BEFORE THE ADDITIONAL MASTER-I
HIGH COURT, MADRAS

C.S. No.572 of 2015

Date: 16.06.2023

Time:12.15p.m.

Name : T. Shanmugapriya(PW1)

Age : 47 years

Father's Name : Late S. Thyagarajan

Office Address : No.23, Thanikachalam Road, T.Nagar, Chennai-600 017.

Chief Examination by R.Gokul, Learned counsel for the plaintiff.

Solemnly Affirmed:

I am the plaintiff herein. I am filing my proof affidavit stating the facts of this case and the same may be treated as part and parcel of my examination-in-chief. The following documents may be marked as exhibits.

Ex P1 is the certified copy of the sale deed dated 22.04.1987.

Ex P2 is the certified copy of the sale deed dated 01.07.1991.

Ex P3 is the certified copy of the sale deed dated 29.06.1992.

Ex P4 is the certified copy of the sale deed dated 29.06.1992.

Ex P5 is the certified copy of the sale deed dated 09.07.1992.

Ex P6 is the original Letter sent by the plaintiff dated 10.01.2005. (SO)

Ex P7 is the original Letter sent by the plaintiff dated 05.03.2007. (SO)

Ex P8 is the original Letter sent by the plaintiff dated 15.04.2010. (SO)

Ex P9 is the original Letter dated 15.07.2010. (SO)

Ex P10 is the original Tax receipts dated 14.03.2017, 17.03.2017(2 in Nos).

Ex P11 is online copy of patta in respect of Item No.2 (65B Affidavit produced).

Ex P12 is the online copy of Chitta in respect of Item No.3 of the shedule property (65B Affidavit produced).

Time: 12.50 p.m.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER-I
HIGH COURT, MADRAS

C.S. No.572 of 2015

Date: 11.07.2023
Time:03.51 p.m.

Name : T. Shanmugapriya(PW1)

Cross Examination of PW1 by Mr.Krishna Ravindran, Learned counsel for the Defendant 1.

Solemnly Affirmed:

Q1: Can you tell this Court what is your main prayer in this suit?

A: For partition of the trust property, originally for 25% and now for 33% or 1/3rd.

Q2: Originally you filed the suit along with your brother, the 2nd defendant now. Is it correct?

A: Yes, we filed it together.

Q3: And your original prayer was seeking 25% for each of you. Is that correct?

A: Yes. Witness adds: As per the trust deed.

Q4: Have you filed the original trust deed dated 27.05.1982 before this court?

A: No, I do not have the original trust deed, my brother is having it.

Q5: Is it a registered trust?

A: No.

Q6: When the trust was created in 1982, how old were you?

A: 6 years.

Q7: Do you know who created the trust?

A: My grand father.

Q8: Do you know who are the original trustees of the trust?

A: My mother and father.

Q9: Before filing the suit in the year 2015, did you ask for partition of the trust property?

A: Yes, we asked my father.

Q10: Did you ever ask your mother for partition of the trust property?

A: Yes.

Q11: Can you tell when you asked your mother and how?

A: Before filing the suit many times orally.

Q12: Presently are you married or single?

A: Married.

Q13: Can you state the name of your spouse?

A: Udayabhaskar Reddy.

Q14: When did you get marry?

A: Recently.

Q15: Can you state the date?

A: July 2022.

Q16: Can you give the specific date?

A: No, I do not wish to.

Q17: In your proof affidavit, you have stated that in you were earlier

married in 2001 and the same was dissolved in 2004. Am I correct?

A: Yes, It is correct.

Q18: So your present marriage is your second marriage?

A: Yes.

Q19: Do you know why your grandfather created this family trust?

A: No, I am unable to recollect.

Q20: Are you a member or trustee in this family trust?

A: Yes.

Q21: Have you filed any document before this Hon'ble Court to prove that you are a member/trustee of the family trust?

A: No.

Time: 04.08 p.m.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER-I
HIGH COURT, MADRAS

C.S. No.572 of 2015

Date: 26.07.2023
Time:03.07 P.M

Name : T. Shanmugapriya(PW1)

Cross Examination of PW1 by Mr.Krishna Ravindran, Learned counsel for the Defendant 1.

Solemnly Affirmed:

Q22: I put it to you that you are not a member of the family trust and you have never signed in the family trust and hence you are not entitled for any relief claimed by you out of the family trust.

A: I deny it. The statement is incorrect. I am very much part of the family trust and I am entitled to my share where I sought the relief.

Q23: You have made various averments and details of the family trust in the plaint and the proof affidavit. I put it to you that when you have not produced the trust deed before this Hon'ble court, your statements regarding the same are incorrect.

A: I deny that.

Q24: In your response to Q10, you have stated that you have asked your mother regarding partition of the property. Have you filed any document before this Hon'ble Court to substantiate your statement?

A: No. I have not produced.

Q25: Can you tell this Hon'ble Court what steps did you take to determine the existence or non-existence of the family trust?

A: I have asked my parents and obtained a copy of the trust deed and they affirmed the same as did my brother.

Q26: Have you filed any document before this Hon'ble Court to substantiate your above statement?

A: Yes, the letters that my brother and myself had jointly written to my father and my father's responses.

Q27: Ex.P6, P7, P8 are shown to the witness. Are these the letters you wrote to your father?

A: Yes, we jointly wrote.

Q28: Are these the originals of those letters?

A: Yes.

Q29: When you have sent these letters to your father, how do you have the originals of the said letters with you?

A: One copy we retained and the other one we sent for any kind of communication.

Q30: Is there any acknowledgment from your father proving the receipt of Ex.P7 and Ex.P8?

A: His replies to us.

