

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE(FTC), VELLORE,  
VELLORE DISTRICT.

PRESENT: Tmt.V.R.Latha, M.A.,B.L.,  
Additional District Judge(FTC).

Dated this the 16<sup>th</sup> day of April 2021, Saturday

O.S.NO.23/2020

1. Unnamalai
2. Yasoda @ Thilagavathi

.. Plaintiffs

//Vs//

1. Velu
2. Paranthaman
3. Jayanthi
4. Chakkaravarthi

.. Defendants

This suit was filed before the Hon'ble Principal District Court, Vellore on 06.02.2020 thereafter the case was transferred to this court and coming before me on 05.04.2021 for final hearing in the presence of Tmt.J.Kanchana Arivazhagan and Thiru.B.Sudhakar, counsels for the Plaintiff and the defendants 1 to 4 are called absent set exparte, and upon hearing the arguments of plaintiff side and upon perusing the entire case records and having stood over for consideration, till this date this court delivered the following:-

**JUDGMENT**

This is the suit for partition to divide the suit schedule mentioned properties into three equal shares and allot two such share to the Plaintiffs and delivery of possession of such separated shares to the plaintiffs and to direct the 1<sup>st</sup> defendant to pay to the plaintiff their 2/3rd of income from the suit properties from the date of filing of the suit till the date of delivery of possession of separate share which will be decided under order 20, Rule 18 of CPC and to grant Mandatory injunction directing the defendants 2 to 4<sup>th</sup> to

deposit the rents payable by them regarding the suit properties in the court from the date of filing of the suit and for cost.

**2.The averments of the amended Plaint is as follows:-**

The 1st defendant is the younger brother of the plaintiffs and all three of them are the daughters and son of one Mahadevan and Machiammal. The item No. 1 to 7 of the schedule mentioned properties are the self acquired properties of their father namely the said Mahadevan. He purchased the 1<sup>st</sup> item of property on 24.01.1979 from one Ranganathan for valid consideration by way of registered sale deed, the same has been registered before SRO of Pallikonda in Doc.No.115/1979.

The 2<sup>nd</sup> item of the suit property purchased on 20.07.1982 from one Rajalakshmi for valid consideration by way of registered sale deed, the same has been registered before SRO of Pallikonda in Doc.No.821/1982.

The 3<sup>rd</sup> item of the suit property purchased on 07.02.1999 from one Rajamanickam for valid consideration by way of registered sale deed, the same has been registered before SRO of Pallikonda in Doc.No.203/1999.

The 4<sup>th</sup> item of the suit property purchased on 03.04.2006 from one Baskar through his Power Agent Kamalanathan for valid consideration by way of registered sale deed, the same has been registered before SRO of Pallikonda in Doc.No.752/2006.

The 5<sup>th</sup> item of the suit property purchased on 18.09.2008 from one Jeevakumar through his Power Agent S.Dhayananthan for valid consideration by way of registered sale deed, the same has been registered before SRO of Pallikonda in Doc.No.3413/2008.

The 6<sup>th</sup> and 7<sup>th</sup> item of schedule mentioned properties purchased in the name their mother Machiammal by the said Mahadevan, the 6<sup>th</sup> item of suit property purchased on 19.01.1972 from one Venkatachalam for valid consideration by way registered Sale Deed, the same has been registered before SRO of Pallikonda in Doc.No.244/1972 and the 7<sup>th</sup> item suit property purchased on 06.01.1966 from one Munusamy for valid consideration by way of Registered Sale deed, the same has been registered before SRO of Pallikonda in Doc.No.40/1966.

The 8<sup>th</sup> item of suit property is the property enjoyed by the Mahadevan for which he was issued patta in his name by the revenue authority, he mortgaged the same with the 1<sup>st</sup> plaintiff on 23.03.2011 by receiving a sum of Rs.50,000/- and executed a registered Mortgage Deed registered before the SRO of Pallikonda in Doc.No.1373/2011. The Mortgage is yet to be cleared.

After purchased the suit itemized properties, both the father and mother of the plaintiffs and defendants were in possession and enjoyment of the schedule mentioned properties jointly but the said Jaisankar died as unmarried.

Further, the plaintiffs submit that, in the life time of their father, he invested his earned money in fixed deposit in several banks, which terms of the fixed deposits now got matured. In the above circumstances, their father died intestate leaving behind his wife Machiammal and all three of the plaintiffs and the defendant to succeed his estate on 31.05.2018. Subsequent to the death of their father followed him their mother namely the said Machiammal also died intestate leaving behind all of them as his sole heirs at law to succeed the

estate on 16.04.2019.

After death of both their parents all of the plaintiffs and defendants are the legal heirs at law, having equal shares over the schedule mentioned properties. Therefore after death of their parents, in the month end of May 2019 the plaintiffs approached the defendant for amicable partition of the suit properties by metes and bounds and to deliver their legitimate shares and the 1<sup>st</sup> plaintiff demanded him to clear the Mortgage Loan borrowed by their father along with interest, but for the reasons best known by the defendant who evaded to comply with the demand of the plaintiffs, further more without the knowledge and consent of the plaintiffs the defendant herein let out the premises for monthly rents to some of the parties and getting monthly rents from them. When the plaintiffs got knowledge about the same they demanded the defendant to give their shares from the monthly rent amounts, but the defendant gave evasive replies also threatening the plaintiffs with dire consequences. And not gave his consent to the banks to withdraw the fixed deposit as stated above. In the above said circumstances, the plaintiffs recently learnt that the 1<sup>st</sup> defendant is colluding with some henchmen and anti-social elements is trying to alienate the properties, knowing the same once again the plaintiffs approached the defendant for amicable partition, the same way he is denying to come forward as per the demands of the plaintiffs, which is highly illegal and the defendant is penalized for his high handed activities. Regarding several Panchayath held by the family elders but were not showing any interest for amicable partition and your intention clearly reveals that the defendant is under the intention to grab shares of the

plaintiffs in the schedule mentioned properties.

