

In the Court of the Principal District Judge, Salem.

Present : Tmt.S.Sumathy, M.L.,
Principal District Judge, Salem.

Saturday, the 4th day of November 2023

O.S. No.363/2023

[C.N.R No.TNSA01-002361-2023]

Indhu

... Plaintiff

// versus //

Ragunandhan.

... Defendant

This suit came up on 17.10.2023 for final hearing before me in the presence of Thiru.A.Viswanathan, Advocate for the plaintiff and the defendant was called absent and set ex parte and after hearing the arguments on the side of plaintiff and on perusing the records available and having stood over for consideration till this day, this court delivers the following

J U D G M E N T

This suit has been filed by the plaintiff under Order VII, Rule 1 to 6 of the Code of Civil Procedure prays to pass a preliminary decree for partition of the plaintiff's 3/4 share in plaint schedule property by metes and bounds with reference to good and bad soil and put her in separate possession of the same and for cost.

2) **The plaint averments are briefly as follows :-**

The suit schedule properties are situated at S.F.No.118, Ammapettai Village, Salem District with the extent of punjai acre 0.49 1/2 in this 484 1/2 sq. feet of vacant land and another vacant site in the same survey number with the extent of 1075 1/2 sq. feet. The plaintiff is the wife of one (late) Ravindran. The said Ravindran married one Rajalakshmi and begot the defendant out of wedlock. The said Rajalakshmi died long ago and after 6 months from her demise, the said Ravindran, the father of the defendant herein married the plaintiff legally. Out of wedlock no children born to the plaintiff and the said Ravindran. The defendant is the only son of (late) Ravindran and the plaintiff. The plaintiff is maintaining and showering all kinds of comforts to the defendant and brought up the defendant in good manner. Ravindran, the plaintiff's husband, the father of the defendant died on 20.3.2019, leaving behind the plaintiff and the defendant as his legal heirs.

3) During the lifetime of Ravindran, he and the plaintiff have jointly purchased the suit properties under sale deeds dt. 5.7.2017 in Doc. No.1968/2017 and 1969/2017 registered on the file of No.1 Joint Sub Registrar, Salem out of her own funds. At the time of marriage of

the plaintiff, her parents presented 30 sovereign of gold jewels and gave Rs.2,00,000/- as petty cash to the Ravindran. At the time of purchasing the suit properties, the plaintiff sold the entire jewels and purchased the same jointly in the name of Ravindran and in the name of the plaintiff. From the date of purchase onwards, the plaintiff and her husband Ravindran are enjoying the properties jointly and they are in joint possession of the same, without any hindrance of anyone.

4) Recently some family disputes arose between the plaintiff and the defendant, because of which joint possession and enjoyment of suit properties became detrimental. Therefore the plaintiff has been requesting the defendant to come for amicable partition of suit properties. But the defendant evading the same by saying lame excuses. Finally, on 01.04.2023 the plaintiff requested the defendant to divide the suit properties into 4 equal shares and to allot 3 such shares to the plaintiff. But the defendant has not come forward for partition. The plaintiff is entitled to the complete $\frac{1}{2}$ share in the suit properties, as per the aforesaid sale deeds and inherited the $\frac{1}{2}$ share of the deceased Ravindran's $\frac{1}{2}$ share in the suit properties as one of his legal heir. Therefore, in total the plaintiff is entitled to get $\frac{3}{4}$ share in the suit properties. Hence, the plaintiff issued a legal notice to the defendant on 17.04.2023 and the same was received by the defendant on 28.4.2023.

The another notice refused by the defendant was returned to the plaintiff on 18.4.2023. On 12.5.2023, the defendant gave reply through his counsel with false and untenable allegations. After that also the defendant has not come forward for amicable partition. Hence the plaintiff has no other go but to file the suit to pass a preliminary decree for partition of her 3/4 share in the plaint schedule property by metes and bounds and put her in separate possession of the same and the suit has to be decreed as prayed for.