Q31: Ex.P9 is shown to the witness. Is this the reply you are talking about?

A: It is one of the reply.

Q32: Are there any other replies from your father which you have filed before this court?

A: Yes, I filed, they have not marked, since we are not having the original.

Q33: In Ex.P9, the reply sent by your father, he has acknowledged the receipt of Ex.P8 alone and not the other two letters. Hence I put it to you that Ex.P6 and Ex.P7 were never sent and they are not valid documents.

A: It is incorrect. I deny that. Because the Ex.P8, letter mention the previous letters as well.

Q34: In Ex.P9, is it correct to state that your father has acknowledged the existence of the trust and has asked you both to wait for the propriate time?

A: He has acknowledged for the partition and had asked us to wait.

Q35: He has further stated that the 1st defendant your mother, being a permanent trustee is not co-operating to dissolve the trust. Is it correct?

A: It is incorrect. He has stated that she is not co-operating in the trust matters.

Q36: Was there any other trust matter other than dissolution of trust pending at the relevant point of time?

A: The partition of the trust was pending as the trust had already ended.

Q37: Witness is shown para 2 of the proof affidavit, you have incorporated a tabular column in the proof affidavit which is incomplete and incorrect. Can you clarify?

A: Certain numbers have been missed out, it should be as per the original trust.

Q38: I put it to you that since you are not aware of the actual provisions of the trust you have not been able to provide the necessary information.

A: It is incorrect.

Q39: Are you aware of any activity undertaken by the Anuradha Family Trust?

A: Yes, until my father was alive, he used to update us at intervals.

Q40: Can you name some of the activities regarding which your father was intimating?

A: Yes, regarding the wells, the farm and trees etc.,

Q41: Is it correct to state that the trust did not carry on any activity to generate income to maintain the trust?

A: I do not know.

Q42: Are you aware of the expenses involved in maintaining the trust properties?

A: Only those expenses mentioned by my father.

Q43: Have you ever contributed towards the expenses of the trust?

A: Many times when it was required, I have contributed.

Q44: Have you filed any documentary evidence before this Hon'ble court to prove your contribution in the trust?

A: No.

Q45: In para 6 of the proof affidavit, you have stated that out of the trust income your late father as managing trustee had purchased the following properties I put it to you that in light of the above statement regarding the trust income the said statement is false and incorrect.

A: It is what my father had informed me along with my brother. I have stated the same.

Q46: Is it correct to infere that all your statements in the proof affidavit regarding the family trust are hearsay from what you have heard from your father?

A: It is incorrect that all statements are just hearsay.

Q47: In para 7 of your proof affidavit, you have stated that the trust expired on 26.05.2002. whereas in Ex.P7 and Ex.P8, you have requested your father to terminate the trust immediately. Which of the statements are corect?

A: The trust expired on 26.05.2002 but there was no proper documentation and partition at the time of expiry. So my brother and myself requested my father to do the same.

Q48: Can you tell this Hon'ble court whether your father alone could terminate the trust and partition the property?

A: As Managing Trustee he was the one who had to take steps to do

this.

Q49: Are you aware of your father taking any steps to terminate the trust after your request?

A: Only those he has mentioned in his reply, Ex.P9.

Q50: I put it to you that you were pressurising your father to terminate the trust without the knowledge of the 1st defendant and that you never aproached the 1st defendant for the termination of the trust.

A: It is incorrect and I deny the same.

Q51: Have you ever attended any of the trust meetings of the Anuradha Family Trust?

A: No.

Time:03.54 P.M

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER-I
HIGH COURT, MADRAS

C.S. No.572 of 2015

Date: 23.08.2023
Time:12.55 P.M

Name : T. Shanmugapriya(PW1)

Cross Examination of PW1 by Mr.Krishna Ravindran, Learned counsel for the Defendant 1.

Solemnly Affirmed:

Q52: Are you aware of the sale of any portion of the properties owned by the Anuradha Family Trust?

A: Yes. I am aware of some sale.

Q53: A document is shown to the witness. Is this the sale deed selling the portion of the property belonging to the trust at Sathankuppam Village?

A: I am not aware, if this is the exact sale.

Q54: Witness is shown Doc.No.3520 dated 14.05.2008 registered at Tiruporur SRO. Have you signed as a witness in the said sale deed?

A: Yes, the signature is mine, I have only signed as a witness. The signature of the witness as the second witness therein page no.24 in Doc.No.3520 dated 14.05.2008 is marked as Ex.D1.

Q55: Witness is shown the resolutiond dated 07.05.2008 of the Anuradha Family Trust (AFT). Is this the resolution authorising the sale of the said property and have you signed in the said resolution?

A: I am unaware.

Q56: You are unaware of the document or the sale transaction itself?

A: I am unaware of the document.

Q57: Does that mean you were aware of the sale transaction wherein you have signed as a witness in Doc.No.3520/2008?

A: I only signed as a witness. I need not know the contents.

Q58: Can you tell this court what is your educational qualification?

A: I am a MBA Graduate.

Q59: Having done a Post Graduate Degree, Are you not aware of the contents of the document on which you have affixed your signature as a witness?

A: It is my wish to choose to know or not.

Q60: In this case, Do you mean to say that you choose not to know the contents of the document in which you have affixed your signature?

A: Yes, I choose only to be a witness.

Q61: Can you tell this Hon'ble Court, whether you were the Trustee in AFT during the said sale in the year 2008?

A: I was only a beneficiary throughout in AFT.

Q62: Do you mean to say that you were never a trustee in the AFT?

A: I was always a beneficiary in the trust.

Q63: In your answer to Q20, you have stated that you are a member and a trustee of the AFT. Which is correct?

