3<sup>rd</sup> item of the suit property.

53. For better appreciation of the case in hand the cross examination of PW-1 is reproduced below;

“....தாவா 3 ம் இலக்க சொத்தின் சர்வே எண். 165/38. அது 2 3/4 சென்ட் ஆகும். இந்த சொத்தை பொறுத்து இப்ராகிம், சய்பு ரகுமான், உதுமான் அலி, முஸ்தபா ஆகியோர் பெயரில் பட்டா உள்ளது. அதில் இப்ராகிம் எனது தாத்தா என்பதால் இந்த சொத்திலும் பாகம் கேட்கிறேன். இந்த 2 3/4 சென்டில் மற்றவர்களுக்கு எந்த உரிமையும் இல்லை. ஆனால் தாவா 3 ம் இலக்க சொத்து இன்று வரை நான்கு பேரிலும் கூட்டு பட்டாவில் உள்ளது என்று சொன்னால் சரிதான். நான்கு நபர்களும் அவர்களுக்குரிய பாகத்தை பிரித்து கொண்டார்கள் என்று காட்டுவதற்கு ஆவணம் எதையும் நான் நீதிமன்றத்தில் தாக்கல் செய்யவில்லை. நான் கூறுவது தவறு என்றும் தாவா 3 ம் இலக்க சொத்தில் மேற்குறிப்பிட்ட நான்குபேருக்கும் உரிமை உள்ளது என்றும் அவர்களையும் இந்த வழக்கில் தரப்பினராக சேர்க்கவேண்டும் என்று சொன்னால் சரியல்ல. எனது தாயார் 3 ம் இலக்க சொத்தை பொறுத்து எனது சகோதரி பெயரில் 31.01.2018 அன்று இனாம் சென்டில்மென்ட் எழுதி வைத்தார் என்று சொன்னால் எழுதி வைத்துள்ளார் ஆனால் அது சட்டபடி செல்லாது. ஆனால் அது சம்பந்தமான பரிகாரம் கேட்கவில்லை அதற்கு மாறாக பாகம் கேட்டுள்ளேன்...”

54. From the cross examination of PW-1 it reveals that joint Patta stands in respect of the 3<sup>rd</sup> item of the suit property stands in the name of Ibrahim, Saibu

Rehman, Uduman Ali and Mustafa and all the four persons are entitled for share in the 3<sup>rd</sup> item of the suit property. However those persons were not arrayed as parties to the suit.

55. Further the Plaintiff has also not adduced any evidence to show that after partition the 3<sup>rd</sup> item is allotted to his grandfather Ibrahim alone. Further the Plaintiff has also not stated about the legal heirs of the said Ibrahim and no genealogy tree is filed by him.

56. Further though the Defendant claim that her mother was in possession and enjoyment of the 3<sup>rd</sup> item of the suit property and out of love and affection she executed a Inam Settlement in her favour on 31.01.2018 however it is her own case that that property belongs to the above said four persons. Then it is for her to explain as to how her mother got the property and later settled on the Defendant.

57. Though the Defendant has not raised the plea of non-joinder of necessary parties in the written statement and no necessary issues were framed in respect of the same, however as a corollary issue it can be raised and decided as question of law can be raised at any point of time. Hence taking into consideration of the above this court is of the considered view that as the Plaintiff has not arrayed the above said Ibrahim, Saibu Rehman, Uduman Ali

and Mustafa or their legal heirs this suit is hit by non-joinder of necessary parties.

58. Further it is also relevant to note that admittedly the Plaintiff has also not prayed to set aside the settlement deed dated 31.01.2018 executed by Rasina Beevi in favour of the Defendant in respect of item 3 of the suit property as not valid in the eye of law though he sought for partition in respect of the 3<sup>rd</sup> item of the suit property. Even after the cross examination also he did not chose to implead the above said Ibrahim, Saibu Rehman, Uduman Ali and Mustafa or their legal heirs in this suit nor did he chose to amend the prayer in respect of the alleged settlement deed dated 31.01.2018.

59. Hence though this court has held that in the 1<sup>st</sup> item of the suit property the Plaintiff is entitled for his share however as the suit is hit by non-joinder of necessary parties it is liable to be dismissed.

