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A.No.3845 of 2021

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in
C.S.No.397 of 2018

C.V.KARTHIKEYAN, J.

This application has been filed by the plaintiffs seeking to include further six items of properties in the schedule to the plaint.

2. Out of the said six items, the first three items have been mentioned in the written statement filed by the 1st defendant.

3. In the written statement, it had been stated that the father had purchased the properties in the names of all his children and subsequently, there had been settlements effected with respect to the properties and therefore, the properties are not available for partition. However, taking advantage of that particular disclosure of further properties being available, present application has been filed by the plaintiffs to include all the properties and seeking partition and separate possession in all of them.

4. A counter had been filed, questioning the right to claim partition of the properties now sought to be included.

5. Among the properties now sought to be included, the 1st and 2nd properties which can be referred as properties at Venkatadri Street, Kosapet, Chennai and New Street property at Nungambakkam, Chennai are the properties which admittedly had been purchased by the father but



settled in favour of the 2nd defendant subsequently. The 2nd defendant, as on date, claims absolute title to the properties referred as Venkatadri property and New Street property. The 3rd property which is the Ancestral property at Kamakoor Village in Arani Taluk, Tiruvannamalai District is admittedly available for partition.

6. In view of that particular stand, since exclusive and absolute title of the 2nd defendant will have to be established only during the course of trial, these three properties may be included as further properties to the plaint.

7. The other two properties which are now sought to be included are said to have been purchased in the name of Rathika, the wife of the 2nd defendant. The Sale deed stands in her name. That being the case, the plaintiffs now claims that the said property had been purchased, out of the joint family income. This fact should have been stated in the first instance in the plaint and the plaint cannot be developed after filing of the written statement.

8. The properties which had been purchased by the father or the properties which had been settled by the father or by the mother can be included as properties available for partition. But certainly the properties purchased by the daughter-in-law, cannot be so included. The properties stand in her name and she is the absolute owner of the said property and the Title Deed reflects that she is the owner of the said properties.



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9. Therefore, the said application will have to be necessarily dismissed with respect to item Nos.7 and 8 namely the property standing in the name of Rathika, wife of the 2nd defendant. The properties are situated at Pavalakara Street at Karunguzhi Town Panchayat and Kevasanallur Village, Kadambathur Panchayat Union.

10. The other item of the property which is sought to be included are movable item and the plaintiffs claimed that there are about 200 sovereigns of gold jewels. Unless there are pleadings to substantiate availability of such movables, the plaintiffs cannot get any relief over the said items.

11. But at any rate, evidence is permitted to be adduced on the availability of the movables and the said item can be included as available for partition.

12. In effect, the application stands partly allowed.

13. The plaintiff is permitted to include the property referred as Venkatadri Street property and the New Street Property and Ancestral property at Kamakoor Village, Arani Taluk, Tiruvannamalai District, and also movables as described in the schedule to the judges summons as property No.9. The application stands dismissed with respect to property No.7 and property No.8 as described in the schedule to the Judges Summons.

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