5) Even though notices were issued to the defendant through Court and Post, the Court notice was returned as the 'address not found' and the postal notice was returned as 'refused' and hence the defendant was called absent and set exparte.

6) The point for consideration in this suit -

1. Whether the plaintiff is entitled to preliminary decree for partition and separate possession of her 3/4 share in the plaint schedule property or not?
2. What are the other reliefs the plaintiff is entitled to?

7) Points No.1 and 2:-

The contention of the learned counsel for the plaintiff is that the plaintiff is the wife of one late Ravindran and the said Ravindran married one Rajalakshmi and begot the defendant. The said Rajalakshmi died

long back and after her death the said Ravindran, the father of the defendant herein had married the plaintiff legally. Out of wedlock there were no issues and the defendant is the only son of Ravindran and the plaintiff.

8) The plaintiff is maintaining and showering all kinds of comforts to the defendant and brought up the defendant in good manner. Ravindran, the husband of plaintiff and father of the defendant died on 20.3.2019, leaving behind the plaintiff and the defendant as his legal heirs. During the lifetime of Ravindran, he and the plaintiff have jointly purchased the suit properties under sale deeds dt. 5.7.2017 in Doc. No.1968/2017 and 1969/2017 registered on the file of No.1 Joint Sub Registrar, Salem out of her own funds viz., 30 sovereign of gold jewels and gave Rs.2,00,000/- given to her at the time of marriage by her parents and at the time of purchasing the suit properties by sold her entire jewels and jointly purchased the same in her name and in the name of Ravindran. From the date of purchase, the plaintiff and her husband Ravindran are in enjoyment of the properties jointly and they were in joint possession of the same without any hindrance of anyone.

9) But, recently some family disputes arose between the plaintiff and the defendant because of which joint possession and enjoyment of suit properties became detrimental. Therefore, the plaintiff requested the

defendant to come for amicable partition of suit properties. But the defendant evading the same by saying lame excuses. Finally, on 1.4.2023 the plaintiff requested the defendant to divide the suit properties into 4 equal shares and allot 3 such shares to her, but the defendant has not come forward for partition. The plaintiff is entitled to the complete 1/2 share in the suit properties, as per the aforesaid sale deeds and to inherit the 1/2 share of the deceased Ravindran in the suit properties as one of his legal heir. Therefore, in total the plaintiff is entitled to get 3/4 share in the suit properties. Hence the plaintiff issued a legal notice to the defendant on 17.04.2023 and the same was received by him on 28.4.2023 and yet another notice refused by him was returned to the plaintiff on 18.4.2023. On 12.5.2023, the defendant replied through his counsel with false and untenable allegations. Since the defendant did not come forward for partition the suit property for one reason or other, the plaintiff was constrained to file this suit for partition and separate possession.

10) To prove the case of the plaintiff, the plaintiff has examined herself as P.W.1 and one Venkatesan who is the brother of Late. Ravindran was examined as P.W.2. On the side of plaintiff Ex.A1 to Ex.A11 documents were marked.

11) The case of the plaintiff is that the suit schedule property is the self-acquired property of the plaintiff and her husband Ravindran, based on

the two registered Sale deeds Ex.A1 and Ex.A2 which was executed by one Tmt.J.Geetha in favour of the plaintiff and her husband Ravindran. On perusal of plaint averment, it reveals that the plaintiff is second wife of said Ravindran and the defendant namely Ragunandhan is the son of Ravindran born through his first wife Rajalakshmi. Ravindran died on 20.03.2019, leaving behind him the plaintiff and the defendant as his legal heirs.

12) The plaintiff examined as P.W.1 in her evidence has verbatim reproduced the plaint averments and prayed for partition of her 3/4 share in the suit property. Ex.A1 and Ex.A.2 are the Sale deeds dated 05.07.2017 executed by one J.Geetha in favour of the plaintiff and Ravindran, with regard to the suit properties and the registered sale deed jointly stands in the name of plaintiff and Ravindran. Ex.A3 death certificate reveals that the said Ravindran died on 20.03.2019. Ex.A4 is the Legal Heirship Certificate reveals that the plaintiff and the defendant is the legal heirs of Ravindran.

