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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Civil Suit No.702 of 2019

Dr.R.Jaganathan

..... Plaintiff

-Versus-

1.Dr.R.Jayachandran

2.Dr.R.Ravishankar

3.Sanjeev R.Sridharan

4.Mrs.Subashree Sridharan

..... Defendants

Suit filed under Order XXIV, Order IV, Rule 1 of the Madras High Court Original Side Rules, 1994 r/w Order Order VII, Rule 1 of Code of Civil Procedure, 1908, praying to pass a judgement and decree allotting 12/30th (=2/5th) share in the suit A-Schedule and in a similar manner amend the register of Trinity Nursing Home Private Limited to record the transmission of 2/5th equity shares in G-Schedule in favour of the plaintiff and pass a preliminary decree and final decree and order for delivery possession of such share allotted to the plaintiff; allotting 2/5th share in B-Schedule property and pass a preliminary and final decree and delivery possession of such share allotted to the plaintiff; allotting C,



D, E and F-Schedule properties in its entirety and order for delivery of possession forthwith to the plaintiff and in a similar manner amend the Register of Trinity Nursing Home Private Limited to record the transmission of equity shares in H-Schedule in entirety in favour of the plaintiff; preliminary decree to divide the properties described in A and B-Schedule properties by metes and bounds and order for delivery of possession of the same to the plaintiff; or in the alternative, value the suit A and B-Schedule properties and direct the defendants to pay sum equivalent to 2/5th undivided share in the said properties; declaring the plaintiff's respective share in the suit schedule properties; and for costs of the suit.

<i>For Plaintiff</i>	<i>: Mr.Ramaswamy Meyyappan</i>
<i>For Defendant (s)</i>	<i>: Ms.Pavitra Venkateswaran for 1st defendant Mr.R.Mukundan for M/s.Menon, Karthik and Neelakandan for Defendants 3 and 4 : 2nd Defendant set exparte</i>



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JUDGEMENT

Suit is for a judgement and decree granting preliminary decree dividing the suit schedule properties and allotting due shares to the plaintiff; to pass a final decree and order for delivery of possession and for other reliefs as set out hereinabove.

2. The case of the plaintiff in brief is that Dr.R.S.Rajagopalan was a Doctor by profession and he got married to one Savithri. The defendants 1 and 2 and one Dr.R.Sridharan, the father of the defendants 3 and 4 are the children born to Dr.R.S.Rajagopalan through his wife Savithri from first marriage. Savithri died and after her demise, Dr.R.S.Rajagopalan married Dr.Suganthi Rajagopalan. Dr.R.S.Rajagopalan had a daughter named Dr. Sashikala born through his second wife-Dr.Suganthi Rajagopalan. The plaintiff got married to Dr. Sashikala on 13.11.2000 and she died on 24.01.2007 intestate leaving behind the plaintiff as her only legal heir.

3. It is the further case of the plaintiff that some of the suit schedule properties are the estate of Dr.R.S.Rajagopalan and his wife Dr.Suganthi Rajagopalan and some other properties are either joint properties of Dr.Suganthi Rajagopalan and Dr.Sashikala Rajagopalan and individual property of



Dr.S.Suganthi Rajagopalan. In A-Schedule property, his wife was entitled to undivided 12/30 share and the 1st defendant is entitled to 6/30 share; 2nd defendant is entitled to 6/30 share; 3rd defendant is entitled to 3/30 share; and 4th defendant is entitled to 3/30 share. Similarly, after the death of her parents, his wife was entitled to 2/5 share in B-Schedule and the defendants 1 and 2 are entitled to each 1/5 share while the defendants 3 and 4 are entitled to each 1/10 share. According to the plaintiff, insofar as C, D, E and F-Schedule properties are concerned, they are absolute properties of his wife and her mother - Dr.Suganthi Rajagopalan and therefore, the defendants cannot have any share in those properties.

4. As far as -Schedule property is concerned, according to the plaintiff, he is entitled to 2/5 share and the defendants 1 and 2 are entitled to each 1/5 share and the defendants 3 and 4 are entitled to each 1/10 share. Hence, this suit for preliminary decree for partition and for various other reliefs as set out in the first paragraph of this judgement.

5. The 1st defendant filed his written statement admitting the relationship between the parties as well as shares claimed by the plaintiff. The same is the case of the defendants 3 and 4. The defendants 3 and 4 claimed that they have paid necessary court fees under Section 37(3) of the Tamil Nadu Court-Fees and



Suits Valuation Act. The have filed a memo in this regard.