A: Yes, I am a member, a beneficiary in the Trust. I am not a Trustee.

Q64: Is it correct to state that you did not receive any portion of the money that was obtained from the above mentioned sale of the trust property?

A: No. I have not received any monies of any sale.

Q65: Are you aware of any other sale of trust property?

A: No.

Q66: I put it to you that you are not a beneficiary under the AFT and that is why you have not been paid any share out of the sale proceeds in the above mentioned sale.

A: It is incorrect.

Q67: Are you aware of the Senthil Charitable Trust (for short: SCT)?

A: Only that it is mentioned in the AFT.

Q68: Do you know that a part of the sale consideration from the above mentioned sale vide Doc.No.3520/2008 was distributed to SCT?

A: I am unaware.

Q69: According to you, Does the AFT exist as of today?

A: No. The trust has ended.

Q70: Can you tell when the trust was terminated?

A: The trust came to an end in 2002 as per the Trust Deed.

Q71: I put it to you that when you claim that you were not a Trustee, how are you capable of making such statement when the trust is still in existence as it was duly extended by the Trustees.

A: Because the suit was jointly filed along with my brother who was

a Trustee and the same was not denied by my father who was the Managing Trustee.

Q72: Is it correct to state that from 2002 to 2015 though the trust was not in existence according to you, you took no steps other than writing letters to your father who was living in the same house?

A: We were periodically asking our father for the same, other than writing letters.

Q73: Did you ever inform your father and the 1st defendant (mother) about the Exparte Preliminary Decree dated 02.08.2017 initially obtained by you in the present suit?

A: The Preliminary Decree was obtained by both me and the 2nd defendant (then plaintiff) jointly. The same was informed by me orally to both of them.

Time: 01.30 P.M

Taken down in open Court, read over and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER-I
HIGH COURT, MADRAS

C.S. No.572 of 2015

Date:05.09.2023
Time:03.55 P.M

Name : T. Shanmugapriya(PW1)

Cross Examination of PW1 by Mr.Krishna Ravindran, Learned counsel for the Defendant 1.

Solemnly Affirmed:

Q74: Can you tell what is the main prayer you have sought for in the present suit as per the amended plaint?

A: For partitioning the AF Trust properties as the trust has ended and to give my share as per the Trust Deed which was then 25% and now 33%.

Q75: Can you tell where in the Trust Deed of the AF trust has it been mentioned that you are entitled for 25% of the assets of the trust?

A: The Trust Deed mentions 15% for me and 10% for my husband and if any reason my husband's portion has not been given to him, the same has to be given him, so this makes it 25%.

Q76: Can you state your present marital status?

A: Married.

Q77: So, Is your husband party to the present suit?

A: The original suit was filed in 2015 and I was single.

Q78: Item no.1 of the schedule property to the suit is an apartment

in which the 1st defendant is residing in. Are you seeking partition of the said property also?

A: I am seeking partition in all the properties/assets owned by AF trust.

Q79: I put it to you that this property was specifically allotted to the 1st defendant and that she has been residing for the past 20 years and that you are not entitled to claim partition of the said property or any property of AF trust.

A: I deny the same. I am entitled to my share in all the properties that are owned by AF trust as per the Trust Deed.

Q80: Do you know who are all the beneficiaries of the AF trust?

A: Yes. As per the original Trust Deed, my father, my mother, my brother, myself, would be husband of Shanmugapriya (myself), would be wife of Senthil Kumaran (my brother) and Senthil Charitable Trust.

Q81: Even according to you when there are so many beneficiaries to the AF trust, how do you say you are entitled to 1/3rd of the assets of the trust?

A: I have already mentioned in my plaint how there are only 4 beneficiaries which is now 3 after my father's demise.

Q82: I put it to you that you are not even aware of the provisions of the AF trust and have made an unsustainable claim for which you are not entitled to.

A: I deny this.

Q83: I put it to you that you are not aware of the very existence of

the AF trust and have participated in the sale of properties without claiming any share and the amount received, and it clearly shows that your averments in the plaint and proof affidavit are untrue and unsustainable and that you are well aware that you are not entitled for any share in the assets of the AF trust.

A: I deny this.

Time: 04.20 P.M

Taken down in open Court, read over and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER-I
HIGH COURT, MADRAS

C.S. No.572 of 2015

Date:20.09.2023
Time:03.08 P.M

Name : T. Shanmugapriya(PW1)

Cross Examination of PW1 by Mrs.Tanya Kapoor, Learned Counsel for the Defendant 2.

Solemnly Affirmed:

Q84: Witness is shown Original Deed of Declaration of Anuradha Family Trust Deed dated 27.05.1982. Do you agree this is the Trust Deed that you have spoken of in the plaint?

A: I have to go through the whole document.

Q85: Do you agree that your parents and your brother (Defendant 2) were the only permanent Trustees of the AFT?

A: My father and mother were the original permanent Trustees.

Q86: Do you deny that your brother is a permanent Trustee of the trust?

A: My brother is also a Trustee in the Trust.

Q87: You claim your rights in the AFT based on the Anuradha Family Trust Deed dated 27.05.1982. Is that correct?

A: Yes.

Q88: Will it be correct in stating that the AFT is a private trust and it is solely governed by the terms of the Trust Deed?

A: Yes.

Q89: Does the Trust Deed dated 27.05.1982 contain any riders or conditions regarding ceasure of beneficiaries shares or benefit under the deed?

A: It is whatever is stated in the Trust Deed.

Q90: Then you do agree that as per clause 12 of the Trust Deed dated 27.05.1982, the share of benefit payable to you and the would be husband was to cease from the end of the account year in which the marriage takes place and that such share of benefit payable to you and your husband was to be taken by the surviving beneficiary equally. What do you say?

