

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 10.06.2019****CORAM****THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN****C.S.No.419 of 2014**

L.Anusuya

... Plaintiff

Versus

1. R.Banumathy

2. R.Senthil

3. S.Gayathri

... Defendants

Plaint filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of the Code of Civil Procedure praying to pass a judgment and decree for:

(a) to pass a decree for partition and separate possession of the plaintiff's $\frac{1}{2}$ share in the suit property which is more fully described in the 'A' schedule by metes and bounds to the plaintiff;

(b) to pass a decree for the plaintiff's half share in the 'B and C' schedule properties;

(c) to delegate an enquiry for the ascertainment of the mesne profits in the suit property in separate proceedings during the final decree stage;

(d) For costs.

For Plaintiff

: Mr.S.L.Kalavathy

For Defendants : Mr.M.Chidambaram

J U D G M E N T

The plaintiff has filed a Memo giving up her claim to 'B' and 'C' Schedule properties and seeking a preliminary decree for partition of 'A' Schedule property alone. The shares are not in dispute. The defendants would however claim that she would pay half the value of the property to the plaintiff and retain the entire property to themselves. He had also filed a Memo to that effect. The plaintiff is unwilling to accept cash compensation and she seeks division of the property by metes and bounds.

2. In view of the fact that the shares are admitted, the final details of the partition can be worked out at the time of final decree proceedings. Hence, on the basis of the admission made by the parties, the suit is decreed granting a preliminary decree declaring the half share of the plaintiff in the Suit A Schedule property alone. In respect of B and C Schedule property, the suit stands dismissed. Parties will bear their own costs.

3. The plaintiff will also be entitled to mesne profits in terms of Order 20 Rule 12 of the Code of Civil Procedure in respect of 'A' Schedule properties.

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Index : No
Internet : Yes

Speaking Order

List of Witnesses examined on the side of the Plaintiff:

PW1 - Mr.L.Anusuya

List of Witnesses examined on the side of the Defendants:

DW1 - Mr.R.Senthil @ Senthilnathan

List of Exhibits marked on the side of the Plaintiff:

Sl. No.	Exhibits	Description of Documents
1	Ex.P1	Letter dated 02.01.2014 received from the Corporation of Chennai under Right to Information Act along with the postal cover
2	Ex.P2	Marriage invitation for soleminization on 02.02.1976
3	Ex.P3	Office copy of the legal notice dated 10.10.2013 issued by my counsel to the defendants
4	Ex.P4	Postal acknowledgment for the receipt of the legal

Sl. No.	Exhibits	Description of Documents
		notice from the 2 nd defendant
5	Ex.P5	Returned postal cover of the legal notice sent to the 1 st defendant
6	Ex.P6	Returned postal cover of the legal notice sent to the 3 rd defendant
7	Ex.P7	Encumbrance Certificate dated 10.04.2014 in respect of plaint 'A' schedule property

List of Exhibits marked on the side of the Defendants:

Sl. No.	Exhibits	Description of Documents
1	Ex.D1	Account details of plaintiff (jewels and loans given to the plaintiff)
2	Ex.D2	Original discharge summary of Mrs.Saraswathi Ammal dated 19.04.1999
3	Ex.D3	(series (2 Nos) is the original medical treatment records of Mrs.Saraswathi Ammal dated 01.03.2010

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R.SUBRAMANIAN, J.

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