

IN THE COURT OF THE SUBORDINATE JUDGE, RANIPET, VELLORE  
DISTRICT.

PRESENT: Tmt.S.Tasneem, M.L.,  
Subordinate Judge, Ranipet.

Saturday, the 17th day of September, 2016.

O.S. 226/2008

R.Krishnan

....Plaintiff

/ Vs/

1. Kannammal
2. Kumudha
3. P.Kalaiselvan
4. Tamilarasi @ Pappu
5. Karunanidhi
6. Punitha Porselvi
7. Renuka
8. Ramu
9. Thirumal
10. Devaki
11. Sanjeevi Udayar
12. S.Pushpa
13. Vijayalakshmi
14. E.Kumarasamy
15. Pathiravalli
16. Kulasekaran
17. Anchala Devi
18. A.G.Manickam
19. A.Ayyanar
20. R.Gandhi
21. R.Karpagarani
22. S.Muniyammal
23. S.Sudharsan
24. G.Ganga
25. Kaja Moideen Sheriff
26. R.Sangeetha
27. C.Mohana
28. Venkataramani
29. Kavitha
30. M.Nazarath
31. Boushath Kareem

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- 32.R.Vaideeswaran
- 33.P.Sasikala
- 34.P.Panneer
- 35.P.Gopi
- 36.M.Magesh
- 37.N.Srikanth
- 38.S.Arulmozhi
- 39.S.Thripurasundari
- 40.S.Vijayakumar
- 41.Nirmalkumar
- 42.M.Anbazhagan
- 43.P.Devika Ilavarasan
- 44.D.Sriram
- 45.V.Kannadasan
- 46.T.Kasthuribai
- 47.B.Pushpa
- 48.S.Latha
- 49.G.Sumathi
- 50.B.Ganga
- 51.Yaminudeen
- 52.Hamidbasha
- 53.J.Jayakumar
- 54.C.Nagomi
- 55.R.Padmanabhan
- 56.A.Mahariya Begum
- 57.P.Ponnurangam
- 58.M.Arishya Fathima
- 59.A.Rameeja Begum
- 60.S.A.Mohd.Maheer
- 61.C.Banumathi
- 62.Nazima Begum
- 63.V.Sarangapani
- 64.K.A.Mohd.Razool
- 65.V.M.Murugan
- 66.P.Srinivasan
- 67.P.Subramanian
- 68.C.Sundari
- 69.S.Tamilselvi
- 70.S.Ramesh
- 71.R.Kaliammal
- 72.Ramiza Begum
- 73.A.G.Manickam
- 74.T.S.Sivakumar

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75.Pattammal  
76.Saranya

..... Defendants

This suit is coming on 08.09.2016 before me for final hearing in the presence of Thiru.V.Madhavan, Advocate for the plaintiff and Thiru. A.Maran Advocate for D1 to D6, and Thiru.D.Lakshmanan Advocate for D7 to D9, Thiru.S.P.Sampathkumar Advocate for D11 & D12 and Thiru.K.Ravichandran Advocate for D13 & D14 and Thiru.P.Chandrasekar Advocate for D38, D43, and D48 and considering that written statement filed by D1 to D6 and written statement was not filed by D11 to 14, D38, D43, D48 and the case was posted for appearance of both parties and for trial, Plaintiff present, but all the defendants were called, absent, set exparte and hence this court delivered the following

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JUDGMENT

Suit for directing the defendants to divide the suit properties in to 6 equal shares with due regards given to good and bad parts and hand over possession of one such share to the plaintiff, failing which directing the plaintiff to have this relief through process of Court and restraining the defendants by way of a permanent injunction from creating any further encumbrances over the suit schedule properties till the partition is complete and setting aside the sale deed executed by D1, D2, D3 & D5 in favour of D11 dt.19.12.2007 with respect to the item No.3 & 4 of the suit property and for costs.

2. The plaint averments are stated in brief as follows:-

The 1st defendant is the mother of the plaintiff, D9 and D10, are the brother and sister of the plaintiff, D2 to D6 are the legal heirs of the deceased brother of the plaintiff, D7 & D8, are the legal heirs of the other deceased brother of the plaintiff and all the other defendants are the purchasers of the joint family property of the plaintiff who are added for proper adjudication. The properties more fully described in the schedule hereunder originally

