

BEFORE THE ADDITIONAL MASTER I,
HIGH COURT, MADRAS

C.S.No.567 of 2017

Date : 01.11.2019

Time : 12.15 P.M.

Name : Mr.K.P.Ramachandran (PW 1)

Age : 66 Years

Father's Name : Late Mr.K.Paramasiva Nadar

Residential Address: No.67, Alamelu Mangapuram, Mylapore,
Chennai – 600 004.

Chief Examination by Mr.J.Kalidas, 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 Will dated 31.08.1978 executed by K.Paramasiva Nadar.

Ex.P2 is the xerox copy of the Death Certificate dated 14.09.1981.

Ex.P3 is the certified copy of the Family Settlement Deed dated 17.05.2010.

Ex.P4 is the certified copy of the Deed of Settlement dated 21.12.2012 in Doc.No.2837/2012.

Ex.P5 is the certified copy of the Deed of Settlement dated 21.12.2012 in Doc.No.2838/2012.

Ex.P6 is the certified copy of the Deed of Settlement dated 11.02.2013.

Ex.P7 Series are the xerox copies of the Patta (3 nos.) dated 06.06.2014 issued by Tahsildar of Mylapore Taluk.

Ex.P8 is the certified copy of the Lease Deed dated 13.09.2013 by 1st defendant to Sivakumar in respect of Schedule A property.

Ex.P9 is the certified copy of the Sale Deed dated 13.01.2017 by 1st defendant and his son to Jawahar conveying Schedule A property.

Ex.P10 is the office copy of the Legal Notice dated 09.01.2017 by plaintiffs Advocate to 1st defendant.

Ex.P11 is the original Reply Notice dated 07.02.2017 by Advocate to D1 to plaintiffs.

Ex.P12 is the certified copy of the Encumbrance Certificate dated 23.02.2017 by Sub-Registrar of Mylapore from 01.01.2010 to 23.02.2017.

Ex.P13 is the computer generated copy of the Death Certificate dated 15.04.2017 of K.P.Sathiya Seelan.

Therefore, It is prayed, that, this Hon'ble Court may be pleased to pass a judgment and decree as prayed for in the plaint with cost and further relief may be granted as this Hon'ble Court may deem fit in the facts and circumstances of the present case.

Time: 12.45 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.567 of 2017

Date : 06.12.2019

Time : 03.30 P.M.

Name: Mr.K.P.Ramachandran (PW 1)

Cross Examination by Mr.D.Sai Kumaran, Learned Counsel for the Defendant.

Solemnly affirmed:

Q1: For what relief you filed the above suit?

A: I filed the above suit for relief of partition against my brother to partition the property left by my father and my unmarried brother.

Q2: Whether your father has executed a Will in respect of all his properties?

A: Yes.

Q3: Whether all the legal heirs of your father have filed a probate in O.P.No.141/1983 in respect of the registered Will executed by your father in Doc.No.83/1978?

A: Yes.

Q4: As per the Will your father has stated in the Will that he has got married all his daughters in a grand way and bequeathed the property only in favour of his sons?

A: Yes.

Q5: When your father executed a Will favouring only the sons, why you arrayed the daughters as parties to the suit?

A: I arrayed the daughters only in respect of the properties left out

by my late unmarried brother namely K.P.Mothilal.

Q6: Whether all of you have acquired the properties as per the last Will of your father late K.Paramasiva Nadar?

A: I acquired the property allotted to me as per the Will and in respect of four properties, my father has stated in the Will that it will be go to his four sons, for which I have filed the present suit.

Q7: To whom your father settled schedule-A property as per the Will?

A: The schedule-A property has been settled in favour of four sons.

Q8: I put it to you that the schedule-A property was not settled in favour of the 4 sons, but settled in favour of the firm namely K.Paramasivam & Sons.

A: I deny.

Time: 03.50 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.567 of 2017

Date : 11.11.2022

Time : 04.25 P.M.

Name: Mr.K.P.Ramachandran (PW 1)

Cross Continuation by Mr.D.Sai Kumaran, Learned Counsel for the Defendant.

Solemnly affirmed:

Q9: Is it correct to state that as per the Will the property were shared divided among the legal heirs?

A: Yes, except some joint family properties.

Q10: Plaint is shown to the witness. The schedule stated in the plaint, which items are the joint family properties?

A: The property mentioned in Schedule A, schedule B and schedule F of the plaint.

Q11: Is there any encumbrance with respect to the schedule A property. If yes what is the encumbrance?

A: Yes. 1st defendant has sold the property by creating documents as his own.

Q12: In the plaint it has been stated that there was a document dated 13.09.2013 in favour of one N.Sivakumar. What is the document?

A: 1st defendant has leased out the property through the above said document.

Q13: Is the schedule B property lease property?

A: Yes, it is a government lease property.

Q14: How Schedule A property and schedule B properties were referred in the Will?

A: It was referred in the Will as my father has continued firewood and charcoal business in the said property and further it is stated after his lifetime that the business to be run in the same name by his four sons individually or joint.

Time: 04.40 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.567 of 2017

Date : 15.11.2022

Time : 03.29 P.M.

Name: Mr.K.P.Ramachandran (PW 1)

Cross Continuation by Mr.D.Sai Kumaran, Learned Counsel for the Defendant.

Solemnly affirmed:

Q15: Am I correct in saying that as per the Will, schedule A property was in the name of K.Paramasivan and sons?

A: As per the Will, the property was owned by my father, after his lifetime, the four sons to be inherit the property.

Q16:In 7th page of the plaint, para 15, you have mentioned about the legal notice dated 16.08.2013, do you know to whom it was issued and why?

