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*T.O.S.No.3 of 2001 and
Tr.C.S.Nos.811 of 2002 &
302 of 2003*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

**T.O.S.No.3 of 2001 and
Tr.C.S.Nos.811 of 2002 & 302 of 2003**

T.O.S.No.3 of 2001:

P.Sudhahar

[Substituted and amendment carried out as per the order dated 06.08.1999 in A.No.2495 of 1999 and order dated 20.07.2012 made in memo dated 16.07.2012]

...Plaintiff

.Vs.

1.P.Jayalakshmi

2.Saraswathi

3.N.Muthukrishnan

4.Ramanji @ Ramanjamm (Deceased)

5.P.Surendra Babu

6.S.Jagan Babu

[defendants 5 and 6 are impleaded as LR's of the deceased 4th defendant as per the order dated 18.12.2015 in Application No.7338 of 2015]

... Defendants



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PRAYER : Petition filed under Section 232 and 276 of the Indian Succession Act, XXXIX of 1925 and Order XXV Rule 5 of the Original Side Rules for grant of Letters of Administration with the Will annexed. Against the petition, a caveat was filed by the caveator, as per order of this Court dated 19.12.2000, the Original Petition No.566 of 1997 was converted into Testamentary Original Suit No.3 of 2001.

For Plaintiff : Mr.V.Selvaperumal

For Defendants : Mr.S.Senthilnathan for D2 and D4

Tr.C.S.No.811 of 2002:

1.G.Ramanjee (Deceased)

2.P.Surendara Babu

3.S.Jagan Babu

[Plaintiffs 2 and 3 are brought on record as legal heirs of the deceased sole plaintiff as per order dated 18.12.2015 in Appln.Nos.973 to 975 of 2015 and time extended as per order dated 18.07.2016 in Appln.Nos.3304 and 3305 of 2016.]

... Plaintiffs

-Vs-

1.G.Parthasarathy (Deceased)

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- 2.Jayalakshmi
- 3.Perumal Naidu
- 4.G.Saraswathi
- 5.Rajeswari
- 6.M.Nandakumar
- 7.M.Vijayalakshmi
- 8.M.Revathi
- 9.P.Yasodha
- 10.P.Sudhakar
- 11.P.Shanmugapriya

[Defendants 9 to 11 are brought on record as legal heirs of the deceased 1st defendant as per order dated 23.11.2016 in Appln.Nos.6145 and 6146 of 2016]

... Defendants

Plaint filed under Order VII Rule 1 of the Code of Civil Procedure
praying to:

a) Pass a preliminary decree for 1/5th share in the properties mentioned in the Schedule A, B and C for the plaintiffs 2 and 3;

b) appoint a Commissioner to divide the properties mentioned in the Schedule A, B and C by metes and bounds;



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c) pass a final decree allotting specified items of properties towards the share of the plaintiffs and put the plaintiff in possession of the items so allotted towards their share and

d) for costs of the suit.

For Plaintiffs : Mr.V.Selvaperumal

For Defendants : Mr.S.Senthilnathan

Tr.C.S.No.302 of 2003:

G.Saraswathi

... Plaintiff

-Vs-

- 1.G.Parthasarathy (Deceased)
- 2.Jayalakshmi
- 3.Perumal Naidu
- 4.Ramanji (Deceased)
- 5.Rajeswari
- 6.M.Nandakumar
- 7.M.Vijayalakshmi
- 8.M.Revathi
- 9.P.Surendara Babu
- 10.S.Jagan Babu



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[Defendants 9 and 10 brought on record as per order dated 18.12.2015 in Appln.Nos.956 to 958 of 2015 and time extended as per order dated 18.07.2016 in Appln Nos.3304 and 3305 of 2016 and order dated 04.08.2016.]

11.P.Yasodha

12.P.Sudhakar

13.P.Shanmugapriya

[Defendants 11 to 13 are brought on record as legal heirs of the deceased 1st defendant as per order dated 23.11.2016 in Appln.Nos.6147 and 6148 of 2016]

... Defendants

Plaint filed under Order VII Rule 1 of the Code of Civil Procedure
praying to:

a) Pass a preliminary decree for 1/5th share in the properties mentioned in the Schedule A, B and C for the plaintiff;

b) appoint a Commissioner to divide the properties mentioned in the Schedule A, B and C by metes and bounds;

c) pass a final decree allotting specified items of properties towards the share of the plaintiff and put the plaintiff in possession of the items so allotted towards her share and



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d) for costs of the suit.