belonged to Ramasamy, the father of the plaintiff which were ancestral, and he was in possession and enjoyment of the same with every right, title and interest till his life time. The said Ramasamy has died intestate about 15 years, leaving behind him, his wife Kannammal D1 and 5 sons namely 1.Ponnusamy, 2.Thirumal, 3.Krishnan, 4.Manizahagan, 5.Arunagiri and one daughter Devaki as his sole legal heirs to succeed to his estates. The said Manizahagan died without any marriage or issues, and the properties of manizahagan also became the joint family properties and subsequently Arunagiri also died leaving behind him D7 and D8, as his legal heirs and in the year 2004, Ponnusamy also died leaving behind him D2 to D6 as his legal heirs. Since the death of Ponnusamy the schedule properties are in joint possession and enjoyment of the plaintiff and the defendants 1 to 10 and the plaintiff is entitled to an undivided 1/6th share in the same. The plaintiff was living at Bangalore, the defendants 1,2,3 and 5 have jointly sold item No.3 and 4 of the schedule property in favour of the defendant 11, by way of a registered sale deed dt.19.12.2007, who in turn has converted the same to house plots and sold the plots in favour of defendants 12 to 76 without the knowledge or consent of the plaintiff. The plaintiff have caused a legal notice to be issued to the defendants 1 to 11 on 20.08.2008, demanding for partition and separate possession of his rightful 1/6th share in the schedule properties and also to cancel the invalid sale. The defendants 3, 4 and 7 have evaded the notice and all the other defendants have received the said notice, but never complied with the demands of the plaintiff. Hence the suit.

3. The averments found in the written statement filed on behalf of the 3rd defendant adopted by D1, 2, 4 to 6th defendants are as follows:

The suit is not maintainable either in law or on facts. The suit properties were already sold in favour of third parties long ago and the plaintiff is not having any share or hold in the same. The plaintiff has gone to Bangalore and got settled at Bangalore and his brother Ponnusamy and the 1st defendant also

wanted to have some properties at Bangalore and they have given money to the plaintiff and only out of the said money the plaintiff has constructed a house and it is the plaintiff who has to give the share of this defendant and Ponnusamy and the plaintiff has already received his share of his father's property by way of cash and settled down at Bangalore and he has got no lien or hold in the suit properties and these defendants are at liberty to subject their property in to any sort of encumbrances as they wish and this plaintiff has no rights to challenge the same. This suit does not have any prima facie and there is not cause of action for this suit. Hence the suit is liable to be dismissed.

4. The following issues were framed in this case:

1. Whether the suit properties are in joint possession and enjoyment of the plaintiff and defendants 1 to 10 ?
2. Whether the plaintiff is entitled to 1/6th share in the suit properties ?
3. Whether the plaintiff is entitled to the relief of partition as prayed for ?
4. Whether the plaintiff is entitled to any other reliefs as prayed for ?
5. To what other reliefs if any, the plaintiff is entitled to ?

5. The defendants have remained absent and set exparte.

6. On the side of the plaintiff, PW1 was examined. Ex.A1 to A4 were marked.

7. To establish the case, the Plaintiff has examined himself as PW1. Perused Records. The plaintiff/PW1 has stated in his evidence that the 1st defendant is the mother of the plaintiff, D9 and D10, are the brother and sister of the plaintiff, D2 to D6 are the legal heirs of the deceased brother of the plaintiff, D7 & D8, are the legal heirs of the other deceased brother of the plaintiff and all the other defendants are the purchasers of the joint family property of the plaintiff. He has further stated that the suit properties more fully

described in the schedule hereunder originally belonged to one Ramasamy, the father of the plaintiff which were ancestral, and he was in possession and enjoyment of the same with every right, title and interest till his life time. The copy of legal notice dt. 20.08.2008 issued to the defendants 1 to 11 was marked as Ex.A1. Certified copy of the sale deed dt.19.12.2007 executed by D1, 2, 3 and D5 in favour of the D11 was marked as Ex.A2. The postal acknowledgments signed by the defendants 1,2,5,6,7,9,10 and 11 was marked as Ex.A3. Returned covers addressed to defendants 3,4 and 8 was marked as Ex.A4. Due to the hostile attitudes of the defendants the plaintiff has filed this suit for partition and permanent injunction. The defendants have not appeared before this court and they have been set exparte. The plaintiff has established his case by adducing oral evidence and by marking Ex.A1 to A4. In the absence of any rebuttal evidence as against the plaintiff's case, it is held that the plaintiff is entitled for the relief as prayed for.

In the result, the suit is decreed with costs by passing preliminary decree dividing the suit properties into six equal shares with due regards given to good and bad parts and hand over possession of one such share to the plaintiff failing which directing the plaintiff to have this relief through process of Court and restraining the defendants by way of a permanent injunction from creating any further encumbrances over the suit schedule properties till the partition is effected and setting aside the sale deed executed by D1, D2, D3 & D5 in favour of D11 dt.19.12.2007 with respect to the item No.3 & 4 of the suit property.

Dictated by me to the Typist, typed by her directly to my dictation, corrected and pronounced by me in the open court, this, the 17th day of September, 2016.

Subordinate Judge,  
Ranipet.

Exhibits marked on the side of the Plaintiff:-

Ex.A1: 20.08.2008 Copy of the Legal notice sent to the defendants

Ex.A2;19.12.2007 - Certified copy of sale deed executed by D1, D2, D3 and  
D5 in favour of D11

Ex.A3: - - Postal acknowledgments signed by the defendants  
1,2,5,6,7,9,10 and 11

Ex.A4: - - Returned covers addressed to defendants 3,4 & 8

Witness examined on the side of the Plaintiffs:-

P.W.1: Thiru.R.Krishnan

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S.J., Ranipet.

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