A: Notice was issued to the 1st defendant and my late.elder brother named K.P.Mothilal, it was issued because the person who was conducting business in the name of Paramasivan Nadar and sons in the A schedule property has to give a monthly rent of Rs.200 has to be paid to my mother Pal Thangam Ammal and after her demise the rent has to be divided with among the four sons, as per the Will. Since my mother die in the year 2006, I have demanded my share in the Rs.200 and send the notice.

Q17: Did you receive any reply for the said legal notice?

A: Yes.

Q18: Having received the reply notice dated 30.08.2013, whether you have approached any court of law or as taken recourse to any legal action?

A: No. Witness adds that he has not approached the court of law as he has massive heart attack in the year 2014. Since the reply notice contains no details with regard to any document, the delay was caused. A Panchayat was done out of Court.

Q19: Is it correct to say that in the reply notice dated 30.08.2013 your shares in respect of the schedule A, B, C property were disputed?

A: No.

Q20: What was the contents of the reply notice dated 30.08.2013?

A: It was stated that your are not entitled of shares, since you issue release yourself from partnership, Paramasivan and Sons.

Q21: Apart from the A schedule property in respect of C schedule property, more specifically, No.15, Srinivasa Road, Mylapore, Chennai-4. What is stated in the reply dated 30.08.2013?

A: As per the Will, in respect of the C schedule property was assigned to my elder brother Mothilal, for his life interest, since, he was unmarried. There is also condition in the Will that if Mothilal married during his lifetime, he can deal with the property wholly in any manner.

Q22: How many years it took for you to approach the Court of Law by filing the present suit, after receiving the reply dated 30.08.2013?

A: 3.5 years.

Q23: Is it true that in the reply dated 30.08.2013, it was very clearly mentioned that K.P.Mothilal and your another Sister by name Savithri Devi have settled 1/6th share in respect of the C schedule property in favour of the 1st defendant?

A: Yes. They have mentioned.

Q24: I put it to you that K.P.Mothilal and Savithri Devi have settled the 1/6th share in respect of the C schedule property to and in favour of the 1st defendant in the year 2013.

A: Yes. I came to know from the contents of the reply notice.

Q25: When did you recovered from the heart attack?

A: End of 2014.

Q26: Is it right to say that from 2015, you are hale and healthy?

A: Yes.

Q27: Whether your deceased elder brother, Mothilal was suffering from health ailments during his lifetime?

A: He was a sugar patient.

Q28: Is it correct to say that because of his health condition, he was admitted in the hospital several time?

A: No, only two times in the year of 2016.

Q29: Whether you got released from partnership firm, Paramasivan and Sons by executing a written indenture?

A: Yes. I executed a written release deed in the Auditor's office and

got released.

Q30: Which year and with whom you executed the release deed?

A: April 1982. I do not know with whom I executed the release deed.

Time: 04.03 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.567 of 2017

Date : 16.11.2022

Time : 02.47 P.M.

Name: Mr.K.P.Ramachandran (PW 1)

Cross Continuation by Mr.D.Sai Kumaran, Learned Counsel for the Defendant.

Solemnly affirmed:

Q31: When you are adducing evidence in the last occasion, you are referring about Panchayat, which took place after the reply issued by the 1st defendant dated 30.08.2013, what is the Panchayat for?

A: The Panchayat took place with regard to the shares of schedule properties.

Q32: At whose instance the panchayat was conducted?

A: First Defendant, the panchayat was conducted by communities elders.

Q33: Till how many years the panchayat took place?

A: Till 2016.

Q34: Who were all present during the panchayat?

A: 1st Defendant along with his counsel, my brother in law conducted panchayat and he represented me.

Q35: During the panchayat whether you asked for the nature of documents registered in respect of A schedule property?

A: No.

Q36: What is the action taken by you in respect of finding the encumbrance created in respect of A, B and C schedule properties from the year 2013?

A: I collected the documets which were in the name of my father and by using the same i took encumbrance certificate.

Q37: Whether did you have the copy of the Will in the year 2013?

A: Yes.

Q38: Is it right to state that the survey numbers in respect of all the properties, more specifically C schedule property, mylapore house property is stated in the Will?

A: No.

Q39: Whether you have applied for encumbrance certificate in respect of A,B,C schedule properties in the year 2013?

A: No.

Q40: When it was very clearly avered in the reply notice dt.30.08.2013 that K.P.Mothilal and Savithri Devi had settled 1/6th share of C schedule property in favour of the 1st defendant. Why you have not applied for encumbrance certificate in the year 2013.?

A: No document number has been mentioned in the notice.

Q41: What action have you taken to find out the document number in respect of the 1/6th share settled by K.P.Mothilal and Savithri Devi in favour of 1st defendant in the year 2013?

A: I have taken steps to trace out my father's documents from the year 1960.

Q42: Whether you applied for the documents of the year 1960 as referred by you in the year of 2013?

A: I have not applied. I have collected from 6th defendant, who is my sister Mangaiyarkarasi.

Q43: After collecting the documents from the 6th defendant, Mangaiyarkarasi in the year 2013, When you have applied for encumbrance certificate for the C Schedule Mylapore Property?

A: I do not know.

Q44: Whether you have sent any rejoinder after receiving the reply dated 30.08.2013 questioning the documents number pertaining to the settlement deed executed by K.P.Mothilal and Savithri Devi settling the 1/6th share in respect of the C Schedule property/Mylapore property

A: I have not sent any rejoinder notice.

Q45: I put it to you that after receiving the reply notice dated 30.08.2013 you have not sent any rejoinder nor taken any legal action because you know that you do not have any legal rights over the properties?

A: I Deny it.

Q46: After receiving a reply notice in the year 2013, why it took 4 years to file this suit?

A: Health issues, in the year of 2014 since a massive attack I was not able to do any work. It took 6 to 7 months to collect the documents from my sister. There was a settlement talk took place in between 1st defendant and myself.