A: We have mentioned the relevant clauses already in the plaint.

Q91: Witness is shown para 5 of the plaint. Have you stated about the embargo contained in clause 12 of the Trust Deed as regards holding the beneficiary status under the Trust?

A: We have filed the Trust Deed and marked the Trust Deed, when me and my brother filed the original plaint and therefore, all the clauses are anyway contained in it.

Q92: I put it to you that you have intentionally failed to disclose or justify your beneficiary status considering the loss of beneficiary status stipulated in clause 12 of the deed on solemnising your marriage and thus have concealed vital facts and you have approached the court with unclean hands and you are not entitled for any of the reliefs sought for in this suit by you. What do you say?

A: I deny the same.

Q93: Please tell us the date you solemnised your 1st marriage?

A: 07.02.2001.

Q94: I put it to you that since you were married on 07.02.2001, you ceased your share of benefit in the Trust from the end of the accounting year i.e.,31.03.2021. What do you say?

A: I deny.

Q95: Does the Trust Deed contain such disclaimer of beneficiary status for any other member of the Trust?

A: I do not know.

Q96: Does the Trust Deed dated 27.05.1982 contain a clause for your reinstatement as a beneficiary of the Trust in the event of dissolution of marriage?

A: I am not aware.

Q97: Since you claim the suit relief based on the clause stipulated in the AFT Deed and since you claim ignorance to the clauses stipulated therein. I put it to you that you are not aware of your entitlement of beneficiary under the Trust and are only attempting to unjustly enrich yourself. What do you say?

A: The suit relief was jointly sought by me and my brother, who was a Trustee in the AFT and our beneficiary status was never denied by the Managing Trustee, my father.

Q98: Is it your case that your basis for claiming yourself as a beneficiary under the Trust currently, is only based on your brother's and father's alleged actions and words and that you independently do not have any knowledge of your beneficiary status under the

trust.

A: My beneficiary status in the trust was affirmed by the fact that my brother, who was a Trustee filed this suit jointly with me and that my father, the Managing Trustee accepted it, in his replies.

Q99: What 'acceptance' are you referring to in the above answers of yours. Kindly elaborate?

A: The acceptance that as per the Trust Deed, I am the beneficiary and we are entitled to the share of the Trust sought by us.

Q100: Where and when was this "acceptance" allegedly made?

A: In the joint plaint filed by us.

Q101: You have stated the alleged acceptance has been made by the Managing Trustee, your father, where and when was it stated. Have you filed any proof for the same?

A: My father's replies to both (me and my brother)

Q102: All exhibits are shown to the witness. Please show where the acceptance of your beneficiary status has been made?

A: The fact that he replied to both of us in his replies.

Q103: Is the 2nd defendant currently a co-plaintiff to the suit seeking for the relief that you claimed in the suit?

A: No. He has transposed himself.

Q104: Please refer to para 3 of your plaint, wherein you have extracted the list of beneficiaries as per clause 7 of the Deed. Is it true that the Trustees of Senthil Charitable Trust as per clause 7 are entitled to 5% of the benefit under the Trust?

A:Yes, as per the original Trust Deed.

Q105: Witness is shown original Deed of Declaration of Senthil Charitable Trust dated 21.05.1982. Can you conform if this is the Deed of Senthil Charitable Trust?

A: I am not aware of it.

Q106: You admit that the 2nd defendant's wife Mrs.Zuleika Nazneen is a beneficiary under the AFT Deed. Is that correct?

A: Yes.

Q107: Have you made her a party to the suit proceedings?

A: My brother wanted to partition the suit properties, with his and his wife's share jointly represented.

Q108: I put it to you that this suit is bad for non-joinder of necessary parties. What do you say?

A: I deny.

Q109: At the time of institution of the suit, Is it true that your brother had good relationship with you and had complete faith in your words and actions?

A: We both had complete faith in each others words and actions and therefore, filed the suit together.

Q110: I put it to you that since you started acting against the interest of the family and refused to co-operate in running the family business. Did your brother become vary of your misdeeds and exploitation of his trust and faith in you. What do you say?

A: I deny and the question is completely irrelevant to the AFT suit filed by us.

Q111: If you claim, you were never a Trustee in the AFT and never a part of the Board of the Trust and how are you aware that the Trust has been extended or not?

A: My brother who was a Trustee has taken the stand that the Trust was never extended after it ended in 2002 in the plaint filed by both of us and my father, who was the Managing Trustee never denied that the Trust has ended in his communication.

Q112: I put it to you that your assertion of the Trusts determination/expiration as stated in the plaint is based on the hearsay and assumptions and you otherwise do not have any knowledge of the status of the Trust. What do you say?

A: False. It is based on the Trust Deed and as affirmed by the Trustee and Managing Trustee.

Q113: Witness is shown AFT Resolution dated 06.03.2002 for extending the duration of the Trust for the period of 10 years. Why have you not stated before the court that you are a signatory to the resolution for the extension of the Trust and that you had signed as a Trustee of the Trust?

A: It is a copy and I am not aware.

Q114: What are you not aware of?

A: The document you shown now.

Q115: Witness is shown original AFT resolution dated 07.05.2008 regarding sale of Trust property. Why have you not stated to the court that you have signed in the resolution of the Trust in the Trust Deed?

A: I am not aware of the document.

Q116: Are you disputing your signature in the original document?

A: I am saying that I am not aware of the document.

Q117: Witness is shown original AFT resolution dated 12.05.2008 and undated resolution regarding receipt of cheques of April and May 2008 by the Trust in which you are the signatory. Why have you not stated to the court that you have signed in the resolution of the Trust in the Trust Deed?

