



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2021

CORAM

THE HONOURABLE THIRU JUSTICE **V. PARTHIBAN**

C.S.No.657 of 2019

E.P.Indumathi

... Plaintiff

Vs.

1.A.Srinivasulu (Deceased)

2.A.s.Sethuraman

3.A.S.Narayanan

4.A.S.Kannan

5.Seethalakshmi

6.A.S.Geethalakshmi

7.A.S.Banumathy

(Plaintiff and defendants 2 to 7 are the legal heirs of the deceased first defendant. As per order of this Court dated 30.07.2020)

...Defendants

TOS.NO.29 of 2018

1.A.S.Sethuraman

2.A.S.Narayanan

3.A.S.Kannan

...Plaintiffs

Vs.



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1.A.Srinivasulu

2.A.S.Seethalakshmi

3.A.S.Indumathy

4.A.S.Geethalakshmi

5.A.S.Banumathy

...Respondents

Prayer in C.S.No.657 of 2019:-

The Civil Suit filed under Order 7 Rule 1 C.P.C r/w. Order IV rule 1 of Original side rules praying to pass a judgment and decree against the defendants:-

a) granting a preliminary decree for 1/8th share in favour of the plaintiffs in the property mentioned in the schedule hereunder.

b) Appointing an advocate commission to measure and divide the schedule mentioned property by metes and bounds.

c) passing final decree allotting specified items of the schedule mentioned property towards the share of the plaintiff and put the plaintiff in possession of the items allotted towards her share.

d) Granting permanent injunction restraining the defendants, their legal heirs, men, agents and any other persons claiming under or through them from selling, mortgaging or otherwise alienating or encumbering the property mentioned in the schedule hereunder.

e) Directing to pay the cost of the suit.

Prayer in TOS No.29 of 2018:-

The petition filed under sections 232 and 276 of the Indian Succession Act, R/w order XXV Rule 5 of the High Court Original



side rules praying that Letters of Administration with the Will dated 19th November 2012 annexed may be granted to the petitioners as the brothers/beneficiaries under the Will of the said deceased A.S.Bhaskaran to have effect limited to the State of Tamil Nadu.

In C.S.No.657/2019

For Plaintiff : Mr.N.Senthilnathan

For Defendants : Mr.J.Srinivasa Mohan (for D.1)
Mr.V.G.Suresh Kumar(for D.2 & D.3)
Mr.M.Yokesh (D.4)
Mr.J.Perumalsamy (for D.6)
No appearance for D.5 & D.7

In T.O.S.No.29/2018

For Plaintiffs : Mr.V.G.Suresh Kumar

For respondents : Ms.R.Poornima

COMMON JUDGMENT

It is represented that both the Civil Suit and TOS are covered under the present memorandum of compromise. The terms of the memorandum of compromise are recorded here:

1.The Plaintiff in C.S.No.657 of 2019 is the Defendant in T.O.S.No.29 of 2018. Defendants 2 to 4 in C.S.No.657 of 2019 are the Plaintiffs in T.O.S.No.29 of 2018. The deceased 1st Defendant in C.S.No.657 of 2019 is the father of the Plaintiff and Defendants 2 to 7. The deceased 1st Defendant and Defendants 5 to 7 who are the other sisters, are not defendants in T.O.S.No.29 of 2018. In the present memorandum of compromise, the parties



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are referred to as they are arrayed in C.S.No.657 of 2019.

2.The Plaintiff, Defendants 2 to 4 and 5 to 7 are all children born to the deceased 1st Defendant. The mother of the Plaintiff and Defendants 2 to 7 predeceased the 1st Defendant. The 1st Defendant died pending the suit. The Plaintiff and Defendants 5 to 7 are therefore the sisters of Defendants 2 to 4.

3.C.S.No.657 of 2019 is filed praying for the following relief:-

- (a) granting a preliminary decree for 1/8th share in favour of the Plaintiff in the property mentioned in the Schedule to the plaint,
- (b) appointing an Advocate Commissioner to measure and divide the schedule mentioned property by meets and bounds,
- (c) passing final decree allotting specified item of the schedule mentioned property towards the share of the Plaintiff and put the Plaintiff in possession of the items allotted to her share,
- (d) granting permanent injunction restraining the Defendants, their legal heirs, men, agents and any other persons claiming under or through them from selling, mortgaging or otherwise alienating or encumbering the property mentioned in the schedule to the plaint and for other relief.