13) The plaintiff has laid the suit for partition of suit properties against the defendant. The plaintiff claimed 3/4 share in the suit property, based upon the Registered sale deeds standing in her name and in the name of deceased Ravindran dated 05.07.2017 and legal heirship certificate dated 13.06.2022. To prove the contention of the plaintiff, on

her side P.W.2 one Venkatesan was examined. P.W.2 in his evidence has stated that the deceased Ravindran is his brother, the plaintiff is his sister-in-law, that the said Ravindran married one Rajalakshmi and she begot the defendant. When the defendant was 6 months old, Rajalakshmi died and thereafter Ravindran married the plaintiff legally and they have no issues and the plaintiff is maintaining and showering all kinds of comforts to the defendant and brought up the defendant in good manner. During the lifetime of Ravindran, the plaintiff and Ravindran purchased the suit properties in their name, out of the 30 sovereign jewels and Rs.2,00,000/- cash offered by the plaintiff's parents and they were in joint possession and enjoyment of the suit property. After death of Ravindran on 20.3.2019, the defendant did not come forward for amicable partition.

14) Ex.A1 and Ex.A2 sale deeds and Ex.A4 Legal Heirship Certificate was not disputed by the defendant, since the defendant in this case was remained exparte even after issuance of notice through Court and through post. On perusal of Ex.A1 and Ex.A2 sale deeds, it is made clear that the suit property is the self-acquired property of the plaintiff and Ravindran. and Ravindran died leaving behind the plaintiff and defendant as his legal heirs. From, Ex.A3 Death Certificate, it is seen that Ravindran died on 28.03.2019. Ex.A4 the Legal Heirship Certificate proves that the plaintiff and the defendant are the legal heirs of the deceased Ravindran.

15) Therefore, from the foregoing reasons, this Court is of the view that the plaintiff has proved her case through the oral and documentary evidence. Further there is no rebuttal evidence to the evidence adduced and the documents produced by the plaintiffs. On the other hand the plaintiff has proved her case through her and P.W.2's evidence and Ex.A1 to Ex.A11 in the manner known to law. Hence, this Court is of the view that the plaintiff is entitled to get 3/4 share in the suit property as prayed and this point is answered accordingly.

16) In the result, the suit is decreed with costs and a preliminary decree for partition is passed in favour of the plaintiff directing the defendant to divide the suit properties into 4(four) equal shares and allot 3(three) such shares to the plaintiff.

Directly dictated to the Steno-typist, typed by her, corrected and pronounced by me in Open Court, this the 4th day of November, 2023.

sd/- S.Sumathy,
Principal District Judge,
Salem.

Appendix:-

Plaintiffs' side witnesses:-

PW1	Tmt. Indhu
PW2	Thiru. Venkatasan

Plaintiff Side Exhibits

Ex.A1	05.07.2017	Sale deed executed by one Geetha in favour of plaintiff and the Ravindran in Doc.No.1968/2017	Certified copy
Ex.A2	05.07.2017	Sale deed executed by one Geetha in favour of plaintiff and the Ravindran in Doc.No.1969/2017	Certified copy
Ex.A3	28.03.2019	Death Certificate of Ravindran	Xerox
Ex.A4	13.06.2022	Legal heirship certificate of Ravindran (Compared with original)	Xerox
Ex.A5	-	Family card of the plaintiff	Xerox
Ex.A6	17.04.2023	Legal Notice	Office copy
Ex.A7	09.05.2023	Postal Track consignment status delivered on 28.04.2023.	Online copy
Ex.A8	18.04.2023	Returned postal cover	Original
Ex.A9	08.03.2023	House Tax receipts (2 Nos)	Original
Ex.A10	-	Aadhar card of the plaintiff (Compared with original)	Xerox
Ex.A11	-	Aadhar card of the PW2 (Compared with original)	Xerox

sd/- S.Sumathy,
Principal District Judge,
Salem.