A: I am not aware of the document.

Q118: According to you, what is the procedure for termination of AFT?

A: I do not know the exact procedure for termination. In this case, the Trust had already ended.

Q119: I put it to you that only the board of Trustees can terminate the Trust as per the Trust Deed itself and they have not choosen to do so. What do you say?

A: Incorrect. The Trustee, my brother filed the suit along with me stating that the Trust had ended and my father the Managing Trustee confirmed the same.

Time: 04.10 P.M

Taken down in open Court, read over and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER-I
HIGH COURT, MADRAS

C.S. No.572 of 2015

Date:06.10.2023
Time:04.23 P.M

Name : T. Shanmugapriya(PW1)

Cross Examination of PW1 by Mrs.Tanya Kapoor, Learned Counsel for the Defendant 2.

Solemnly Affirmed:

Q120: Can you state your E-mail addresses?

A: I do not wish to.

Q121: Is "shanmugapriya@skylift.org" your E-mail address?

A: It is irrelevant for the AFT case.

Q122: Please refer to the above and answer the question?

A: It is my official E-mail under skylift cargo.

Q123: Witness is shown an E-mail dated 8th October 2019 addressed by one Mr.Rajkumar NV (Raj@skylift.org) to Senthil Thyagarajan, Shanmugapriya (shanmugapriya@skylift.org) and Thyagarajan. Is it correct that your father was reviewing Anuradha Family Trust Deed, its property documents, Senthil Charitable Trust Deed even as on 2017. What do you say?

A: I am not aware of this.

Q124: Are you not privy to the E-mail correspondence of 8th October 2019 regarding documents pertaining to Anuradha Family Trust Deed and Senthil Charitable Trust?

A: I am not aware of this document you are showing.

Q125: I put it to you that AFT and Senthil Charitable Trust related documents were being reviewed even as on 2017 as addressed in the E-mail of 8th October 2019, to which you are privy and the trust is still in existence even subsequent to the year 2002. What do you say?

A: I deny.

Q126: When did your first marriage dissolve?

A: 2012.

Q127: If according to you, the AFT expired in the year 2002, what was your marital status at the time of alleged expiry of the trust?

A: I was married in 2002.

Q128: I put it to you that even as per your alleged claim of expiration of AFT on 27.05.2002, you lost your status as 'beneficiary' under the Trust, having married in the year 2001. What do you say?

A: I deny.

Q129: I put it to you that independent and outside of the assets of the Trust, your parents had already provided you with sufficient assets both movable and immovable assets. What do you say?

A: It is an irrelevant question to the AF Trust case.

Q130: I put it to you that your brother (2nd defendant) was never made aware by you or anyone else about the contents of the AFT Deed until your parents enlightned him about the contents of the same. What do you say?

A: I deny this. My brother who was a trustee filed the suit along with me jointly and has verified all the statements made in the suit himself.

Q131: I put it to you that since your father had access/possession of AFT Documents including AFT deed and Senthil Charitable Trust Deed, did you and your brother initially file this suit as co-plaintiffs, with your brother being unaware of the contents of the deed, since he trusted you with the contents of the plaint.What do you say?

A: It is false, my brother was very much aware of the contents about the Trust deed and the Trust in which he was a Trustee and he has verified the same in the plaint.

Q132: Ex.P6 to Ex.P8 are shown to the witness. I put it to you that communications (Ex.P6 to Ex.P8) were written by you allegedly as a Trustee of the AF Trust. What do you say?

A: I have not signed as a Trustee, only as a beneficiary.

Q133: Where is it indicated in the aforesaid communication that you write as a beneficiary and where have you sought for any benefit of the Trust for yourself, Kindly indicate?

A: It is implied.

Q134: I put it to you that there is no implication/alleged acceptance of your beneficiary status in the AFT by any of the family members. What do you say?

A:I deny it. My father in his replies has not denied my rights in AFT and my brother has affirmed me as a beneficiary in the joint plaint filed by us.

Q135: I put it to you that you have misrepresented and approached this court with unclean hands and not entitled to any of the suit reliefs.

A: I deny.

Time: 04.47 P.M

Taken down in open Court, read over and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER-I
HIGH COURT, MADRAS

C.S. No.572 of 2015

Date: 19.06.2024

Time:12.45 P.M.

Name : T. Senthil Kumaran (DW 1)

Age : 50 years

Father's Name : Late S. Thyagarajan

Residential Address : No.23, Thanikachalam Road, T.Nagar, Chennai-600 017.

DW 1 Chief Examination by Ms.Tanya Kapoor, the learned counsel for the Defendants.

Solemnly Affirmed:

I am the 2nd Defendant herein. I am filing my proof affidavit stating the facts of this case and the same may be treated as part and parcel of my examination-in-chief. The following documents may be marked as exhibits.

Ex D1 is the photocopy of the Anuradha Trust Deed dated 27.05.1982. (Original is seen and returned. The learned counsel for the defendant undertakes to produce the original before the Court).

Ex D2 is the photocopy of the Senthil Charitable Trust dated 21.05.1982. (Original is seen and returned. The learned counsel for the defendant undertakes to produce the original before the Court).

Ex D3 is the Deed of Reconstitution dated 26.12.2022. (The learned counsel for the Plaintiff objects to mark the document

Ex D4 is the Board Resolutions dated 06.03.2002, 01.12.2012 and 14.05.2021.

Ex D5 is the Board Resolution appointing Plaintiff dated 02.01.2001.
Ex D6 is the certified copy of the Sale Deed dated 14.05.2008.

Ex D7 is the Board Resolution Approving Sale Deed dated 12.05.2008.