Q47: In the legal notice dated 16.08.2013, is it correct to state that you along with your brother K.P. Sathiyaseelan have retired from the partnership firm with effect from 01.04.1982 and executed a release deed dated 02.04.1982?

A: Yes.

Q48: Whether it is right to point out that you and your brother K.P. Sathiyaseelan have executed the release deed out of free will and consent?

A: I executed the same with free will and consent but I do not know about my brother.

Q49: Whether it is right to point out that your brother K.P. Mothilal have no intention to marry from day one to till his death?

A: Yes.

Q50: Is it right to point out that K.P. Mothilal has a strong will not to marry, accordingly he acted as per his will in respect of the properties assigned to him as per the will?

A: No.

Q51: Is it correct to state that you have not challenged the release deed executed by you dated 02.04.1982 and even till date you have not disputed the same?

A: Yes.

Q52 Is it correct to say by such admission you admit the contents of the release deed?

A: I don't know the contents.

Q53: Whether you are qualified, what is your educational

qualification?

A: I am a B.A. Graduate.

Q54: In the reply notice dated 30.08.2013, it was very clearly stated that in the release deed dated 02.04.1982 you have released specifically your share in respect of schedule A property, what do you say about that?

A: Yes. But it is not correct.

Q55: Despite several averments questioning your share in respect of the Schedule A,B,C properties stated in the reply notice dated 30.08.2013, why you have not questioned the same in the year 2013?

A: I have not questioned the same, since I do not have any proof of the same.

Q56: Why you have not sent any legal notice or rejoinder demanding the proof of registration of 1/6th share executed by K.P. Mothilal and Savithri Devi in respect of C Shedule property in the year 2013?

A: In the year 2013, they accepted my share in respect of A,B,C,D,E,F Schedule property, I am satisfied with the same and that is the reason why I have not taken any action.

Time: 03.40 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.567 of 2017

Date : 21.11.2022

Time : 11.30 A.M.

Name: Mr.K.P.Ramachandran (PW 1)

Cross Continuation by Mr.D.Sai Kumaran, Learned Counsel for the Defendant.

Solemnly affirmed:

Q57: I put it to you that as per the release deed dated 02.04.1982 you are entitled to use the name of K.Paramasivan and Sons to run only the petrol bunk business and not assigned any other works.

A: I do not know the contents of the release deed but I admit that release deed.

Q58: Document(original release deed) is shown to the witness. It is the release deed dated 02.04.1982, can you verify and tell the Court with regard to the contents of the release deed?

A: I cannot tell.

Q59: Again original release deed is shown to the witness. Whether the signature found in the release deed is your signature?

A: Since it has been 40 years back, I cannot confirm the signature whether it is mine or not.

Q60: Is it correct to say that as per the contents of the release deed dated 02.04.1982, your brother has settled all the creditors.

A: I do not know.

Q61: I put it to you that in order avoid legal complication, you are

giving answers to confuse the Court and not giving straight answers.

A: I deny.

Q62: After executing the release deed dated 02.04.1982, what business you were doing?

A: I was a Director in my father-in-law's business.

Q63: Whether you are running the petrol bunk in the name and style of K.Paramasivan and Sons at Guindy after executing the release deed dated 02.04.1982?

A: No. I am not running.

Q64: Who was running the petrol bunk in the name and style of K.Paramasivan and Sons at Guindy?

A: D1, P.Balasubramanian.

Q65: From which year to which year, the 1st defendant was running the petrol bunk in the name of K.Paramasivan and Sons at Guindy?

A: From the year of 1982, 1st defendant was running the petrol bunk and thereafter it was handed over to some other third party. I do not know in which year it was handed over.

Q66: Before 1982, who was running the petrol bunk business?

A: My father was running the petrol bunk till 1981, thereafter we 4 were running the same.

Q67:I put to you that when you executed a release deed dated 02.04.1982, you have also signed a partnership deed dated 01.04.1982 in respect of the petroleum business under the name and style of “K.Paramasivan and Sons”.

A: I deny.

Q68: Document is shown to the witness. Is it a partnership deed which has been signed by you in the year of 1982?

A: I do not know, since it has been executed 40 years back.

Q69: I put to you that the litigation or confusion pertaining to schedule A property and also the property belonging to the partnership firm, K.Paramasivan and Sons was over 40 years back, when the release deed dated 02.04.1982 was executed and by passage of time, you have forgotten everything and wrongly filed the above suit in respect of schedule A property.

A: I deny it. Only in respect of business I forgot, with respect to properties I remember everything.

Q70: Whether you are aware that your brother Mothilal's leg has been amputated because of his illness?

A: I know it.

Q71: Whether you are in the habit of visiting your mother and brother, Mothilal regularly and when you last visited them?

A: I was visiting regularly, lastly visited my mother on January, 2006, I do not remember the date in which I visit my brother, I visited him in the year 2016.

Q72: With whom and where your mother was residing during her lifetime?

A: My mother was residing with my brother Mothilal in No.15, Srinivasa Road, Mylapore, Chennai – 600 004.

Q73: With whom Mothilal was residing during his lifetime?

A: He was residing with my mother.

Q74: When did your mother expire?

A: February, 2006.

Q75: Where is the 1st defendant residing?

A: No.15, Srinivasa Road, Mylapore, Chennai-04.

Q76: After the death of your mother, with whom Mothilal was residing?

A: He was residing alone.

Q77: I put it to you that your elder brothers Mothilal and Balasubramaniam are residing in the same house, that is No.15, Srinivasa Road, Mylapore, Chennai-04.

A: Balasubramaniam was residing with Mothilal.

Q78: When was the Mylapore house constructed?

