

**IN THE COURT OF SUBORDINATE JUDGE OF PALLADAM**

**PRESENT: Thiru.K. Yuvaraj, B.A.,B.L.,**  
Subordinate Judge, Palladam

Thursday of 23<sup>th</sup> January, 2025

**IA No.02/2023**

**in**

**OS No.210/2023**

Latha

... Petitioner / Plaintiff

/Vs/

1. Saraswathi
2. Sangeetha
3. Bharath
4. Sriram Transport Finance Company  
represented by its Manager

... Respondents / Defendants

This petition is coming on 20.12.2024 for final hearing before me in the presence of Thiru.R.Rajesh, B.Lit., B.L., Advocate for the petitioner and Thiru.R.Damodharan, M.A.,B.L., Advocate for the 1<sup>st</sup> Respondent to 3<sup>rd</sup> Respondent. The 4<sup>th</sup> Respondent did not appear and he was called absent and set exparte. Upon hearing both side arguments and on perusal of all connected material records and having stood over till this day for consideration, this court delivered the following...

**ORDER**

This application was filed by the Petitioner / Plaintiff to pass an order of interim injunction restraining the 4<sup>th</sup> Respondent not to hand over the original title documents till the disposal of this suit.

2. The Learned counsel for the Petitioner argued that the Petitioner / Plaintiff had filed the suit for the relief of Partition and for Permanent injunction restraining the 4<sup>th</sup> Respondent not to hand over the original Title deeds to R1 to R3. It is the case of the Petitioner / Plaintiff that originally the suit property was belongs to One Subbe Gounder by virtue of sale deed dated 24.01.1979 in Document No. 47/1979 and the said Subbe Gounder had Mortgaged the suit property with 4<sup>th</sup> Respondent on 31.07.2011.

3. While so the said Subbe Gounder died on 03.06.2021 leaving behind this Petitioner / Plaintiff, 1<sup>st</sup> Respondent and one Mohanraj as his legal heirs. The said Mohanraj also died on 01.11.2022. Hence the 2<sup>nd</sup> Respondent and 3<sup>rd</sup> Respondent are his legal heirs. While so this Petitioner and the Respondent 1 to 3 had repaid the loan amount which was obtained by the Subbe Gounder. Hence all this Petitioner / Plaintiff and respondent 1 to 3 / Defendants are having a valid share over the properties owned by Subbe Gounder. Meanwhile the Respondent 1 to 3 were hand in glove with the 4<sup>th</sup> Respondent and trying to get the original Title deeds. Hence this application.

4. On other hand, the Learned counsel for the Respondent 1 to 3 firmly argued that during the life time of the Subbe gounder he had executed a WILL to in favour of the 3<sup>rd</sup> Respondent, as per the WILL the 1<sup>st</sup> Respondent is having only a life time enjoyment and nobody has any right over the property other than 3<sup>rd</sup> Respondent. Even while according to him the 4<sup>th</sup> respondent is not returning the original title deeds even after the settlement of loan amount as instructed by this petitioner/ plaintiff. Hence he prayed for proper adjudication.

## II. Now point for consideration is whether this petition is allowed?

1. Heard Both sides. Records Perused. It is the case of the Petitioner/ Plaintiff that originally the suit property was belongs to one Subbe gounder by virtue was sale deed dated 24.01.1979 in Document No.47/1979, while so the said Subbe gounder had Mortgaged the suit properties by Memorandum of Deposit of Title Deeds on 31.07.2011 and further on 2018 in Document No.6529/2017 and 2138/2018 respectively. While so the said Subbe gounder died on 03.06.2021 leaving behind her daughter this Petitioner / Plaintiff, his wife the 1<sup>st</sup> Respondent and one Mohanraj as his legal heirs.

2. While so the said Mohanraj also died on 01.11.2022 leaving behind his wife 2<sup>nd</sup> Respondent and his son 3<sup>rd</sup> Respondent as his legal heirs. Hence according to the Learned counsel for the Petitioner / Plaintiff they all are entitled for the share of the properties belongs to Subbe Gounder as his class I Legal heirs. On other hand the learned counsel for the 3<sup>rd</sup> Respondent firmly argued that during the life time the said Subbe Gounder had executed a Will to in favour of the 3<sup>rd</sup> respondent, as per WILL only 3<sup>rd</sup> Respondent is having a valid Title over the suit property.

3. Hence from the face of records the issue involve in the suit is whether the Petitioner / Plaintiff is entitled for the relief of Partition. Here in this case written statement was filed on the side of defendants and the matter is riped for Trial. Hence this court is of considered view that there is no pramifacie case on the side of the Petitioner / Plaintiff and there is no balance of convenience and there will not be any irreparable loss till disposal of case since the suit is pending between the parties for the sole issue for Partition.

**In the result**, this petition stands dismissed. No costs.

Dictated to the stenographer, transcribed and typed out by her,  
corrected and pronounced by me in open court this 23<sup>th</sup> January 2025.

Subordinate Judge,  
Palladam

Draft / Fair Order IA No.02/2023 in OS No.210/2023 Dated. 23.01.2025 Sub court, Palladam
--