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4. *The Schedule to the plaint in C.S.No.657 of 2019 consists of three items of properties. Item-1 which is one fourth undivided share in the house property in Anna Nagar, Chennai, Item-2 are the properties in Sholavaram Village, Ponneri Taluk, Thiruvallur District, which fell to the share of the deceased 1st defendant in a partition between himself and his brother which is recorded in the Kuruchit dated 7.7.1985. Item - 3 are the properties also in Sholavaram Village, Ponneri Taluk, Thiruvallur District, which were bequeathed by Pinducur Cunnaiah Chetty and his wife, Ranganayagi Ammal under the Will dated 24.2.1961 (duly registered on 9th March 1961 as Document No.3 of 1961 in the office of Sub Registrar, Arani). In and by the said Will, they had bequeathed life interest in the properties owned by them on the 1st defendant and his brother A.Mohanakrishnan. They have also specifically stipulated in the Will that after their life time, the properties must devolve absolutely on the male children born to them.*

5. *The Plaintiff has claimed one eighth share in the said properties in C.S.No.657 of 2019, on the premise that the plaintiff and the 7 defendants are each entitled to one eighth share each in the said properties.*

6. *T.O.S.No.29 of 2018 is filed praying for grant of Letters of Administration with the Will dated 19.11.2012*



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executed by Mr.A.S.Bhaskaran annexed thereto. Mr.A.S.Bhaskaran is the deceased brother of the Plaintiff and Defendants 2 to 7. He died on 25.4.2016.

7. The subject matter of the said Will is one fourth share in the house property in Anna Nagar, Chennai, which is described as Item-1 in the Schedule to the plaint in C.S.No.657 of 2019, which one fourth share, the Testator Mr.A.S.Bhaskaran had derived by virtue of a Deed of Settlement dated 11.6.2009 registered as Document No.1818 of 2009.

8. The said house property in Anna Nagar, Chennai, was originally owned and possessed by the deceased 1st Defendant, the father of the parties, he having acquired the land under a Deed of Sale dated 25.3.1985 registered as Document No.1038 of 1985 in the office of the Sub-Registrar, Anna Nagar executed by the Tamil Nadu Housing Board and he constructed a house consisting of ground and first floors thereon. The deceased 1st defendant had settled the said property in favour of Defendants 2 to 4 and also the deceased son, Mr.A.S.Bhaskaran, under the said Deed of Settlement dated 11.6.2009 registered as Document No.1818 of 2009, in and by which Defendants 2 to 4 and the deceased Mr.A.S.Bhaskaran were settled 1/4th undivided share each in the property. The plaintiff, contesting the said Will as the defendant in T.O.S.No.29 of 2018, is claiming one



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eighth share in the said 1/4th share.

9. T.O.S.No.29 of 2018 was originally filed as O.P.No.269 of 2017. In the said proceedings, Letters of Administration with the Will dated 19.11.2012 executed by Mr.A.S.Bhaskaran and registered as Document No.107 of 2012 in the office of the Sub-Registrar, Anna Nagar annexed thereto, is sought for by Defendants 2 to 4, the beneficiaries under the said Will. The Plaintiff in C.S.No.657 of 2019 chose to contest the said proceedings and filed a Caveat. Defendants 5 to 7 did not choose to contest the said Will. Consequently, the said Original Petition was converted into a Testamentary Original Suit and numbered as T.O.S.No.29 of 2018. Trial in the said Suit has commenced and it is in part heard stage.

10. The Plaintiff in C.S.No.657 of 2019, who is the Defendant in T.O.S.No.29 of 2018 accepts and acknowledges the genuineness of the Will dated 19.11.2012 executed by Mr.A.S.Bhaskaran and also acknowledges that the same has been executed while Mr.A.S.Bhaskaran was in a sound and disposing state of mind. She consequently accepts the bequeathment of the 1/4th share in the said property in Anna Nagar, Chennai, which is Item-1 in the Schedule to the Plaint in C.S.No.657 of 2019 by the said Mr.A.S.Bhaskaran, in favour of the Defendants 2 to 4, who are the Plaintiffs in T.O.S.No.29 of 2018. Defendants 5 to 7 also similarly acknowledge that



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the accepts and acknowledge the genuineness of the Will dated 19.11.2012 executed by Mr.A.S.Bhaskaran and also acknowledge that the same has been executed while Mr.A.S.Bhaskaran was in a sound and disposing state of mind. They consequently accept the bequeathment made in the said Will. The Plaintiff and Defendants 5 to 7 thus accept that Defendants 2 to 4 are the full and absolute owners of the said property.

