

IN THE COURT OF SUBORDINATE JUDGE, DEVAKOTTAI,
Present: THIRU.S.KIRUBAHARAN MATHURAM,B.A., L.L.B.

SUBORDINATE JUDGE, DEVAKOTTAI,
 Wednesday this the 20th day of January 2016.

O.S.No.84/2014

* * * * *

Jeyamarry

..Plaintiffs

---VS---

1.Kumar @ William Tamilmaran

2.Pandi @ Josaph

3.Balu @ Fransis @ Fransis

4.Mariya Madalai

5.Arul James

6.Jesuraj

...Defendants

This suit is coming before me on for 11.01.2016 final hearing in the presence of Thiru.S.Kumaravel, V.Karthigeyan, Advocates for the plaintiff and the defendants called absent and set exparte and upon perusal of records and hearing the arguments on both sides and having stood over for consideration till this day, and this Court delivered the following

JUDGMENT

This suit property originally belonged to one Arulandhu who was the Burma refugee. The suit property was assigned to the said Arulandhu in the year 1966. The plaintiff, 6th defendant and the husband of the 4th defendant are the children of the deceased Arulandhu who died on 29.01.2014 as intestate. Thereafter these parties are having enjoyment over the suit property. The one of the son by name Mariyadass died in the year 2007 as intestate. The deceased Mariyadass was the husband of the 4th defendant and father of 5th defendant. The deceased Mariyadass had illicit intimacy with one Valli who is the wife of one Raju. Due to the said illegal relationship the defendants 1 to 3 were born. Hence the defendants 1 to 3 have no right over the suit property. At this juncture the plaintiff demanded the partition from defendants 4, 5 and 6. Since it was delayed the present suit is filed for declaring the share of 1/3 of the plaintiff over the suit property. Hence this suit.

2. Defendants are called absent and set exparte.

3. On the side of plaintiff, plaintiff herself examined as Pw1 and Thiru. Kalimuthan is examined as Pw2 and Exs.A1 to A4 are marked.

4. Point:

(i) Whether the plaintiff is entitled to get decree as prayed for ?

5. The suit is for partition. Admittedly the plaintiff, 6th defendant and one Mariyadass are the children of deceased Arulandhu. The suit property was assigned to the deceased Arulandhu as Burma refugee in the year 1966 by the Government. The Learned Advocate for the plaintiff argued that the suit property belonged to deceased Arulandhu and hence the legal heirs of the deceased Arulandhu are entitled to get equal shares as they are christians. The defendants 1 to 3 are the children of deceased Mariyadass who were born due to illegal relationship between the deceased Mariyadass and one Valli wife of Raju. Therefore defendants 1, 2 and 3 have no right over the suit property.

6. This Court considered argument and perused available materials. Ex.A1 is the patta stands in the name of deceased Arulandhu which was dated 10.02.2014. So as per Ex.A1 the suit property belongs to the deceased Arulandhu and hence the legal heirs of the deceased Arulandhu are entitled to get equal shares according to Indian Succession Act. However this Court on perusal of the records finds that the plaintiff failed to prove that the deceased Arulandhu was Burma refugee and the assignment order of the year 1966 is not produced. Moreover there is no documents to show the enjoyment for the period 1966 to till today. The nature of the land of the suit property is not stated.

7. Apart from all this, Court finds that Ex.A1 is the undisputed document by the parties herein. Ex.A1 disclosed the right of deceased Arulandhu. Ex.A2 is the legal heirship certificate for the deceased Arulandhu. So as per Ex.A2 the present plaintiff, 6th defendant and the legal heirs of deceased Mariyadass

namely the 4th defendant and 5th defendant are entitled to get share over the suit property. Thus the plaintiff is entitled to get 1/3 share, 4th and 5th defendants jointly entitled to get 1/3 share and the 6th defendant is entitled to get 1/3 share. Accordingly this point is answered.

In the result the suit is decreed by passing preliminary decree for partition and thereby declare that the plaintiff is entitled to get 1/3 share over the suit property. No costs.

Dictated to the steno typist and typed by her, corrected and pronounced by me in the open Court this the 20th day of January 2016.

SUBORDINATE JUDGE,
DEVAKOTTAI.

Plaintiff's side Witnesses:

Pw1: Tmt.Jeyamarry

Pw2: Thiru.Kalimuthan

Plaintiff's side Documents:

Ex.A1 10.02.2014 Computerized 10(1) extract

Ex.A2 18.03.2014 Legal heir-ship certificate

Ex.A3 13.08.1982 Marriage certificate

Ex.A4 05.02.2014 Death Certificate in the name of Arulandhu

Defendant's side Witness & Documents:

Nil

SUBORDINATE JUDGE,
DEVAKOTTAI.

Subordinate Court,
Devakottai.

O.S.No.84/2014

Fair/Draft Judgment

20.01.2016