A: I do not know.

Q79: When you last visited your mother, where she was?

A: It was in the Mylapore house.

Q80: As told by you previously, you have last seen you mother in the year 2006, in the Mylapore property?

A: Yes. I saw my mother in Mylapore house.

Q81: Who constructed the house in the Mylapore property?

A: My mother constructed the house.

Q82: Whether your mother constructed the house out of her own income or got loan from the bank?

A: It was constructed from her own income.

Q83: What was the nature of income, she was earning at the time of construction of house?

A: My mother was having two properties and the same were sold to construct the property, and the sale amount was used.

Q84: When you sign the release deed dated 02.04.1982, who has stood as witness?

A: I do not know.

Q85: What is the nature of income for Mothilal?

A: He was running the partnership firm, K.Paramasivan and sons till his death.

Q86: Since you have left the partnership firm by way of executing a release deed dated 02.04.1982, you are unaware that your brother Mothilal has executed a release deed in respect of the partnership firm, K.Paramasivan and sons in the year 1988.

A: I do not know.

Q87: I put it to you that you are not aware of any of the facts of the case and having executed the release deed dated 02.04.1982 and not having any right over the firms property has filed the above vexatious suit out of greed.

A: I deny.

Q88: After probate of the Will executed by your father whether all the legal heirs have got the respective share in their properties?

A: Except some common properties, we got our respective shares as per the Will.

Q89: What are the properties allotted to you as per the Will?

A: I got only one property.

Q90: Where is the property assigned to you as per the Will situated and what is the discription of the said property?

A: No.7, Nainar Road, Myalpore, Chennai-04. Extent approximately 1000 sq.ft.

Q91: Whether you are holding the above referred property allotted to you as per the Will or you sold it and if so for what reason you have sold it?

A: I sold the property as per the wish of the purchaser.

Q92: What is the reason for you to release yourself from the firm K.Paramasivan and sons?

A: I was not willing to run the business along with others.

Q93: When you got released from the year 1982 from the partnership firm K.Paramasivan and sons, whether the firm got liabilities?

A: I do not know.

Time: 12.25 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

BEFORE THE ADDITIONAL MASTER I,
HIGH COURT, MADRAS
C.S.No.567 of 2017

Date : 22.11.2022

Time : 11.42 A.M.

Name: Mr.K.P.Ramachandran (PW 1)

Cross Continuation by Mr.D.Sai Kumaran, Learned Counsel for the Defendant.

Solemnly affirmed:

Q94: You have stated in your previous deposition that you are not aware of the business stated in the release deed, but aware of the properties stated in the release deed. Can you tell the Court what are the properties stated in the release deed?

A: I do not know.

Q95:Is it correct to state that after execution of the release deed, you have left the entire partnership firm business to the 1st defendant?

A: I left the business alone to the 1st defendant.

Q96: Since you have stated that you know about the business, I put it to you that you know the contents of the release deed.

A: I deny it.

Q97: You have stated in your previous deposition that as per the purchasers wish you have sold the Mylapore property allotted to you as per the Will, whether it has been given as a charity or you sold the property?

A: I sold the property.

Q98: In your previous deposition you told that you are the Director in your father in laws company, can you tell the court the name of the company and its constitution?

A: V.Mandira Nadar, Private limited company.

Q99: You just told that you are a Director in your father -in -law's private limited company, what are the businesses done by the private limited company?

A: Firewood and charcoal, wholesale and retail business.

Q100: What is the condition in the Will in respect of the properties settled in favour of K.P.Mothilal?

A: He was only given life interest.

Q101: Whether K.P.Mothilal got married as stated in the Will?

A: No.

Q102: Is there any averment stated in the Will that in the event of K.P.Mothilal failed to get married, whether he loses his right as envisaged under the Hindu Succession Act?

A: I do not know.

Q103: Are you aware of the power of attorney executed by K.P.Mothilal in respect of schedule C property more specifically Mylapore house property?

A: I do not know.

Q104: Whether you have seen the reply notice issued by the 1st defendant dated 30.08.2013?

A: Yes. I have seen.

Q105: In the said reply notice dated 30.08.2013, it is very clearly avered that K.P.Mothilal has executed power of attorney in favour of the 1st defendant for construction of a house with his own funds in the Mylapore property, what do you say about that?

A: That is wrong.

Q106: If you are agrieved by the contents of the reply notice dated 30.08.2013 in respect of the schedule C property, more specifically Mylapore house property, why you have not approached the Court immediately after receipt of the reply notice dated 30.08.2013?

A: I was on the search of proof.

Q107: After receiving the reply notice dated 30.08.2013 stating that your brother K.P.Balasubramanian, the 1st defendant herein has constructed the house in C schedule property and not your mother as stated by you, why you have not sent a rejoinder denying the same?

A: I was in search of proof to approach the Court.

Q108: Whether you were in talking terms with your brother K.P.Mothilal during his lifetime?

A: Yes.

Q109: Whether the relationship between you and your brother Mothilal is good?

A: Yes.

Q110: After receiving the reply notice dated 30.08.2013, stating that K.P.Mohtilal executed a power of attorney in respect of C schedule property whether you contacted K.P.Mothilal to verify the same?

A: No.

Q111: What is the reason for you for not approaching K.P.Mothilal to verify the power of attorney executed by him in respect of C schedule property?

A: He was illiterate and because of the same I thought that he may not aware of the same.

Q112: Whether you approached K.P.Mothilal and informed that a power of attorney has been executed by you, which is all against the Will executed by your late father?

A: No.

Q113: When was the construction of the house in schedule C property got completed?

A: I do not know.

Q114: I put to you that your mother and your brother were under the care and shelter of the 1st defendant during their lifetime.

A: I deny.

