

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

Present : Tmt.K.Jyothi, B.Sc.,M.L.,
Subordinate Judge, Ranipet.(FAC)

Wednesday the 6th day of July 2022.

O. S. No.60/2020
CNR No.TNVL130001362020

1. Gangamma
2. Krishnaveni

... Plaintiffs.

/vs/

1. Valliammal (died)
2. Dayalan
3. Ethiraj
4. Pawun

...Defendants.

This Suit having been heard on 18.04.2022 in the presence of Thiruvargal P.Bhupalan & V.Mohan Advocates for the Plaintiff and considering that D2 to D4 called absent, set *ex-parte*, and on hearing the arguments of Plaintiff's side, upon perusing the entire case records and having stood over for consideration till this day, this court delivered the following

JUDGMENT

1. Suit for Partition to divide the suit properties into five equal shares and allot two equal shares to the Plaintiffs with specific boundaries and measurements, to appoint an Advocate Commissioner to effect such division, if necessary, granting permanent injunction restraining the 1st Defendant to make any encumbrance over the suit property and for costs.
2. Concise of the averments made in the mended plaint is as follows:-

The Plaintiffs and the Defendants are the legal heir of deceased Murugappa Reddy. The Plaintiffs and the Defendants 2 to 4 are the sons and

daughters of 1st Defendant. The 1st Defendant died on 28.08.2020. The said Murugappa Reddy had purchased the suit property in his wife name Valliammal who is the 1st Defendant herein through a Registered Sale deed dt; 05.02.1976. The Plaintiffs and the Defendants are in joint possession in the suit property. Hence, the Plaintiffs are entitled for their 2/5th shares in the suit property and the Defendants 3 to 5 are entitled for their 3/5th shares in the suit property. Thence, the Plaintiff is constrained to file this suit for partition.

3. Though the summon served, Defendants did not appear either in person or through their counsel, hence, called absent, set *ex-parte*.

4. On the side of the Plaintiffs, 1st Plaintiff was examined herself as PW1. Ex A1 to A3 were marked through her.

5. In order to evince and substantiate the case of the Plaintiffs, 1st Plaintiff had deposed in her Chief Proof Affidavit as stated in the Plaint. Certified Xerox copy of sale deed dt: 05.02.1976 was marked as Ex.A1, Copy of legal notice dt;03.03.2020 was marked as Ex.A2 & Postal Receipts was marked as Ex.A3. Though the summon served, Defendants did not appear either in person or through their counsel, hence, called absent, set *ex-parte*. Though the Defendants are *ex-parte*, the suit cannot be simply decreed. The burden is on the Plaintiffs to prove their claim. But when the pleadings reads "The Plaintiffs and the 2 to 4th Defendants' father earned his own income he purchased the suit property through Registered Sale deed dated: 05.02.1976 in his wife's name who is the 1st Defendant". But in Ex.A1 no such recitals and no evidence let in on the side of the Plaintiffs. Therefore, when it is not proved that the suit property belonged to the Plaintiffs' father, then it is absolute property of the 1st Defendant and the 1st Defendant is having right to dispose

her property in any mode of transaction. And as other Defendants are ex-parte, it is unable to decide whether the 1st Defendant died intestate or executed by document.

6. Therefore, from the above discussion and from evidence on the side of the Plaintiffs, it is evidence that the Plaintiffs have not proved their claim and not come to court with clean hands and so a decree cannot be passed as vague averments. Therefore, it is held that the Plaintiffs have not proved their claim.

In the result, Suit is dismissed. No costs.

Dictated by me to the Steno-Typist, computerized by her directly to my dictation, corrected and pronounced by me in the open Court, this the 6th day of July 2022.

Subordinate Judge,
Ranipet.(FAC)

Exhibits marked on the side of Plaintiff:-

Ex.A1	05.02.1976	Certified Xerox copy of sale deed stands in the name of 1 st Defendant
Ex.A2	03.03.2020	Copy of legal notice
Ex.A3	-	Postal receipts

Witness examined on the side of the Plaintiffs:

P.W.1 Tmt.Gangamma (1st Plaintiff)

Witness examined and Exhibits marked on the side of Defendants:- Nil.

Subordinate Judge,
Ranipet.(FAC)

Draft/Fair Judgment
O.S.No.60/2020
dated: 06.07.2022
C.1.a.