Ex D8 is the printout of the E-Mail Communications dated 19.04.2017 and 08.10.2019. (Certificate u/s65-B of I.E.Act produced).

Time: 01.00 P.M.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER-I
HIGH COURT, MADRAS

C.S. No.572 of 2015

Date: 19.06.2024
Time:02.25 P.M.

Name : T. Senthil Kumaran (DW 1)

DW 1 Cross Examination by Mr.S.L.Sudarsanam, the learned counsel for the Plaintiff.

Solemnly Affirmed:

Q1: What is your educational qualification?

A: M.B.A.

Q2: Are you fully aware of the facts of the present case?

A: As of now yes.

Q3: This suit is filed for Partition. Is it right?

A: Yes.

Q4: Plaint is shown to the witness. In the year 2015 you had filed this case. You had signed in the Plaint in all the pages. Correct?

A: Yes.

Q5: In the plaint prayer you asked for 1/4th share of the schedule mentioned properties at the time of filing the suit. Is it right?

A: Yes. As per the suit initiated and executed by appointed trustee my Sister Shanmuga Priya.

Q6: In 2015, when the suit was filed you are the second plaintiff. Is it right?

A: Yes.

Q7: The suit was filed by you and your sister against your father and mother who are the defendants in the suit. Is it right?

A: Yes.

Q8: Pending the suit your father, the first defendant died. Is it right?

A: Yes.

Q9: After the demise of the father, the first defendant, the share claimed is 1/3rd Share. Is it right?

A: Yes.

Q10: After your father's demise, you, your sister and your mother are the legal heirs of your father. Is it right?

(The learned counsel for the second defendant objects the relevancy of the question.)

A: Yes.

Q11: Are you aware of the Written Statement by your mother?

A: I am not aware.

Q12: In this present case in 2017, a Judgment was passed granting preliminary decree of 1/4th share to all the parties. Is it right?

A: Yes.

Q13: Thereafter your mother the first defendant filed an application to set aside the Ex-Parte preliminary decree since she was set Ex-Parte. Are you aware?

A: No.

Q14: By an order dated 14.07.2020 based on the application of your mother the preliminary decree was set aside. Are you aware?

A: Yes.

Q15: In 2015, when the suit was filed by your sister and you, Both of you signed the Verification paragraph and the list of documents. Is it right?

A: Yes.

Q16: So you are aware of the list of documents and contents of the documents filed in the present suit. Is it right?

A: No, as the appointed Trustee Mrs.Shanmuga Priya was handling affairs of the Trust then, I believe she was acting in the best interest of the Trust.

Q17: Have you mentioned the facts as you have stated in answer to the Q.No.16 in Written Statement and the Proof Affidavit?

A: I need to verify.

Time: 02.45 P.M

Taken down in open Court, read over and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER-I
HIGH COURT, MADRAS

C.S. No.572 of 2015

Date: 26.09.2024
Time:12.35 P.M.

Name : T. Senthil Kumaran (DW 1)

DW 1 Cross Examination continuation by Mr.S.L.Sudarsanam, the learned counsel for the Plaintiff.

Solemnly Affirmed:

Q18: In your answer to the Q.No.17, you have stated that you need to verify the Written Statement. Have you verified the written statement and proof affidavit?

A: I need to verify.

Q19: Why have you not verified?

A: I have been occupied with some other work.

Q20: In 2015, when the Plaint was filed by your sister and yourself jointly, in that Plaint para 3 you have mentioned that the percentage of share for each parties in the Tabular Column. Is it right?

A: Yes.

Q21: In that Plaint it is specified that the Senthil Charitable Trust was never formed and never came into existence. Is it right?

A: Yes.

Q22: Can you tell this Hon'ble Court when the Trust was formed?

A: I think in the year 1982.

Q23: Is it right to say that it is called as Anuradha Family Trust?

A: Yes.

Q24: Ex.D1 is shown to the witness. In 1982 when it was formed who were the Trustees?

A: I need to verify.

Q25: In the Plaint in 2015, you had stated that since you both got married both are entitled to each 25% respectively in the suit schedule property. Is it right?

A: Yes. Witness Adds: As mentioned earlier I had trusted my sister to act in the best interest of the Trust and not in the personal interest.

Q26: In your Plaint para 5 you have mentioned about the first plaintiff is entitled for 25% the first Defendant's father is entitled for 25%, the second defendant's mother is entitled for 20% as per the Plaint filed by both you and your sister. Is it right?

A: Yes. Witness adds: As mentioned earlier I had trusted my sister to act in the best interest of the Trust and not in the personal interest.

Q27: As per the Trust Deed what is the time span of the Trust?

A: I believe it is 20 years.

Q28: Have you gone through the objects and covenants of the Trust Deeds?

A: Only recently.

Q29: Para 6 of the Plaint, it has been categorically stated that the "On expiry of 20 years the Trust has come to an end and the beneficiaries of the said family trust are entitled to get their respective share of profit in the ratio mentioned above in Q.No.26 in the Plaint. Is it right?

A: Yes. As stated above. I had entrusted my sister to act in the best interest of the Trust even though she had signed for extension of the Trust for another period of 10 years this was not mentioned.

Q30: Have you stated the above facts mentioned in answer to the Q.No.27, 28 and 29 in your Written Statement and in the Proof Affidavit?

A: I need to verify.

Q31: As per clause 6 of your Plaint that the defendants your father and mother and yourself are the permanent trustees during the duration of the Trust. Is it right?

A: Yes.

Q32: In this said Plaint, the first plaintiff's is the Trustee of the said Trust has it been mentioned anywhere in the Plaint?

A: I need to verify.

Q33: Who was the managing Trustee of the said trust?