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6. The 2nd did not chose to file any written statement and he remained ex parte. He was set ex parte on 03.02.2021.

7. Based on the pleadings of either party, the following issues have been framed for trial:-

(1) Whether the plaintiff is entitled to get a preliminary decree for allotment of 12/30th share in the suit A schedule property?

(2) Whether the plaintiff is entitled to get a preliminary decree for allotment of 2/5th share in the suit B schedule property?

(3) Whether the plaintiff is entitled for allotment of entire share in the suit C, D, E & F schedule property?

(4) Whether the first defendant is entitled to 1/5th share in the suit A schedule property, 1/5th share in the suit B schedule property annexed with the plaint and 1/5th share in the suit G schedule property annexed with the written statement of the



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third and fourth defendants.

(5) Whether the defendants 3 & 4 are entitled to 1/10th share each in the suit A and B schedule property and 7500 shares each in RSR Trinity Hospital Pvt. Ltd.?

(6) Whether the plaintiff is entitled for the cost?

(7) Whether the defendants 1, 3 & 4 are entitled for the cost?

(8) To what other reliefs, the plaintiff is entitled?

(9) To what other reliefs, the defendants 1, 3 & 4 are entitled?

8. During trial, on the side of the plaintiff, he examined himself as P.W.1 and marked Ex.P.1 to P.20. P.W.1 was not even cross examined by the defendants and the learned counsel for the defendants 1, 3 and 4 have, in fact, made endorsements to the effect that they had no cross examination. None was examined on the side of the defendants and no document was also marked.

Issue Nos.1 to 5:



9. Heard both sides.

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10. P.W.1, the plaintiff in his evidence has stated about the manner in which the schedule mentioned properties have to be developed upon his wife and how, he is entitled to shares in the suit schedule properties. Ex.P.9 to Ex.P.14 are sale deeds in respect of suit **A-Schedule property**. This property was purchased jointly by Dr.R.S.Rajagopalan, his wife Dr.Suganthi Rajagopalan, and children- Dr.R.Sridharan, Dr.R.Jayachandran, the 1st defendant and Dr.R.Ravishankar, the 2nd defendant and Dr. Sashikala Sridharan (wife of the plaintiff) collectively. Ex.P.15 is the sale deed dated 12.07.2001. This has been filed to prove that the property was originally purchased by Dr.R.S.Rajagopalan. Ex.P.5 is the sale deed dated 21.01.1967 in respect of suit **B-Schedule property**. This property stood in the name of Dr.R.S.Rajagopalan. Ex.P.6 is the sale deed dated 01.02.2002 in respect of suit **C-Schedule property**. This property stood in the name of Dr.Suganthi Rajagopalan and her daughter Dr.Sashikala Rajagopalan. Ex.P.16 is a certified copy of sale deed dated 01.03.2017. This has been filed to show that suit **C-Schedule property** was purchased exclusively by Dr.Suganthi Rajagopalan and her daughter Dr. Sashikala Rajagopalan. Ex.P.7 is also a certified copy of sale deed dated 26.05.1993. This has been filed to show that suit **D-Schedule property** was the self acquired property of Dr.Suganthi



Rajagopalan. Ex.P.8 sale deed dated 12.10.2004 has been filed to show that suit **E-Schedule property** was purchased jointly by Dr.Suganthi Rajagopalan and Dr. Sashikala Rajagopalan. Ex.P.15 sale deed dated 12.07.2021 has been filed to show that Dr.Suganthi Rajagopalan and Dr.Sashikala Rajagopalan had jointly purchased the suit **F-Schedule property**. Ex.P.20 would show the nature of share holding in the hospital run by the parties described under suit G and H-Schedule properties. On the death of Dr.Suganthi Rajagopalan, her one-half share in the suit C, E & F and entire D-Schedule properties devolved upon her biological daughter -Dr.Sashikala Rajagopalan and the wife of the plaintiff.

11. Ex.P.17 is a computer generated copy of legal heirship certificate of Dr.R.S.Rajagopalan. Ex.P.18 is the death certificate of Dr.R.S.Rajagopalan. Ex.P.18 is a computer generated copy of death certificate of Dr.Suganthi Rajagopalan. Ex.P.19 is a computer generated copy of death certificate of Dr.Suganthi Rajagopalan. Ex.P.20 (series) is the certified copy of Certificate of Incorporation of Trinity Nursing Home Private Limited together with balance sheet showing share holding of members.