11. The Plaintiff in C.S.No.657 of 2019 also acknowledges that the Settlement Deed executed by the deceased 1st Defendant, the father, dated 11.6.2009 registered as Document No.1818 of 2009 in the office of the Sub-Registrar, Anna Nagar, settling the property bearing old door No.21A, new door No.9, Plot No.2045, H Block, 5th Street, Off 12th Main Road, Anna Nagar, Chennai-600040, in favour of Defendants 2 to 4 and also the deceased Mr.A.S.Bhaskaran, is valid and proper. Defendants 5 to 7 also similarly acknowledge that the said Settlement Deed is valid and proper.

12. The Plaintiff and Defendants 5 to 7 therefore state that they have no right, claim or interest in the said property.

13. The Plaintiff, who is the sole contesting defendant in T.O.S.No.29 of 2018 besides defendants 5 to 7 also submit that Letters of Administration with the Will



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dated 19.11.2012 of Mr.A.S.Bhaskaran, annexed, may be granted as prayed for in favour of Defendants 2 to 4, the Plaintiffs in T.O.S.No.29 of 2018.

14. The parties state that Item - II in the plaint schedule are properties which fell to the share of the deceased 1st defendant, the father of the parties, in furtherance to the partition effected between him and his brother, which partition, already effected, was recorded in the Kuruchit dated 7.7.1985 executed by the deceased 1st defendant and his brother, A.Mohanakrishnan. The said brothers were in separate possession and enjoyment of the properties so partitioned amongst themselves. This partition is also accepted by the plaintiff and defendants 5 to 7, as valid and proper. The Plaintiff and the Defendants state that various Deeds of Settlement were executed by the deceased 1st Defendant in respect of the said properties, which are detailed as below:

<i>DATE</i>	<i>DOCUMENT NO. (ALL IN THE OFFICE OF THE SUB-REGISTRAR, RED HILLS)</i>	<i>DOCUMENT AND PARTIES TO DOCUMENT</i>
<i>26.4.2010</i>	<i>3129 of 2010</i>	<i>Settlement Deed executed by A.Srinivasulu in favour of A.S.Sethuraman(2nd Defendant)</i>
<i>26.4.2010</i>	<i>3134 of 2010</i>	<i>Settlement Deed executed by A.Srinivasulu in favour of A.S.Bhaskaran</i>



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26.4.2010	3135 of 2010	(Deceased) Settlement Deed executed by A.Srinivasulu in favour of A.S.Narayanan(3 rd Defendant)
26.4.2010	3133 of 2010	Settlement Deed executed A.Srinivasulu in favour of A.S.Kannan(4 th Defenadant)
26.4.2010	3136 of 2010	Settlement Deed executed by A.Srinivasulu in favour of A.S.Seethalakshmi(5 th Defendant)
26.4.2010	3137 of 2010	Settlement Deed executed by A.Srinivasulu in favour of A.S.Indumathi(Plaintiff)
26.4.2010	3138 of 2010	Settlement Deed executed by A.Srinivasulu in favour of A.S.Geethalakshmi(6 th Defendant)
26.4.2010	3139 of 2010	Settlement Deed executed by A.Srinivasulu in favour of A.S.Banumathy(7 th Defendant)

The Plaintiff, Defendants 2 to 4 and Defendants 5 to 7 accept the said Deeds of Settlement to be valid and proper. They further confirm that absolute title has been conveyed to the respective Settlees, under the eight Deeds of Settlement. They also state that the properties settled under the said documents have vested fully and absolutely on the respective Settlees.



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15. *Item III properties were fully and absolutely owned by Pindicur Cunnaiah Chetty and his wife, Ranganayagi Ammal. The said Pindicur Cunnaiah Chetty was the maternal uncle of the 1st defendant. In and by a Will dated 24.2.1961, (duly Registered on 9th March 1961 as Document No.3 of 1961 in the office of Sub Registrar, Arani) they had bequeathed life enjoyment of the said properties to the 1st defendant and his brother, while absolute right to the property was bequeathed to the male children born to the 1st defendant and his brother A.Mohanakrishnan. The properties so bequeathed under the WILL were first partitioned between the 1st defendant and his brother under another kuruchit dated 7.7.1985. The said brothers were in separate possession and enjoyment of the properties so partitioned amongst themselves.*

16. *Thus, the deceased 1st defendant had a life interest in the said properties, which fell into his share and the properties were thereafter to vest in Defendants 2 to 4 and A.S.Bhaskaran (Deceased) fully and absolutely. The Plaintiff and Defendants 5 to 7, the daughters had no right or claim to the said properties, by virtue of the said Will dated 24.2.1961.*

17. *The deceased 1st defendant and defendants 2 to 4 along with A.S.Bhaskaran (Deceased) therefore executed Release Deeds inter se amongst themselves. The*



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1st defendant had released his life interest in all the said properties under a Deed of Release dated 26.4.2010, registered as Document No.3144 of 2010 in the office of the Sub Registrar, Red Hills, in favour of Defendants 2 to 4 and A.S.Bhaskaran (Deceased).