A: I believe it is my father Mr.S.Thiyagarajan.

Q34: The properties mentioned in the schedule are when and whom they are purchased?

A: I need to verify the period of purchase and it has been purchased by my father in the name of Trust.

Q35: How many properties were purchased in the name of Trust?

A: I believe it is three. I need to verify also.

Q36: Were you filing Income Tax Returns for the Trust. Are you aware?

A: No. I am not aware.

Q37: Ex.P6 is shown to the witness. On 10.01.2005 yourself and your sister written the letter (Ex.P6) your father, in that both of you specifically made 3 request to your father to terminate the Trust with immediate effect to discharge the liabilities if any and to distribute the residual assets of the the Trust. Is it right?

A: Yes. Witness Adds: As mentioned earlier I had trusted my sister to act in the best interest of the Trust and not in the personal interest.

Q38: In that letter you have stated that the Trust had expired in May 2002 and it was not extended. Is it right?

A: Yes. Witness Adds: As mentioned earlier I had trusted my sister to act in the best interest of the Trust and not in the personal interest who was then handling the Trust affairs as the appointed trustee.

Q39: What is the proof that the first plaintiff was made as a Trustee and what is the alleged date the first plaintiff was made as a Trustee?

A: She was appointed as an additional Trustee through a resolution. I need to verify the dates.

Q40: Have you filed the said resolution before this Court?

A: I need to verify.

Q41: Ex.P7 is shown to the witness. On 05.03.2007 yourself and your sister sent a reminder to your father to take termination with immediate effect and other consequential actions concerning the first letter. Is it right?

A: Yes, As mentioned earlier I had trusted my sister to act in the best interest of the Trust and not in the personal interest.

Q42: For these letters what did your father do?

A: I need to verify.

Q43: Ex.P8 is shown to the witness. After gap of 3 years on 15.04.2010 yourself and your sister wrote a letter to your father seeking immediate termination of the Trust and other consequential actions. Is it right?

A: Yes, As mentioned earlier I had trusted my sister to act in the best interest of the Trust and not in the personal interest.

Q44: In this letter Ex.P8 you have sought for the details of Senthil Charitable Trust and its Trustees? Correct?

A: Yes, As mentioned earlier I had trusted my sister to act in the best interest of the Trust and not in the personal interest.

Q45: As per clause 8 of the Plaint, you have stated that you have mentioned that the Trust expired on 26.05.2002 and no steps have been taken to remove the same and therefore to amicable divide the Schedule mentioned properties among the beneficiaries the present suit for Partition has been initiated against the father and mother. Is it right?

A: Yes, As mentioned earlier I had trusted my sister to act in the best interest of the Trust and not in the personal interest.

Q46: When you have been the Trustee of the said Trust?

A: I believe since inception of the Trust.

Q47: What was your role in the said Trust after it was formed?

A: Trustee and beneficiary.

Q48: Ex.P9 is shown to the witness. On 15.07.2010 your father had replied both of you. Is it right?

A: Yes. I was made aware of this letter much later.

Q49: This letter is addressed first to yourself. Is it right?

A: As per the letter yes. But I was made aware later.

Q50: When did you have the knowledge of the letter?

A: I need to verify.

Q51: In the said letter your father has mentioned that Senthil Charitable Trust never formed and I am not having any details relating the same. Is it right?

A: I need to verify.

Q52: Your father in the said letter had agreed. Please wait to distribute the assets of the Trust at the earliest. Are you aware of it?

A: Yes, as mentioned earlier. I am aware of it later.

Q53: Where are the original Title Deeds and documents relating the the schedule mentioned properties?

A: I need to verify.

Q54: Have you mentioned about the explanation given to the answers to the Q.No.32 to 53 In your Written Statement and proof affidavit?

A: I need to verify.

Q55: When will you able to verify and give answer?

A: As early as possible.

Time: 01.30 P.M

Taken down in open Court, read over and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER-I
HIGH COURT, MADRAS

C.S. No.572 of 2015

Date: 18.10.2024
Time: 01.20 P.M.

Name : T. Senthil Kumaran (DW 1)

DW 1 Cross Examination continuation by Mr.S.L.Sudarsanam, the learned counsel for the Plaintiff.

Solemnly Affirmed:

Q56: Have you verified for the questions 32 to 53, What are you verified?

A: I have verified to the best of my ability for the answers to some of the questions.

Q57: For which are the questions you have verified and what are the verified facts. Please explain?

A: Towards the Managing Trustee Mr.Thiyagarajan. Q.No.39 – The plaintiff was appointed as additional trustee in 2002.

Q58: Have you verified for Q.No.40?

A: I need to verify

Q59: Have you verified for Q.No.42?

A: I am not aware what my father did.

Q60: Ex.P9 is shown to the witness. Have you verified for Q.No.50?

A: Much later.

Q61: Have you verified for Q.No.53?

A: I am not aware.

Q62: Have you verified for Q.No.51?

A: I have verified, the letter is wrong. The Senthil Charitable Trust is in existence.

Q63: What is the proof and what document you have filed that the Senthil Charitable Trust is in existence?

A: I believe that Senthil Charitable Trust Deed copy has been filed.

Q64: For this Ex.P9 have you replied to your father?

A: I did not receive the notice. As mentioned earlier the appointed trustee Shamuga Priya who was handling the affairs including sending Mails to father and receiving reply was probably aware.

Q65: You have said earlier that you are aware of this Ex.P9 letter but now you have answered you did not receive this letter. So, your answer is perjury?

A: I deny. Being made aware and receiving the letter are different.

Q66: In para 2 of your Written Statement you have said Plaintiff is neither a Trustee nor a beneficiary. Is it correct?