For Plaintiff : Mr.S.Senthilnathan
For Defendants : Mr.R.Lakshmi Narasimhan
for D2, 3 9 and 11
Mr.V.Selvaperumal for D12

J U D G M E N T

The parties have entered into a compromise and the same is evidenced by a compromise memo which has been signed by all the parties and their respective counsel. The power of attorney of the plaintiff is present. Two of the parties viz., the 1st and 2nd defendants Jayalakshmi and Saraswathi are present virtually. The others are present physically. All the parties have agreed that the suits as well as the testamentary original suit can be disposed of based on the above compromise.

2. In view of the agreement reached between the parties, there will be a final decree in Tr.C.S.No.811 of 2002 and Tr.C.S.No.202 of 2003 as



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per the compromise memorandum made between the parties. The compromise memo shall form part of the decree. In view of the compromise reached in the partition suits, the testamentary original suit in TOS.No.3 of 2001 will stand dismissed. The parties are directed to bear their own costs.

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Note: The Registry is directed to issue certified copy of the judgment and decree by 29.11.2021.

Index : No

Internet : Yes

Non-Speaking order



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**List of the witnesses examined on the side of the plaintiff in
T.O.S.No.3 of 2001:**

PW1-Mrs.Shanmugapriya

**List of Exhibits marked on the side of the plaintiff in
T.O.S.No.3 of 2001:**

<i>Exhibits No.</i>	<i>Description</i>	<i>Dated</i>
Ex.P1	True copy of Power of attorney	31.07.2015
Ex.P2	Original Will executed by Mr.Gopal Naidu registered as Doc.No.53/1980 on the file of the Sub-Registrar, Triplicane, Chennai	15.12.1980
Ex.P3	Original Death Certificate of Mr.Gopal Naidu	--
Ex.P4	Original Birth certificate of the plaintiff	--
Ex.P5	Original Death Certificate of Mrs.Salammal who died on 21.09.1996	--
Ex.P6	Original legal heir certificate	02.09.1997
Ex.P7	Affidavit filed by R.Kulasekara Nadiu	Feb 1997
Ex.P8	Typed copy of the affidavit of attesting witness Namdev Chettiar	--
Ex.P9	Computerised copy of death certificate of Namdev Chettiar	--
Ex.P10	Copy of Consent affidavit of Jayalakshmi	--
Ex.P11	Copy of Consent affidavit of G.Parthasarathy	--
Ex.P12	Copy of death certificate of G.Parthasarathy	--
Ex.P13	Certified copy of settlement deed	05.06.1982

**List of the witnesses examined on the side of the defendants in
T.O.S.No.3 of 2001: : Nil**

**List of Exhibits marked on the side of the defendants in
T.O.S.No.3 of 2001: : Nil**



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**List of the witnesses examined on the side of the plaintiffs in
Tr.C.S.No.811 of 2002:**

PW1-Mr.P.Surendra Babu

**List of Exhibits marked on the side of the plaintiffs in
Tr.C.S.No.811 of 2002:**

<i>Exhibits No.</i>	<i>Description</i>	<i>Dated</i>
Ex.P1	Certified copy of sale deed R.Gopal Naidu	29.11.1956
Ex.P2	Certified copy of sale deed R.Gopal Naidu	20.07.1960
Ex.P3	Certified copy of sale deed R.Gopal Naidu	25.07.1960
Ex.P4	Copy of legal notice	20.01.1996
Ex.P5	Original reply notice	01.02.1996
Ex.P6	Certified copy of sale deed G.Perumal Naidu	05.12.1997
Ex.P7	Certified copy of sale deed	20.07.2000
Ex.P8	Proceedings of Thasildar, Tindivanam	20.03.2012
Ex.P9	Proceedings of R.D.O., Tindivanam	.12.2012
Ex.P10	Patta bearing No.151 issued by Deputy Thasildar, Tindivanam	24.05.2012
Ex.P11	'A' Register extract	24.05.2012
Ex.P12	Proceedings of Public Information Officer @ Deputy Thasildar, Tindivanam	12.08.2013
Ex.P13	Proceedings of R.D.O., Tindivanam	02.12.2012
Ex.P14	Proceedings of Public Information Officer @ Deputy Thasildar, Tindivanam	29.09.2015

**List of the witnesses examined on the side of the defendants in
Tr.C.S.No.811 of 2002: : Nil**



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**List of Exhibits marked on the side of the defendants in
Tr.C.S.No.811 of 2002: : Nil**

**List of the witnesses examined on the side of the plaintiff in
Tr.C.S.No.302 of 2003:**

PW1-Mr.P.Surendra Babu

**List of Exhibits marked on the side of the plaintiff in
Tr.C.S.No.302 of 2003:** Nil

**List of the witnesses examined on the side of the defendants in
Tr.C.S.No.302 of 2003:** : Nil

**List of Exhibits marked on the side of the defendants in
Tr.C.S.No.302 of 2003:** : Nil

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R.SUBRAMANIAN, J.

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