18. The deceased 1st Defendant along with Defendants 2 to 4 and A.S.Bhaskaran (Deceased) have also released their respective one fourth shares, respectively in favour of each other. Thus Defendants 2 to 4 and A.S.Bhaskaran (Deceased) thus became entitled to the said properties fully and absolutely, as vested in them under the Deeds of Release executed in favour of each other as detailed hereunder:-

DATE	DOCUMENT NO.(ALL IN THE OFFICE OF THE SUB-REGISTRAR, RED HILLS)	DOCUMENT AND PARTIES TO DOCUMENT
26.4.2010	3140 of 2010	A.Srinivasulu A.S.Bhaskaran A.S.Narayanan & A.S.Kannan in favour of A.S.Sethuraman
26.4.2010	3141 of 2010	A.Srinivasulu, A.S.Sethuraman A.S.Narayanan & A.S.Kannan in favour of A.S.Bhaskaran
26.4.2010	3142 of 2010	A.Srinivasulu, A.S.Sethuraman



		<i>A.S.Bhaskaran & A.S.Kannan in favour of A.S.Narayanan</i>
<i>26.4.2010</i>	<i>3143 of 2010</i>	<i>A.Srinivasulu, A.S.Sethuraman A.S.Bhaskaran & A.S.Narayanan in favour of A.S.Kannan</i>

19.The Plaintiff and Defendants 5 to 7 are not claiming any right in the said properties except to the extent provided in clauses 25 & 26 of this compromise.

20.The deceased Mr.A.S.Bhaskaran, the brother of the parties, also executed a Will dated 19.11.2012 registered as Document No.69 of 2012 in the office of the Sub-Registrar, Red Hills, in respect of the various properties, which are owned by him and situate in Sholavaram Village, Ponneri Taluk, Thiruvallur District, besides the various movables namely, the deposits standing to his name (which deposits have been bequeathed in favour of the children of Defendants 2 to 4). Though the said Will does not require Probate as it deals with the properties outside the notified City of Chennai and the Will was also executed and registered in the notified City of Chennai, the Defendants 2 to 4, have by way of abundant caution filed an Original Petition praying for Letters of Administration with the said Will annexed, which is in un-numbered stage in this Hon'ble Court.



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21.The Plaintiff and Defendants 5 to 7 admit and acknowledge that the said Will has also been duly properly and validly executed by Mr.A.S.Bhaskaran, while he was in a sound disposing state of mind and the bequeathments made there under, by the said Mr.A.S.Bhaskaran are valid and binding on all the parties. The parties accept the bequeathments made under the said Will. The Plaintiff and Defendants 2 to 7 hereby also grant consent for transfer and disbursement of the fixed deposits bequeathed by the deceased Mr.A.S.Bhaskaran, to the respective beneficiaries under the said Will dated 19.11.2012, registered as Document No.69 of 2012 in the office of the Sub-Registrar, Red Hills.

22.In and by the said Will dated 19.11.2012, registered as Document No.69 of 2012 in the office of the Sub-Registrar, Red Hills, the deceased Mr.A.S.Bhaskaran had bequeathed the property being the house site of an extent of 3282 square feet (305 square metres) comprised in Gramanatham Old Survey No.427/1, New Survey No.677/4B, of No.116, Sholavaram Village, Ponneri Taluk, Thiruvallur District, being Schedule C in the said Will, in favour of Defendants 2 to 4 herein jointly, with all powers of dispossession.

23.Defendants 2 to 4 agree to transfer the said property in favour of the 6th Defendant herein and



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undertake to execute and register a Deed of Settlement, at their cost, settling the said extent of the property in favour of the 6th Defendant herein within a period of 6 weeks from this date.

The Plaintiff and Defendants 2 to 5 and 7 accept that the properties that were already settled by the deceased 1st Defendant, in favour of the 6th Defendant by the 1st Defendant under Settlement Deed registered as Document No.3138 of 2010 and also by the deceased brother A.S.Bhaskaran, under the Will dated 19.11.2012 are genuine, valid and binding on all the parties hereto. The aforesaid properties are already in possession and enjoyment of the 6th Defendant and the same shall remain undisturbed by all other parties hereto.