A: Yes.

Time: 01.45 P.M

Taken down in open Court, read over and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER-I
HIGH COURT, MADRAS

C.S. No.572 of 2015

Date: 13.11.2024
Time: 02.30 P.M.

Name : T. Senthil Kumaran (DW 1)

DW1 Cross Examination continuation by Mr.S.L.Sudarsanam, the learned counsel for the Plaintiff.

Solemnly Affirmed:
Q67: Who was taking care of the administration of Anuradha Family Trust?
A: Managing Trustee Mr.S.Thiyagarajan, my father.

Q68: What was your role in the said Trust?

A: I was the permenant Trustee and beneficiary.

Q69: What was your scope of Work in the said Trust?

A: As long as my father was alive, he was managing the Trust and its activities. If required I would assist him work related with the properties held on the Trust.

Q70: The original title deeds was with your father till his life time. Am I right?

A: I believe he must have it.

Q71: Presently after the demise of your father the original title deeds concerning with the suit schedule properties are with whom?

A: I am not aware. But the appointed trustee Shanmuga Priya who was then handling some affairs of the Trust may be aware.

Q72: After the demise of your father what happened to the Trust?

A: The Trust was and continues to be in existence till date.

Q73: What are the documents you have filed to show the existence of Trust?

A: I have marked the Original Documents Trust Deed along with the resolutions passed for the extension of the Trust.

Q74: How did you get the Original Trust Deed after the demise of your father?

A: My mother who was the first defendant handed it over me.

Q75: Are the original documents of the suit property with your mother, first defendant?

A: I am not aware.

Q76: Has your mother attended any of your Trust meetings?

A: I am not aware.

Q77: Who is filing the Income Tax Returns of the Trust?

A: So long as my father was alive, the managing trustee was aware of it. I am not aware.

Q78: Since the Trust is not in existence you have not filed the Income Tax Returns before this Hon'ble Court?

A: I deny.

Q79: Para 7 of the Written Statement of the 2nd Defendant is shown to the witness. In tabulation column of para 7 the details concerning the division of shares is mentioned in the tabular column. Is it correct?

A: Yes. Along with the note mentioned therein.

Q80: In the plaint filed in the year 2015 by yourself and plaintiff the tabular column in para 3 is in conformity with the Para 7 of your Written Statement. Is it right?

A: Yes, but I would like to add. The Plaint was initiated by the appointed Trustee Mrs.Shanmuga Priya who has entrusted to act in the best interest of the Trust.

Q81: In the Plaint you are the signatory and you have signed in all the pages of the Plaint along with the other plaintiff?

A: Yes. As mentioned above I had trusted Mrs.Shanmuga Priya to act in the best interest of the Trust and not in her personal interest.

Q82: Both of you have filed the above suit for Partition as individuals. First plaintiff is your sister and second is yourself?

A: Yes. But as mentioned above I have trusted her to act in the best interest of the trust as the appointed trustee.

Q83: Are you agreeable for the partition of the suit properties?

A: No. The Trust is in existence and continues to be in existence.

Q84: In para 6 of the Plaint, you have signed in the Plaint and stated after the expiry of 20 years, the Trust has come to an end and the beneficiaries are entitled for the respective shares as mentioned in Para 3 of the Plaint. Is it right?

A: Yes, but as mentioned above the same was initiated by the appointed trustee Mrs.Shanmuga Priya who has also signed the resolution for the extension of the Trust and aware of the same.

Q85: The above statement you have taken in the suit after you have become a defendant in the suit. Is it right?

A: Yes, after I was made aware of vital facts related to the case.

Q86: When did you take this stand after being a plaintiff?

A: When my mother brought it to my attention. I do not recollect the date.

Q87: From the date of filing of the Plaint by both of you in 2015, till the date you became the defendant in the above suit what prevented you from withdrawing from the plaintiff in the suit?

A: As the matter was handled by the appointed trustee Shanmuga Priya who was entrusted to act in the best interest of the Trust I did not get involved in this.

Q88: Withdrawing is your independent option. Why did you not choose to do so?

A: During the said time the Managing Trustee fell ill and it became necessary for me to involve and to pay attention to his health and subsequently take up the matter when mother advised of the same.

Q89: Which year your father fell ill?

A: In think in the year of 2018 – 2019.

Q90: The suit was filed in the year of 2015 and you had four years till 2019. Why have you not chosen the option to withdraw yourself from the Plaint in your individual capacity?

A: As mentioned earlier Shanmuga Priya who was entrusted Trustee to act in the best interest of the Trust I did not get involved in this.

Q91: You have joined your sister for partition in 2015 and taken a stand for partitioning of the suit properties and you are now estopped from denying the said partition.

A: I deny.

Q92: The suit for partition filed by you along with other plaintiff is only sustainable.

A: I deny.

Q93: The prayer for Partition which was filed in the year 2015, is maintainable since you and other plaintiff filed in respect of suit properties.

A: I deny. The other plaintiff has no locus standi in the trust matters.

Q94: Do you know the reason why your mother is contesting the suit?

A: I am not aware. May be health reasons.

Q95: I put it to you that your mother has accepted for the partition and that is the reason she is not contesting the suit?

A: I deny.

Q96: In view of the preliminary decree passed in the above suit which was setaside at the instance of the first defendant and now, in the same manner the suit properties are liable to be partitioned?

A: I deny.

Q97: You are giving false evidence before this Hon'ble Court in this Suit?

A: I deny.

Q98: The suit is liable to be decreed as prayed for?

A: I deny.

Q99: Your stand in the written statement that the properties cannot be partitioned is totally false.

A: I deny.

Time: 03.25 P.M

Taken down in open Court, read over and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I