Q115: Whether you are taking care of Mothial during his lifetime?

A: No.

Q116: Can you tell the Court on which year K.P.Mothilal's above knee was amputated and when did it was taken?

A: He was sugar patient and the leg was amputated in the year 2016.

Q117: Original discharge summary dated 23.09.2016 is shown to the witness. I put to you that in the discharge summary dated 23.09.2016, in the column surgical history it is stated that left above knee amputation was done 3 years back, what do you say that ?

A: I do not know.

Q118: Are you aware that for Mothilal's medical treatment a huge amount has been spent?

A: Yes, but not a huge amount.

Q119: Whether you provided a helping hand for Mothilal's medical treatment?

A: yes.

Q120: Can you tell the court when and where you provided a helping hand for Mothilal's medical treatment?

A: I do not know.

Q121: When did you send the second legal notice in respect of the C schedule property beside other properties?

A: It was in the year of 2017.

Q122: Why you waited for 4 years after receiving the reply notice dated 30.08.2013, denying the share claimed by you in respect of C schedule property?

A: My health condition, I was in search of documents and speaking compromise.

Q123: When did Mothilal die and how?

A: 04.01.2017. I do not know the reason .

Q124: I put to you that you waited for the death of your brother Mothilal and after his demise on 04.01.2017, you immediately issued the second notice.

A: It is wrong, it happened incidentally.

Time: 12.31 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.567 of 2017

Date : 23.11.2022

Time : 03.25 P.M.

Name: Mr.K.P.Ramachandran (PW 1)

Cross Continuation by Mr.D.Sai Kumaran, Learned Counsel for the Defendant.

Solemnly affirmed:

Q125: In the reply notice dated 30.08.2013, it was specifically avered that you and your brother K.P.Sathyaseelan have relinquished the right over schedule A property more specifically, the property situated at No.98, Natesan Road, after perusing the reply notice dated 30.08.2013, whether you verified the contents of the release deed?

A: I did not verify, since release deed was not with me and I only signed partnership deed.

Q126: What is the partnership deed signed by you?

A: I do not know any details.

Q127: In page 11 of the plaint, you have mentioned that the building at Door No.98, Dr.Natesan road (A schedule property), was constructed only out of the joint family funds, whether it is true?

A: Yes.

Q128: Which year the building in Door No.98, Dr.Natesan road (A schedule property) constructed?

A: I do not know.

Q129: Who are all contributed funds for construction of the A schedule property?

A: We four brothers and my mother.

Q130: In page 11 of the plaint, you have 1st stated that the property has to be divided among all the four sons and later on, why did you change it to 3?

A: Since Mothilal died without any heirs.

Q131: I put to you that in the legal notice send by you dated 09.01.2017, you have not mentioned anything about A schedule property more specifically, the property situated at Door No.98, Dr.Natesan road.

A: I did not mention anything in the legal notice.

Q132: I put to you that due to heavy loss in the partnership firm, you, K.P.Sathiyaseelan and K.P.Mothilal got retired from the firm in 1985.

A: I do not know.

Q133: I put to you that after the heavy loss suffered by the firm, K.P.Balasubramaniam took over the cement business in B schedule property and settled the entire losses and the fact has been informed in the reply notice dated 30.08.2013 itself.

A: I do not know.

Q134: Whether B schedule property is a lease property?

A: Yes.

Q135: Are you aware that there are several issues of encroachment by slum dwellers which led to unnecessary litigations and so, the B schedule property was sold to one Mrs.Santhosh kumar devi on 30.12.2013?

A: I do not know.

Q136: Where is your fire wood business premises situated?

A: No.25, Dr.Natesan Road, 1st lane, Mylapore, Chennai – 600 004.

Q137: What is the distance between your current business premises and B Schedule property?

A: 600 meters.

Q138: Whether schedule B property is a vacant land or is there any constructed building?

A: Now, there is a building.

Q139: Who has constructed the building in schedule B property?

A: I do not know.

Q140: I put to you that in the year 2014, Mrs.Santhosh Kumar Devi had constructed the house in the schedule property.

A: I do not know.

Q141: When the house was constructed in the schedule B property, whether you approached the 1st defendant, K.P.Mothilal or the Court of law to stall the construction of the house?

A: No.

Q142: After the written statement was filed by the 1st defendant stating that the B schedule property was sold to Mrs.Santhosh Kumar Devi , whether you have taken any steps to implead the said Mrs.Santhosh Kumar Devi as a party to the proceedings?

A: B schedule property is only a lease property, nothing can be done legally.

Q143: I put to you that as per the Will executed by your father, the testator wants his son, late.K.P.Mothilal to get married and does not speak about the fate of the E schedule properties, if late.K.P.Mothilal failed to get married.

A: As per my knowledge, only life interest vested with Mothilal.

Q144: Whether it is true to state that in the Will executed by your father, it is stated that if my son K.P.Mothilal is not married, it shall be the responsibility of my first son, K.P.Balasubramanian to get him married?

A: Yes. It is true that it was the responsibility of K.P.Balasubramanian to celebrate the marriage of K.P.Mothilal.

Q145: Whether it is true that D schedule property more specifically, 77 cent of land in Suganthalai Village was sold to third parties?

A: Yes. I came to know the same only after filing the suit.

Q146: After the retirement of K.P.Mothilal in the year 1988, what was the source of income of K.P.Mothilal?

A: I do not know the retirement of Mothilal from the firm.

Q147: I put to you that both B and D schedule properties were sold for the medical treatment of K.P.Mothilal and all the other legal heirs including you knew about the same and that was the reason, why you waited for K.P.Mothilal's demise to file this case.

A: I deny.

Q148: Are you aware of the fact that the sale proceeds of the D schedule property was kept in a fixed deposit and thereafter used for the medical treatment of K.P.Mothilal?