24.In and by a Deed of Settlement dated 26.4.2010 registered as Document No.3139 of 2010 in the office of the Sub-Registrar, Red Hills, being one of the documents referred to above, the deceased 1st Defendant settled an extent of property in No.116, Sholavaram Village, Ponneri Taluk, Thiruvallur District, in favour of the 7th Defendant herein. The 7th Defendant had thereafter sold the said property, in and by two Deeds of Sale both dated 27.4.2011 registered as Document Nos.4800 of 2011 and 4801 of 2011 in the office of the Sub-Registrar, Red Hills. The said transfer and the consequent sale by the 7th Defendant is admitted and accepted by all the parties to be valid and proper.



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25. In and by a Deed of Release dated 26.4.2010 registered as Document No.3143 of 2010 in the office of the Sub-Registrar, Red Hills, the deceased 1st Defendant and Defendants 2 and 3 along with A.S.Bhaskaran (Deceased) released their right, title and interest over seven items of properties, all situate in Sholavaram Village, Ponneri Taluk, Thiruvallur District, in favour of the 4th Defendant.

26. The 4th Defendant undertakes to transfer two out of the seven items, of which he has thus become the absolute owner, in favour of the Plaintiff, namely Item 1 of an extent of 0.64 acres (0.26.0 ares) comprised in Survey No.440/5B of No.116 Sholavaram Village and Item-2 of an extent of 0.37 acres (0.15.0 ares) comprised in Survey No.442/4B of No.116 Sholavaram Village, in favour of the Plaintiff, at his cost in and by a Deed of Settlement within 6 weeks from this date. If the Settlement Deed is not executed and registered in favour of the plaintiff within the aforesaid time limit as stated above, the plaintiff shall have the right to proceed and execute the decree passed on the basis of this compromise, in accordance with law.

27. Defendants 2 to 7 accept that the properties that were already settled and bequeathed in favour of the Plaintiff under the Deed of Settlement executed by the 1st Defendant dated 26.4.2010 registered as Document



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No.3137 of 2010 and also under the Will dated 19.11.2012 executed by Mr.A.S.Bhaskaran and registered as Document No. 107 of 2012 are genuine, valid and binding on all the parties hereto. The aforesaid properties are already in possession and enjoyment of the plaintiff and the same shall remain undisturbed by all other parties hereto.

28.The parties consequently state that by virtue of the above and the execution and registration of the said documents, the parties shall become the respective owners of the various properties in the manner as detailed therein. The Plaintiff in C.S.No.657 of 2019 and also the Defendants 5 to 7 shall have no further claims as against Defendants 2 to 4 in respect of any other property, of which they have become the absolute owners, by virtue of the Deeds of Settlement, Deeds of Release and the two Wills executed by Mr.A.S.Bhaskaran in their favour.

29.The Defendants 2 to 4 have also paid a sum of Rs.20,00,000/- each to the Plaintiff, the 5th defendant and the 6th defendant in C.S.No.657 of 2019. The Plaintiff, the 5th defendant and 6th defendant acknowledge receipt of the said payment by means of demand drafts in their favour.

30. The Plaintiff and Defendants therefore pray that the suit C.S.No.657 of 2019 be disposed off recording the said Deed of Compromise and T.O.S.No.29 of 2018 be decreed as prayed for, also recording the said Deed of



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Compromise.

31.The Plaintiff and Defendants 5 to 7 accept and confirm that they have no further claims against Defendants 2 to 4 either in respect of the immovable properties, which are the subject matter of the Deeds of Settlement and Deeds of Release referred to above, which have been transferred to Defendants 2 to 4 nor do they have any other claim in relation to various other movable or immovable properties standing in the name of Defendants 2 to 4. The parties shall bear the respective costs.

32.The parties therefore pray that a decree be passed in terms of this compromise in the suits T.O.S.No.29 of 2018 and C.S.No.657 of 2019.

2.Both the parties represented by the learned counsels would submit that the decree to be passed in terms of the above compromise in both C.S. and T.O.S. The plaintiff's are present physically and the defendants are present through virtual platform.



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3. Therefore, both the suits stand decreed in terms of above compromise. The plaintiffs in T.O.S.No.29 of 2018 are directed to execute a security bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in favour of the Assistant Registrar (O.S.II), High Court, Madras. Registry is directed to issue a copy of the decree to the parties within a period of six weeks.

08.10.2021

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Index : Yes/No

Internet : Yes/No



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V.PARTHIBAN.J.,

mrn

C.S.No.657 of 2019
&
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