

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 01.02.2017

PRONOUNCED ON: 10.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CS.No.918 of 2010

1. Rajagopal
2. Padmavathi

Plaintiffs

Vs

K.Santhanam

Defendant

Prayer:- This Civil Suit is filed under Order VII Rule 1 of CPC read with Order II Rule 1 of the Original Side Rules for the reliefs as stated therein.

For Plaintiff : Mr.G.Vijayakumar

For Defendants : Set Exparte

JUDGEMENT

This civil suit had been filed to pass a judgement and decree, against the Defendant:-

(a) granting a preliminary decree, declaring the 2/3rd share of the Plaintiffs in Door No.37/6, Babu Mudali Street, Teynampet, Chennai-86, more fully described in the B-Schedule and appoint an Advocate Commissioner to divide the plaint B-Schedule property by metes and bounds and allot specific 2/3rd share in the plaint B-Schedule property to the plaintiffs and put in possession of the same by passing the final decree.

(b) directing the Defendant to pay the costs of the suit to the Plaintiffs.

2. It had been stated in the plaint that the house and ground bearing

Door No.31, New No.37, Varasiddi Vinayagar Koil Street, Teynampet, more fully described in the A-Schedule originally belonged to T.R.V.Chakravarthi Rangan @ Y.Raghavachari and T.R.V.Kasthuri Rangan, the father of the Plaintiffs and the Defendant. The said T.R.V.Chakravarthi Rangan had obtained a preliminary decree for partition of his half share in the A-Schedule property, by judgement and decree dated 31.9.1959 made in OS.No.422 of 1959 on the file of the II Assistant Judge, City Civil Court, Chennai. In the final decree proceedings, B-Schedule property was allotted to the father of the Plaintiffs and the Defendant and he was in possession of the same till his death. It had been further stated that the father of the Plaintiffs and the Defendant died intestate on 21.11.1997 and their mother predeceased their father on 23.5.1980. The Plaintiffs and the Defendant are Class I legal heirs of the deceased T.R.V.Kasthuri Rangan. The Plaintiffs and the Defendant are in joint possession of the B-Schedule property and the Plaintiffs are entitled to 2/3rd share in the B-Schedule property. Hence, this civil suit had been filed with the prayer as stated above.

3. Though the Defendant was served as early as on 27.9.2011, no written statement had been filed by the Defendant and hence, the matter was ordered to be listed under the caption of "Undefended Board". For non filing of the Written Statement, the Defendant was set exparte and Exparte Evidence was ordered to be recorded by the order of this court dated 12.10.2015. The 1st Plaintiff had filed the proof affidavit for his chief examination on behalf of the Plaintiffs and receipt of three documents as documentary evidence to prove their claim. In the Exparte Evidence, the 1st Plaintiff had examined himself as

PW.1 and marked Exs.P1 to P3 as documentary evidence in order to prove the suit claim.

4. Considering the oral and documentary evidence, viz. Ex.P1 to Ex.P3 adduced by PW.1, this Court is of the view that the plaintiffs have proved the suit claim and consequently, the Plaintiffs are entitled to 2/3rd share in the B-Schedule Property, as prayed for and accordingly, a preliminary decree for partition in favour of the Plaintiffs is granted with costs. Without awaiting for an application for passing of a final decree, for the purpose of inspecting the suit property and to give a proposal for allotment of 2/3rd share in the B-Schedule Property to the Plaintiffs, by demarcating the B-Schedule Property, Ms.C.Kanakavalli, Advocate, (Reg.No.2053/2004) (Cell No.9952063826/8056141692) is hereby appointed as the Advocate Commissioner and her initial remuneration is fixed at Rs.20,000/- (Rupees Twenty Thousand Only) to be paid by the Plaintiffs.

10.02.2017

Index:Yes/No
Web:Yes/No
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1. List of Witnesses Examined on the side of the Plaintiff:-

1. P.W.1 - Rajagopal

2. List of Exhibits Marked on the side of the Plaintiff:-

S.No	Exhibit	Description	Date
1	Ex.P. 1	Photocopy of the judgement rendered in OS.422 of 1959	16121959
2	Ex.P. 2	Death certificate of plaintiff's father TRV.Kasthuri Rangan @ Raghavachari	
3	Ex.P. 3	Legal heir certificate of plaintiff's father TRV.Kasthuri Rangan @ Raghavachari	

3. List of Witnesses Examined on the side of the defendants:-

Nil

4. List of Exhibits Marked on the side of the defendants:-

Nil

10.02.2017

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C.V.KARTHIKEYAN, J.

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Pre-Delivery Judgement in
CS.No.918 of 2010

10.02.2017

<http://www.judis.nic.in>