A: No. I am not aware.

Q149: Whether the valuation done in respect of the plaint schedule properties by you are proper, genuine and you stand by the same?

A: Yes.

Q150: You have adduced evidence in your previous deposition about certain compromise initiated through your brother-in-law. What was the offer given and what you demanded through the compromise?

A: In that compromise talk, they told me not to approach Court and we can settle the matter smoothly.

Q151: I put to you that except you, all the other legal heirs accepted the partition of the properties left over by K.P.Mothilal as proposed by the 1st defendant.

A: I deny.

Q152: I put to you that except you, no other legal heirs have filed a suit or neither send a legal notice.

A: I do not know.

Q153: I put to you that the above suit for partition is not maintainable and time barred for the very reason that after issuing notice dated 16.08.2013 and receiving reply dated 30.08.2013, you waited for 3.5 years to file this case.

A: I deny it.

Q154: I put to you that you had forgotten the genuine sacrifice of the 1st defendant for the sake of the family and filed the present suit.

A: I deny it.

Time: 04.03 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.567 of 2017

Date : 25.11.2022

Time : 03.46 P.M.

Name: Mr.K.P.Ramachandran (PW 1)

Cross Continuation by Mr.D.Sai Kumaran, Learned Counsel for the Defendant.

Solemnly affirmed:

Q155: I put to you that because you and your brother K.P.Sathyaseelan relinquish your share in respect of the property and business vide release deed dated 02.04.1982, the 1st defendant settled all the liabilities obtained by you and Sathyaseelan in the name of the firm, K.P.Paramasivan and Sons.

A: I deny it.

Q156: I put to you that in respect of E schedule property, the tenant, Shermapandi, 8th defendant herein was occupying the premises from the year 2003.

A: I do not know.

Q157: Are you aware of the lease agreement executed by your late brother K.P.Mothilal to and in favour of the 8th defendant?

A: I do not know.

Q158: Are you aware that late.K.P.Mothilal has received a sum of Rs.5 lakhs from the 8th defendant by way of lease agreement and subsequently certain sums were received from the 8th defendant for his medical expenses?

A: I do not know.

Q159: Whether you know your relatives by name E.S.Perumal and one Sundarapandian?

A: Yes. I know them.

Q160: Whether you had a good relationship with them?

A: They are only relatives.

Q161: I put to you that you have signed the release deed dated 02.04.1982, in the presence of E.S.Perumal and Sundarapandian who also stood as witnesses.

A: I deny.

Q162: I put to you that the above suit is filed without any basis and the share claimed in the plaint cannot be given because K.P.Mothilal has already executed registered indentures in favour of the 1st defendant as per the Hindu Law of Succession during his lifetime.

A: I deny it. Mothilal has got only life interest.

Q163: I put to you that, similarly, the 7th defendant, Mrs.Savithri devi has also executed a registered settlement deed in respect of the C schedule property settling her 1/6th share in favour of the 1st defendant.

A: It is wrong. Savithri cannot give the property to others during the lifetime of K.P.Mothilal.

Q164: I put to you that you have filed the above suit without any basis and as per the Hindu Law of Succession you are not entitled for the relief claimed in the plaint.

A: I deny.

Q165: I put to you that your plaint is baseless, frivolous and liable to be dismissed.

A: I deny.

Re-examination: Nil

Time: 04.03 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.567 of 2017

Date : 07.06.2023

Time : 12.41 P.M.

Name: Mr.K.P.Ramachandran (PW 1)

Cross Examination of PW1 by Mr.Selvan Amunas, Learned
Counsel for the Defendant 9.

Solemnly affirmed:

Q166: Am I correct in saying that you are a B.A. Graduate?

A: Yes.

Q167: Am I correct in saying that the 9th defendant concerned only
with the A schedule property?

A: Yes.

Q168: Is it correct to say that the building number in the A schedule
property is old no.93 after that changed as 98 and the present
number is 430?

A: Yes.

Q169: Am I correct in saying that your father K.Paramasivam had
executed a Will 31.08.1978 which was registered as
Doc.No.83/1978 on the file of SRO, Mylapore?

A: Yes.

Q170: Am I correct in saying that the Will dated 31.08.1978 had
executed in favour of his 4 sons alone?

A: It is also in favour of my mother also.

Q171: Am I correct in saying that the above said Will was probated

in the Hon'ble High Court, Madras, in terms of the order in O.P.141/1983?

A: Yes. It is correct.

Q172: Am I correct in saying that you along with your brothers had executed a deed of partnership dated 18.09.1981 as per your father wish in the Will?

A: Yes, after death of our father we had executed a deed of partnership. But it is not mentioned in the Will.

Q173: I put it to you that the firm was registered one as per Income Tax Department.

A: Yes. It is a registered firm.

Q174: Is it correct to say that you and your brother K.P.Sathiyaseelan was retired from the partnership venture by executing a release deed on 02.04.1982 in favour of the remaining partners namely 1st defendant, K.P.Balasubramaniam and K.P.Mohtilal?

A: I have retired from the business by executing a release deed, I do not know whether K.P.Sathiyaseelan had executed any deed.

Q175: I put it to you that for the sake of this case, you deny the facts of release deed.

A: I deny.

Q176: I put it to you that in the above said release deed you and

your brother K.P.Sathiyaseelan have specifically and expressly released the share of yours right in respect of A schedule property in favour of remaining partners namely K.P.Balasubramaniam and K.P.Mohtilal.

A: I deny it, business alone was left to them.

Q177: I put it to you that you both have released the shares of right in the A schedule property to K.P.Balasubramaniam and K.P.Mohtilal.

A: I deny.