60. Further during cross examination PW-1 deposed that "...தாவா சொத்துகளை வேறு பூர்விக சொத்துகள் எண்ணிடம் இல்லை. எனது தாயாரின் நகைகள், வீட்டு உபயோக பொருட்கள் பிரதிவாதியிடம் உள்ளது. எனது தாயார் எவ்வளவு நகைகள் வைத்திருந்தார் எனக்கு தெரியாது. 20 சவரன் வைத்திருக்கலாம். அந்த நகையின் உரிமையை நான் கோரவில்லை. இந்த விவரத்தை நான் பிராதில் குறிபிடவில்லை என்றால்

சரிதான். ..” which goes to show that he has not asked for any partition in respect of the jewells of his mother. Hence as rightly questioned by the Defendant this suit is bit by partial partition also.

61. Therefore taking into consideration of all the above this court is of the considered view that though the WILL dated 06.03.2019 executed by Rasina Beevi in favour of the Defendant in respect of item 1 of the suit property is valid in the eye of law in respect of the 1/3<sup>rd</sup> of the property and the Plaintiff is entitled for his share in the remaining 2/3<sup>rd</sup> share in the 1<sup>st</sup> item of the suit property; and as the Plaintiff has not prayed to set aside the settlement deed dated 31.01.2018 executed by Rasina Beevi in favour of the Defendant in respect of item 3 of the suit property as not valid in the eye of law; he is not entitled for the relief of partition as the suit is hit by non-joinder of necessary parties and Partial partition. Hence issues 1 to 3 are answered accordingly.

**ISSUE NO.4 & 5:-**

Whether the Plaintiff is entitled for Mandatory Injunction?

Whether the Plaintiff is entitled for permanent Injunction?

62. As issues 1 to 3 are answered against the Plaintiff he is not entitled for the relief of Mandatory and Permanent Injunction. And hence these issues are also answered accordingly.

**ISSUE NO.6:-** To what other relief the parties are entitled for?

63. Taking into consideration of the facts and circumstances of the case the Plaintiff is not entitled for any other relief and hence this issue is answered accordingly.

**In the result;**

The suit is dismissed. However, taking into consideration of the relationship of the parties to the suit there is no order as to cost.

Dictated to the Steno-Typist and computerized by her directly, corrected and pronounced by me in open Court, this the **28<sup>th</sup> day of February 2023.**

Principal District Judge  
Ramanathapuram

**Witness examined on the side of the plaintiff:-**

PW1 - Thiru.Salimullah

PW2 - Thiru.Kasim Kethur Mohammed

**Exhibits marked on the side of the plaintiff:-**

Ex.A1	05.07.2004	Certified copy of Settlement deed in favour of Rasina Beevi
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Ex.A2	09.11.2020	True copy of Adangal receipt in Survey no.164 and house Photo
Ex.A3		Photo copy of Survey Field A- Register in the name of Rahima Beevi
Ex.A4	28.10.2020	Computerized copy of Patta in Survey No.155/3 and Sketch
Ex.A5	09.11.2020	True copy of UDR Patta in Survey No.381 /38
Ex.A6	31.01.2018	Certified Registered copy of Inam Settlement deed in favour of Nabisathu Thahira
Ex.A7	09.06.2017	Computerized copy of Market Value Guidelines

**Witnesses Examined on the side of the Defendants:-**

DW1 - Tmt.Nabisathu Thahira

DW2 - Thiru.Saifur Rahuman

DW3 - Thiru.Mohamed Altaf Husaion

**Exhibits marked on the side of the Defendants:-**

Ex.B1		Acceptance Letter of Salimulah
Ex.B2		Cancer treatment of Rasina Beevi Case Index
Ex.B3		Medical records
Ex.B4	06.03.2019	Will executed by Rasina Beevi before M.Natarajan Notary Public
Ex.B5		House Tax Receipt for the year 2019 to 2022 ( 3 Nos)

Ex.B6		Compurerized Attensted copy of Patta No.2353 in surevey no.155/3
Ex.B7		Carbon copy of Adangal receipt (3 Nos) for Sales of Paddy for the year 2018-2020
Ex.B8	31.01.2018	Registered Inam Settlement Deed in favour of Nabisathu Thahira (Orginal)
Ex.B9	26.01.2020	Complaint Copy of S.P.Pattinam Police Station
Ex.B10		Attested copy of FIR
Ex.B11	19.12.2017	Attested copy of Patta Transfer order
Ex.B12		True copy of Citta Adangal in Surevey No.155/3
Ex.B13		Computerized copy of Patta no. 2353 in Survey No. 155/3
Ex.B14		Original Inam Settlement Deed in favour of Rasina Beevi

Principal District Judge,  
Ramanathapuram.