Moreover the 1<sup>st</sup> defendant rented out the joint family properties to the 2 to 4<sup>th</sup> defendants and drawing the monthly rental from them without remitting the 2/3rd share amount to the plaintiffs, whenever the plaintiffs asked the same the 1<sup>st</sup> defendant threatens the plaintiffs dire consequences.

Due to the above said action of the 1<sup>st</sup> defendant the plaintiffs cause issuance of a legal notice through their counsel 21.10.2019 thereby called the 1<sup>st</sup> defendant for amicable partition, the 1<sup>st</sup> defendant received the said legal notice but the 1<sup>st</sup> defendant not choose to issue any reply notice and not come forward to amicable partition, therefore without other option the plaintiff filing this suit before this Hon'ble Court for partition of their 2/3rd share of the suit property.

In view of the unreasonable attitude of the 1<sup>st</sup> defendant, it has become impossible for the plaintiffs to remain with them as co-shares.

There is no debt due from the said Joint family except the 10<sup>th</sup> item of suit property. There is no claim of any minors over the same. There is no religious endowment over the suit properties.

The plaintiffs and 1<sup>st</sup> defendant are in joint possession and enjoyment of the suit properties, in any event the plaintiffs are in joint and constructive possession and enjoyment of the suit properties, since the 1<sup>st</sup> defendant also enjoying the share of income from the suit properties then his illegitimate shares, the 1<sup>st</sup> defendant is also bound to render an income of the suit properties from the date of filing suit till the date of delivery of divided shares to the plaintiffs and the defendants 2 to 4 are liable to be deposited the rental

before this court. Hence, the plaintiffs filed the suit.

3. The defendants 1 to 4 are being called absent set exparte.

4. On perusing the plaint averments, the following issue is framed;

1. Whether the plaintiffs are entitled to get the decree as prayed by them?

6. On the side of Plaintiffs, the 1<sup>st</sup> plaintiff was examined as P.W.1 and Ex.A.1 to A.9 were marked through P.W.1.

7. On the side of the defendants, the defendants 1 to 4 are being called absent set exparte.

To prove the plaintiffs' contention, on 5.04.2021, the 1<sup>st</sup> plaintiff was examined as P.W.1 and Ex.A.1 to A.9 were marked. Ex.A.1 is the Certified copy of the sale deed stands in the name of Mahadevan dated 24.01.1979. Ex.A.2 is the Certified copy of the sale deed stands in the name of Mahadevan dated 20.07.1982. Ex.A.3 is the Certified copy of the sale deed stands in the name of Mahadevan dated 07.02.1999. Ex.A.4 is the Certified copy of the Sale deed stands in the name of Mahadevan dated 03.04.2006. Ex.A.5 is the Certified copy of the Sale deed stands in the name of Mahadevan dated 18.09.2008. Ex.A.6 is the Certified copy of the Sale deed stands in the name of Machiammal dated 19.01.1972. Ex.A.7 is the Certified copy of the Sale deed stands in the name of Machiammal dated 06.01.1966. Ex.A.8 is the Certified copy of Mortgage deed executed by Mahadevan dated 23.03.2011. Ex.A.9 is the Office copy of the legal notice with registered post receipt dated 21.10.2019. But to rebut those documents, no materials were produced on the side of the defendants by way of appearing before this court and failed to

contest the case on merits. Thereby, on perusing the Ex.A.1 to A.9, this court comes to the conclusion that the plaintiffs are entitled to get 2/3rd share in the suit property and entitled to get the delivery of possession. With regard to the relief (c) and (d), it will be decided in a separate Inquiry and this issue is answered accordingly.

In the result, the suit is pre-decreed with cost as follows. The plaintiffs are entitled to get the 2/3rd share in the suit property and entitled to get the delivery of possession. With regard to the relief (c) and (d), it will be decided in a separate Inquiry.

Dictated to the steno-typist directly, typed by her through computer and after corrected by me, pronounced in open court on 16.04.2021.

**Additional District Judge ( FTC)  
Vellore.**

**Annexure:-**

**Plaintiff side witness:-**

PW.1 Tmt.Unnamalai

**Plaintiff side Exhibits:-**

Ex.A.1 / 24.01.1979 / Certified copy of the sale deed stands in the name of Mahadevan.

Ex.A.2 / 20.07.1982 / Certified copy of the sale deed stands in the name of Mahadevan.

Ex.A.3 / 07.02.1999 / Certified copy of the sale deed stands in the name of Mahadevan.

Ex.A.4 / 03.04.2006 / Certified copy of the Sale deed stands in the name of Mahadevan.

Ex.A.5 / 18.09.2008/ Certified copy of the Sale deed stands in the name of Mahadevan.

Ex.A.6 / 19.01.1972 / Certified copy of the Sale deed stands in the name of Machiammal.

Ex.A.7 / 06.01.1966 / Certified copy of the Sale deed stands in the name of Machiammal.

Ex.A.8 / 23.03.2011 / Certified copy of Mortgage deed executed by Mahadevan.

Ex.A.9 / 21.10.2019 / Office copy of the legal notice with registered post receipt.

**Defendant's side witnesses and Exhibits:**

NIL

**Additional District Judge(FTC)  
Vellore.**