Q178: I put it to you that after that the partners K.P.Balasubramaniam and K.P.Mohtilal have continued the business in the name of K.Paramasivan and sons in the A schedule property.

A: Yes, they continued the business.

Time: 12.58 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.567 of 2017

Date : 13.06.2023

Time : 01.15 P.M.

Name: Mr.K.P.Ramachandran (PW 1)

Cross Examination of PW1 by Mr.Selvan Amunas, Learned
Counsel for the Defendant 9.

Solemnly affirmed:

Q179: Am I correct in saying the 1st defendant settled the building in
A schedule property to and in favour of his son the 2nd defendant by
way of settlement dated 17.05.2020 as per document no. 12601 of
2010 on the file of mylapore - SRO?

A: I came to know only after seeing the EC (encumbrance
certificate).

Q180: Am I correct in saying K.P.Mohtilal settled his share in
Sechdule A Property in favour of 1st defendant by way of settlement
deed registered as document 2837 of 2012 on file of mylapore on
21.12.2012?

A: I came to know only after seeing the EC (encumbrance
certificate).

Q181: What purpose you have sent a legal notice dated 16.08.2013
to your brother?

A: My father gave a right of doing business through a will. In
respect of land it was given to my mother for her lifetime, after her
lifetime four sons were vested with the right of collecting the rent

equally, I am claiming the rent amount.

Q182: Is it right your mother expired on 22.02.2006?

A: Yes, Correct

Q183: I put it to you that the legal notice you have issued after 7 years of your mothers demise?

A: I deny.

Q184: Am I Correct in saying the above legal notice in page 3, you have admitted prior to the demise of K.P.sathayaseelan, you and the said K.P.Sathayaseelan had to opedt to retire from 01.04.1982 and you had executed a release deed 02.04.1984

A: Yes, for leving businesses

Q185: I put that you are fully aware with the contents of the above said release deed and you and the satahyaseelan also signed in the presence of two witness?

A: I don't remember the contents.

Q186: Am I Correct in saying the 1st defendant in his reply notice dated 30.08.2013 you and your brother sathiyaseelan having retired from the partnership and relinquish the rights your properties?

A: Not correct.

Q187: Have you sent any rejoinder to the replay notice dated 30.08.20?

A: No

Q188: I put you that the suit filed by you after the lapse of 3 and half years is miserably barred by Limitation?

A: I Deny.

Q189: Did you read lease deed executed by Siva Kumar in favour 1st defendant as per document No. 2719 of 2013 Yes or No?

A: I read after seeing the E.C.

Q190: Am I Correct in saying as per the lease sivakumar is entitled to run a tasmac liquor shop in the A schedule Property?

A: Yes.

Q191: Am i Correct in saying the inspector of police mylapore not giving premission to run a liqor shop in your permisses?

A: I do not know.

Q192: Am I correct in saying on above said reason the lease was cancelled on 29.07.2014 and the cancellation was registered?

A: I do not know.

Q193: I put to you that the legal notice sent by you to the 1st defendant on 09.01.2017 after the demise of K.P.Mohtilal on 04.01.2017?

A: Yes.

Q194: I put to you that the above notice you have not mentioned any filing about the A shedule Property?

A: yes.

Q195: I put to you that you wantonly purposefully include the A Shedule Property in this Suit?

A: I deny it.

Q196: I put to you that 1st and 2nd defendant's executed the sale deed in the favour of 9th defendant on 13.01.2017?

A: Yes.

Q197: I put to you that before the sale deed the 1st defendant have to obtained patta for the Ashedule Property?

A: I don't know.

Q198: I put to you that the 9th defendant after consulting the auditor and obtained legal opinion from the senior advocate to purchase the A Shedule form 1st defendant?

A: I don't know.

Q199: I put to you that only after the proper consideration 9th Defendant have purchased the A Shedule Property?

A: I deny it.

Q200: I put to you that after the sale deed dated 13.01.2017 the patta and documents changed in the name of 9th Defendant?

A: I dont know.

Q201: Am I correct in saying after the above said sale deed dated 13.01.2017 the 9th defendant is enjoying the property?

A: It is vacant site.

Q202: I put to that you have false satating that its a vacant site?

A: I deny.

Q203: I put you that after the exchange of legal notices 3 and half years back you filed this suit belatedly as such this suit is barred by limitation?

A: I deny.

Q204: I put you that you have filed this false and vexatious suit againts the 9th defendant?

A: I deny that

Q205: I put you that this suit is liable to be dismissed?

A: I deny it.

Time: 03.00 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.567 of 2017

Date : 27.07.2023

Time : 11.08 A.M.

Name : Mr.K.P.Balasubramaniam (DW 1)

Age : 76 Years

Father's Name : K.Paramasiva Nadar

Residential Address: Old No.5A, New No.15, Srinivasa Rao
Road, Mylapore, Chennai – 600 004.

DW1 examined in chief by Mr.L.P.Mounish, Learned counsel
for Defendants 1 and 2.

Solemnly affirmed:

I am the 1st 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.

Time: 11.10 A.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.567 of 2017

Date : 13.09.2023

Time :03.35 P.M.

Name : Mr.K.P.Balasubramaniam (DW 1)

DW1 examined in chief by Mr.Sai Kumaran, Learned counsel for
Defendants 1 and 2.

Solemnly affirmed:

Ex.D1 is the original deed of release dated 02.04.1982.

Time: 03.46 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.567 of 2017

Date : 29.11.2023

Time :01.10 P.M.

Name : Mr.K.P.Balasubramaniam (DW 1)

DW1 examined in chief by Mr.L.P.Mounish, the learned counsel for 1st Defendant.

Solemnly affirmed:

Ex.D2 is the letter given by K.P.Sathyaseelan to the 1st defendant dated 19.09.1985.

