

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

PRESENT: Tmt.P.REVATHY, M.A.,M.L.,
Additional District Judge(FTC),Vellore.

Dated this the 18th day of March 2024, Monday

O.S.NO.184/2023

Devagi

.. Plaintiff

//Vs//

1. Palani
2. Rajeshwari
3. Pattu
4. Ezhumalai

.. Defendants

This suit was filed before the Hon'ble Principal District Court, Vellore on 29.08.2023 thereafter the case was transferred to this court and coming before me on 15.03.2024 for final hearing in the presence of Thiru.M.Balaji, Counsel for the Plaintiff and the defendants 1 to 4 were called absent set exparte on 04.10.2023 and upon hearing the arguments of Plaintiff's 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 and for separate possession of Plaintiffs' 1/4th share in the suit properties and to declare the settlement deed dated 25.08.2003 executed by the defendants No.1 and 2 in favour of the 4th defendant as null and void and for permanent injunction and for cost.

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

The suit property was purchased by the Plaintiff's father Natesan vide Document No.814/1978 dated 14.06.1978, from the date of document

the Plaintiff's father Natesan had been enjoying the schedule mentioned properties without any disputes or without any encumbrance. The said Natesan who married with one Oyamalli, out of their lawful wedlock, they got two daughters and one son, the namely the Plaintiff and the defendants 1 and 2. The said Natesan's wife Oyamalli died leaving behind her husband, her daughters and her son as her legal heirs to succeed her estates.

After the death of the Plaintiff's mother, the said Natesan got married with one Pattu, who is the 3rd defendant herein to take care of his three children. After the marriage, the said Natesan and his 2nd wife Pattu – 3rd defendant herein, there is no issues, his first wife daughters and son who are the plaintiff and defendants 1 and 2 are jointly living under the one roof without any disputes in between them and they were jointly enjoying the suit properties without any encumbrance. In the meanwhile, the said Natesan died on 11.03.2003 leaving behind him, his daughters Devagi and Rajalakshmi and his son Palani and his 2nd wife Pattu who is the Plaintiff and the defendants 1 to 3 as his legal heirs to succeed his estates.

After the death of the said Natesan, the Plaintiff and defendants 1 to 3 who were jointly enjoying the suit properties without any disputes and the said matter is very well known to the 4th defendant – Ezhumalai. The Plaintiff and defendants 1 to 3 are equal got right over the suit property. After the death of the said Natesan, the defendants 1 to 3 are trying to sell the suit property in favour of third party, when the Plaintiff questioned the

same there was a dispute between the Plaintiff and the defendants 1 to 3. So the defendants 1 to 3 is not providing anything to the Plaintiff. On several occasions the Plaintiff demanded the defendants 1 to 3 to divide the suit properties into 4 equal shares and to allot one such share to the Plaintiff but the defendants 1 to 3 are evading to do so under one pretext or the other. There was a Panchayat was conducted between the Plaintiff and the defendants 1 to 3 in the presence of the elders and well wishers of the family, at that time the defendants 1 to 3 promised with the Plaintiff to divide the 1/4th share to the Plaintiff on believing their representation and panchayathars given assurance to her, the Plaintiff not take any action over the suit property and there is no partition in between the Plaintiff and defendants 1 to 3 herein.

The Plaintiff came to know that the 1st defendant executed registered sale deed dated 25.08.2003 in favour of the 4th defendant regarding the portion of the suit properties without the consent of the Plaintiff and the same are invalid in law and not binding upon the plaintiff's 1/4th share, because the suit properties are the ancestor properties. Hence the Plaintiff issued a legal notice dated 10.09.2022 to the defendants 1,2 and 4 for amicable partition over the suit properties and another relief of registered sale deed is null and void. After receiving the notice, the defendants 1 and 4 not issued any reply notice to the plaintiff's counsel till this date. In the meanwhile, the Plaintiff again came to know that the defendants 1 to 4 are

trying to alienate the suit properties with an intention to deprive the legitimate share of the Plaintiff. If the defendants 1 to 4 are not enjoined from alienating the suit properties to any third parties the plaintiff will be put to irreparable loss and hardship. Hence the Plaintiff is constrained to file the suit.

3. Even though the defendants 1 to 4 received the notice, but they did not appear before this court and hence the defendants were called absent and set ex parte on 04.10.2023.

4. Whether the plaintiff is entitled to get 1/4th share in the suit properties as claimed by her?

is to be decided in this case.

5.Point:

To prove the contention of the Plaintiff, the plaintiff was examined as P.W.1 and eight documents have been marked as Ex.A.1 to A.8 through her. Ex.A.1 is the Registration copy of the sale deed in favour of the Natesan, Ex.A.2 is the xerox copy of the Death certificate of Natesan, Ex.A.3 is the Registration copy of the sale deed executed by the defendants 1 and 2 in favour of 4th defendant, Ex.A.4 is the Xerox copy of the Joint Patta stands in the name of Natesan, Ex.A.5 is the Office copy of the legal notice issued by the Plaintiff to the defendants 1,2 and 4, Ex.A.6 is the Postal acknowledgment card, Ex.A.7 is the Postal Acknowledgment Card, Ex.A.8 is the returned postal cover. On perusing the evidence of P.W.1 and

the documents Ex.A.1 to A.8, the plaintiff has proved the plaintiff averments. To rebut those contentions, no materials had been produced on the side of the defendants and they failed to appear before this court to contest the case on merits. Therefore, the suit is decreed as prayed for.

In the result, the preliminary decree of partition is passed as prayed for with cost. The plaintiff is entitled to get the 1/4th share in the suit properties and to get the separate possession of her due share and the registered sale deed dated 25.08.2003 executed by the defendants 1 and 2 in favour of the 4th defendant is declared as null and void and the Plaintiff is entitled to get the permanent injunction by restraining the defendants 1 to 4 from creating encumbrances over the suit properties till the disposal of the suit.

Dictated to the steno - typist directly, transcribed and typed by her through computer and after corrected by me, pronounced in open court on 18th day of March 2024.

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

Annexure:-

Plaintiffs side witness:-

PW.1 - Tmt.Devagi

Plaintiffs side Exhibits:-

- Ex.A.1 / 14.06.1978 / Registration copy of the sale deed executed by Parasurama Gounder in favour of Natesan.
- Ex.A.2 / 12.07.2022 / Xerox copy of Death Certificate of Plaintiff's father Natesan.
- Ex.A.3 / 25.08.2003 / Registration copy of the sale deed executed by defendants 1 and 2 in favour of 4th defendant.
- Ex.A.4 / - / Xerox copy of Joint Patta stands in the name of Natesan.
- Ex.A.5 / 10.09.2022 / Office copy of the legal notice issued by the Plaintiff's counsel to the defendants 1,2 and 4.
- Ex.A.6 / 14.09.2022 / Postal acknowledgment card of 1st defendant.
- Ex.A.7 / 14.09.2022 / Postal acknowledgment card of 4th defendant
- Ex.A.8 / - / Returned postal cover addressed to the 2nd defendant.

**ADJ(FTC),
Vellore.**