

CNR.No.TNTM10000274/2022

F.No.O.S.224/2022

IN THE COURT OF THE ADDITIONAL DISTRICT COURT (FTC),**ARANI, TIRUVANNAMALAI DISTRICT****PRESENT: Tmt.K.Vijaya, B.Sc., B.L.,****Additional District Judge, Arani.****Tuesday, this the 27th day of February, 2024****O.S.No.66/2022**

1. Ganesan

2. Baskaran

... Plaintiffs

/Vs./

1. Lakshmi

2. Bharath

3. Rajmohan

... Defendants

This suit is coming before me for final hearing on 12.02.2024 and subsequently on clarification heard today (27.02.2024) in the presence of Thiru. M. Sarathi, Advocate for the Plaintiff and the defendants are called absent set exparte on 09.11.2023 and after hearing the arguments on the plaintiffs' side and upon perusing the entire case records and having stood over for consideration till this day, this court delivers the following:-

JUDGMENT

Suit for Partition and Separate possession of Plaintiffs' 1/4th share in the suit properties and for costs.

2) The facts stated in the plaint in brief is as follows:

The 1st plaintiff is the husband of Sumathi, who is daughter of 1st defendant. 2nd and 3rd defendants are sons of the 1st defendant. The 2nd plaintiff is the son of 1st plaintiff and the said Sumathi. The Item No. 1 and 2 of the suit properties are ancestral and the Hindu joint family of defendants and the said Sumathi. On the income of the item 3 to 12 properties were purchased from

the income of item no.1 and 2 by the defendants and the said Sumathi. At the time of purchase some of the properties were purchased in the name of 1st, 2nd and 3rd defendants respectively and enjoyed the same by the defendants and the said Sumathi as Hindu joint family properties and hence, the said Sumathi is having 1/4th share in the suit properties. In mean while, on 03.04.2015 the said Sumathi was died leaving behind her the 1 and 2 plaintiffs. After the demise of Sumathi, the plaintiffs enjoyed the suit properties till date along with the defendants. During joint enjoyment of the suit properties, there was a misunderstanding arose among them. Hence, the plaintiffs requested their 1/4th share of the suit properties for the past one year. In spite of that the defendants denied the plaintiffs request and they are having ill intention to dodge the demands of the plaintiff and refused to give their share. Without the plaintiffs and not informed to the plaintiffs the defendants effected a registered partition deed secretly on 16.09.2016 as their wish and the same can be known to the plaintiffs a month before. If that is so, the said partition deed never bind to the plaintiffs. Further, the defendants had filed a fake civil suit in O.S.No.23/2019 before the Tiruvannamalai Court, as the plaintiffs made file a suit and got decree of settled out of court on 14.06.2019, as the plaintiffs compromised with the defendants at the out of court settlement. Without any compromise and no properties were handed over to the plaintiffs, the plaintiffs have come forward with this suit. Hence, this suit.

3. The defendants 1 to 3 were called absent set exparte on 09.11.2023.

4. On the side of plaintiffs, PW1 has been examined and Ex.A1 to A11 were marked.

5. The case of the plaintiffs is that the plaintiffs are the legal heirs of the deceased Sumathi. The suit properties are the Hindu joint family properties of the deceased Sumathi and the defendants. In order to prove the plaintiffs' case, the 1st plaintiff has marked Ex.A1 the copy of death certificate of Sumathi, dated 06.03.2019, Ex.A2 computerised chitta in respect of the suit properties (18 Nos.),

Ex.A3 Copy Adangal Extract in respect of the suit properties for Item No.11 and Item No.15 (2 Nos.), Ex.A4 Copy of Partition Deed dated 23.10.2011, Ex.A5 Certified copy of Partition deed dated 16.09.2016, Ex.A6 Certified copy of Sale deed dated 28.08.2000, Ex.A7 Certified copy of Gift Settlement deed dated 16.09.2016, Ex.A8 Certified copy of Sale Deed dated 17.11.2016, Ex.A9 Certified copy of Sale document dated 22.02.2008, Ex.A10 Certified copy of Sale document dated 18.03.2010, Ex.A11 Certified copy of Sale document dated 23.08.2021.

In view of Ex.A5 Registered Partition Deed, Dated:16.09.2016 is having contents that, " நாம் மூவரும் பாகம் பிரியாத இந்து அபிபக்த கூட்டுக் குடும்பத்தைச் சேர்ந்தவர்கள்", " நமக்கு பிதூர்ராஜ்ஜியமாக பாத்தியப்பட்ட குடும்ப பொது வருமானத்தைக் கொண்டு குடும்பத் தலைவர் என்ற முறையில் கிரையம் " as to gave details relating to the purchase of suit properties. In view of Ex.A5 Registered Partition Deed, Dated:16.09.2016 contents and other related documents except Ex.A4 (Memo filed by the learned plaintiffs counsel stating not relevant to the suit and pray for not considering the same), the plaintiffs have proved their case with documentary and oral evidence. In order to disprove the plaintiffs case, the defendants did not appear and not tested the plaintiffs case. Hence, the plaintiffs have established their case and as such, the plaintiffs are entitled for the suit claim as per the marked documents and oral evidence.

6. In the result, Suit is decreed partly without costs.

i) Preliminary Decree is passed in respect of the suit properties morefully described in Item No.1 to Item No.12 into four equal share (1/4) and allot one such share to the plaintiffs by metes and bounds together with

possession in favour of the plaintiffs. Failing which, the plaintiffs are entitled to file a Final Decree.

Dictated by me to the Steno-Grapher and typed by her directly, corrected and pronounced by me in open court, this the 27th day of February, 2024.

**Sd/- K.Vijaya,
Additional District Judge,
Arani.**

List of Witnesses on the side of plaintiffs:

PW1 : Ganesan (1st Plaintiff)

List of Exhibits on the side of the plaintiffs:

Ex.A1	06.03.2019	Copy of Death Certificate of Sumathi
Ex.A2	25.02.2019	Computerised Chitta in respect of the suit properties (18 Nos.) (Memo filed rectified as 14 Nos., Not 18 Nos.)
Ex.A3	28.04.2016	Copy of Adangal Extract in respect of the suit properties for Item No.11 and Item No.15 (2 Nos.)
Ex.A4	23.10.2011	Copy of Partition Deed (Memo filed, Not relevant to the suit and discarded from the court consideration)
Ex.A5	16.09.2016	Certified copy of Partition Deed
Ex.A6	28.08.2000	Certified copy of Sale Deed
Ex.A7	16.09.2016	Certified copy of Gift Settlement Deed
Ex.A8	17.11.2016	Certified copy of Sale Deed
Ex.A9	22.02.2008	Certified copy of Sale document
Ex.A10	18.03.2010	Certified copy of Sale document
Ex.A11	23.08.2021	Certified copy of Sale document

Defendant side Witnesses and Exhibits:

NIL

**Sd/- K.Vijaya,
Additional District Judge,
Arani.**