Ex.D3 is the letter given by the plaintiff to the 1st defendant dated 19.09.1985.

Ex.D4 is the letter given by K.P.Mothilal to the 1st defendant dated 19.09.1985.

Ex.D5 is the release deed executed by K.P.Mothilal in favour of the 1st defendant dated 02.06.1988.

Ex.D6 is the general power of Attorney executed by K.P.Mothilal in favour of 1st defendant 26.01.2023.

Ex.D7 is the settlement deed executed by K.P.Mothilal in favour of the 1st defendant and registered as Doc.No.2837 of 2012 on the file of SRO, Mylapore dated 21.12.2012.

Ex.D8 is the settlement deed executed by K.P.Mothilal in favour of the 1st defendant and registered as Doc No.2838 of 2012 on the file of SRO, Mylapore dated 21.12.2012.

Ex.D9 is the settlement deed executed by 7th defendant in favour of the 1st defendant and registered as Doc No.338 of 2013 on the file of SRO,

Mylapore dated 11.02.2013.

Ex.D10 is the auditor reported dated 12.08.2013.

Ex.D11 is the legal notice issued by the plaintiff to the 1st defendant dated 16.08.2013.

Time: 01.27 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.567 of 2017

Date : 15.12.2023

Time :12.40 P.M.

Name : Mr.K.P.Balasubramaniam (DW 1)

DW1 examined in chief by Mr.L.P.Mounish, the learned counsel for 1st

Defendant.

Solemnly affirmed:

Ex.D12 is the Reply Notice sent by the 1st defendant to the plaintiff dated 30.08.2013.

Ex.D13 is the Lease Deed executed by N.Sivakumar in favour of K.Paramasivan and sons represented by the first defendant registered as doc.no.2719 of 2013 on the file of SRO Mylapore dated 13.09.2013.

Ex.D14 is the Legal Notice issued by the plaintiff counsel to the first defendant dated 09.01.2017.

Ex.D15 is the Reply Notice sent by the 1st defendant to the plaintiff dated 07.02.2017.

Ex.D16 is the Discharge Summary of K.P.Mothilal to show the amount spend by the first defendant.

Time: 01.00 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.567 of 2017

Date : 10.01.2024

Time :12.40 P.M.

Name : Mr.K.P.Balasubramaniam (DW 1)

DW1 Chief Continuation by Mr.D.Saikumaran, the learned counsel for
1st Defendant.

Solemnly affirmed:

Ex.D17 (3 Series) is the Patta standing in the name of the first defendant.

Ex.D18 is the Will executed by K.Paramasiva Nadar in Doc.No.830 of
1978.

Time: 12.50 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.567 of 2017

Date : 06.02.2024

Time :12.20 P.M.

Name : Mr.K.P.Balasubramaniam (DW 1)

DW1 cross examination by Mr.J.Kalidas, the learned counsel for the plaintiffs.

Solemnly affirmed:

Q1: Are you aware of the facts of the case?

A: Yes.

Q2: Is it correct to say that the Proof affidavit has been prepared and filed on your instructions?

A: Yes.

Q3: Ex.P1 Will is shown to the witness. This Will has been executed by your father. Am I correct?

A: Yes.

Q4: Are you the executor of the said Will?

A: Yes, I am the executor of the Will.

Q5: Is it correct to state that as per Ex.P1 Will, schedule A property of the plaint was allotted to all the four brothers?

A: Yes.

Q6: Is it correct to state that there is a condition in the Will that Schedule A property shall be used for running the business namely K.Paramasivan & sons?

A: Yes.

Q7: Is it correct to state that there is another condition in the Will

that the partnership shall pay the rent of Rs.200/- to your mother?

A: Yes.

Q8: Is it correct to state that if none of the brothers are able to run the partnership business in Schedule A and B, Schedule A property should be sold and out of the sale proceeds, a sum of Rs.5,000/- to be paid to your mother and the balance amount should be equally divided among the four brothers?

A: Yes.

Q9: Is it correct to say that now there is no partnership business in the Schedule A property ?

A: Yes.

Q10: When the business was closed down or what is the fate of the business?

A: I was running the business till 2013 as a sole proprietor, thereafter I closed the business and kept the building as such.

Q11: Did the plaintiff ask of his 1/4th share?

A: Yes, he asked through family mediators.

Q12: To that, you have refused to part with 1/4th share, stating that already there was a unregistered Release Deed(Ex.D1). Is it correct?

A: Yes, I refused the plaintiff share. Ex.D1 does not requires any registration in Sub-Registrar Office. It has to be registered only for Income Tax.

Q13: I put it to you that as per Ex.D1, the plaintiff has released his

share in the partnership business only but not the right over the Schedule A property?

A: I deny. Witness Adds: At page 7 para 7 the plaintiff has released his right over the property also.

Q14: I put it to you that as per the Ex.D1 (Release Deed) the plaintiff has released the share over the business and he has never parted with that property., your father stated in Ex.P1 Will that “In other words, even if one of my son wishes to carry on the business in the said two places under the name and style of M/s. K.Paramasivan & sons. The right to use the above places shall remain with them”?

A: I deny.

Q15: As per Ex.D1 Release Deed, K.P.Sathyaseelan and K.P.Ramachandran have executed Release deed in favour of yourself and your brother K.P.Mothilal. Is it correct?

A: Yes.

Q16: Is it correct to say that K.P.Mothilal executed a deed of settlement (Ex.P4) in respect of his 1/4th share over Schedule A mentioned property in your favour?

A: Yes.

Q17: I put it to you that you have obtained settlement of 1/4th share

over Schedule A property under Ex.P4 from your brother K.P.Mothilal will only exemplify the fact that no property was released under Ex.D1?

A: I deny.

Time: 01.00 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