

IN THE COURT OF THE I ADDITIONAL DISTRICT JUDGE, SALEM

Present: Mr.M.Christopher,B.A.B.L.,

I Additional District Judge,

Salem.

Tuesday the 27<sup>th</sup> day of November 2018

O.S.No.161/2018

Pappayee

... Plaintiff

/Vs/

1. Palani @ Manimaran

2. Chinnapaiyan

.... Defendants

This suit is coming before me for final hearing on 20.11.2018 in the presence T.Karthikeyan, Advocate for the Plaintiff and the Defendants are called absent and set exparte and upon perusing the documents on records and on hearing the plaintiff side and having stood over for consideration till this day, this court has passed the following:

Judgment.

The above suit was filed for Partition and Permanent Injunction.

2. The defendants are the sons of the plaintiff and one Muthu goundar. The suit property is allotted to the plaintiff and the defendants as per the registered partition deed dated 10.4.1995 under document No.1535/1995 on the file of Sooramangalam Sub Registrar Office executed between them and others. In the partition deed, the property allotted to the plaintiff and the defendants are shown as "A" schedule which is hereinafter called as the suit property. The plaintiff and the defendants are in joint possession and enjoyment of the suit. The plaintiff is entitled to 1/3 share and the defendants are together entitled to 2/3 share in the suit property. The plaintiff submits that now it is not possible for her to enjoy the suit property in common and hence she demanded the defendants to divide the suit property into 3 equal shares by metes and

bounds and allot the plaintiff one such share. But, without effecting the partition, the defendants are giving false and evasive replies. Finally, on 2.6.2018 the plaintiff demanded for partition, but the defendants have not come forward to effect the partition. But, on the other hand, the defendants are making arrangements to alienate or encumber the entire suit property to third parties. The plaintiff submits that as per the partition deed dated 10.4.1995, she is entitled to one share and is in joint possession and enjoyment of the same and the defendants have no right to alienate or encumber the entire suit property and if they are allowed to do so and then it will lead to multiplicity of proceedings and the plaintiff would greatly be prejudiced. Hence, the plaintiff is filing the suit for partition separate possession of her 1/3 share in the suit property and permanent injunction restraining the defendants from in any way alienating or encumbering the entire suit property to any third parties including the plaintiff share. Otherwise, the plaintiff will be put to irreparable loss and hardship.

3. In this case the defendants were set exparte. The plaintiff has filed a proof affidavit and Ex.A1 and A2 were marked. The defendants were set exparte and they have not contest the suit. The plaintiff has examined as P.W.1. She has stated that the property was originally belongs to one Muthugounder and parties have partitioned the property on 10.4.1995 through registered partition deed. In the said partition the A schedule property was jointly allotted to the plaintiff and the defendants herein. The plaintiff says that they could not enjoy the property jointly hence she sought for partition of the suit property in to three shares and to allot one share to her. But the defendants have not come forward to partition the property. Hence she prayed to allow the suit.

4. The partition deed dated 10.4.1995 was marked as Ex.A1 in this case. On perusal of Ex.A1 the suit property was allotted to plaintiff and the defendants jointly. As per the said partition deed the property was given to the plaintiff and the defendants to enjoy jointly. The plaintiff says that she is entitled for 1/3 share in the

property. The defendants have not disputed the said claim by filing any written statement or evidence on their side. Hence the plaintiff has proved the claim and entitled for the reliefs sought in the suit.

In the result this suit is decreed with cost.

Dictated to the Steno-typist, directly typed by her, corrected and pronounced by me in open court on this the 27<sup>th</sup> day of November 2018

(Sd/-M.Christopher)

I Additional District Judge,  
Salem.

Plaintiffs Side Witness:-

P.W.1 – Tmt.Pappayee (Proof Affidavit)

Respondents side Witness: Nil

Respondents side Exhibits: Nil

Plaintiffs side Exhibits:-

|       |           |                                                                      |                             |
|-------|-----------|----------------------------------------------------------------------|-----------------------------|
| Ex.A1 | 10.4.1995 | Partition deed entered into between Plaintiff, defendants and others | Certified Registration Copy |
| Ex.A2 | -         | Aadhaar card in the name of Pappayee                                 | Xerox copy                  |

(Sd/-M.Christopher)

I Additional District Judge,  
Salem.