12. Considering the nature of some of the properties purchased by Dr.R.S.Rajagopalan and his second wife Dr.Suganthi Rajagopalan jointly with their children and some of the properties purchased by Dr.Suganthi Rajagopalan



and her daughter Dr.Sashikala Rajagopalan, the wife of the plaintiff, jointly or by Dr.Suganthi Rajagopalan individually, and their shares in the properties are not in dispute by either side. Besides documentary and oral evidence, the defendants have categorically admitted the same in their written statement itself. Since there is no dispute between the parties regarding acquisition of the properties and the nature of shares which parties are entitled to, the plaintiff is entitled to a preliminary decree in respect of division of suit A and B-Schedule properties as prayed for and in respect of suit C, D, E, F and H-Schedule properties are concerned, the plaintiff is entitled to entire properties; as far as suit G-schedule property is concerned, shares have to be apportioned in the manner incorporated and in sense, the plaintiff is entitled to 2/5th share. The plaintiff is declared to be entitled to shares in suit A and B-Schedule properties and entitled to entire suit C, D, E, F and H-Schedule properties. The plaintiff is entitled to have the Register of Trinity Nursing Home Private Limited amended recording the transmission of 2/5th equity shares in suit G-Schedule in his favour and to have the Register of Trinity Nursing Home Private Limited amended recording the transmission of equity shares in H-Schedule property in entirety in his favour. The suit is decreed in the above terms. Advocate Commissioner will have to be appointed for suggesting division of properties and allotment of shares to the parties. The issues



Nos.1 to 5 are answered accordingly.

Issue Nos.6 to 9:

13. In view of the discussions made above, the plaintiff and the defendants are entitled to the relief to the extent indicated above and considering the relationship between the parties, this court is not inclined to pass any order as to costs and the parties are left to bear their respective costs. In view of the discussions made already in respect of suit A and B-Schedule properties declaring the right of the plaintiffs to have shares by metes and bounds, question of decree in respect of alternative relief for a direction to the defendants to pay the sum equivalent to 2/5th undivided share. However, the parties are at liberty to reach a consensus agreement in this regard at the time of passing of final decree. Insofar as the relief of recovery of possession of the plaintiff's shares, order with regard to the same will be passed at the time of final decree. These issues are answered accordingly.

In the result, the suit is decreed in the following terms:-

(1) The plaintiff is declared to be entitled to shares in suit A and B-Schedule properties and entitled to entire suit C, D, E, F and H-Schedule properties.

(2) The plaintiff is entitled to a preliminary decree for division of suit A and



B-Schedule properties and allotment of $2/5^{\text{th}}$ share in other words $12/30^{\text{th}}$ as prayed for;

(3) The suit C, D, E, F and H-Schedule properties are allotted to the plaintiff;

(4) The plaintiff is entitled to $2/5^{\text{th}}$ share in other words $12/30$ in suit G-schedule property;

(5) The plaintiff is entitled to have the Register of Trinity Nursing Home Private Limited amended recording the transmission of $2/5^{\text{th}}$ equity shares (75000 Equity Shares) in suit G-Schedule in his favour;

(6) The plaintiff is also entitled to have the Register of Trinity Nursing Home Private Limited amended recording the transmission of Equity Shares in H-Schedule property in entirety in his favour;

(7) The 1^{st} defendant is entitled to $6/30^{\text{th}}$ share, 2^{nd} defendant is entitled to $6/30$ share, 3^{rd} defendant is entitled to $3/30^{\text{th}}$ share, 4^{th} defendant is entitled to $3/30^{\text{th}}$ shares in suit A and B-Schedule properties subject to payment of necessary court-fees, if not already paid.

(8) Mr.N.Palanikumar, [Mobile No.97105 68744 / 98402 19134], Advocate, Office at Old No.127, New No.261, 3^{rd} Floor, Rohit Tower, Angappan Naicken Street, Near Tamil Nadu Apex Co-operative Bank, Opp. To High Court,



Chennai 600001, is appointed as Advocate Commissioner;

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(9) The Advocate Commissioner shall inspect the suit properties A and B Schedule properties, divide the same by metes and bounds as directed above and submit a report along with sketch suggesting allotment of due shares in suit property to the plaintiff as well as the defendants;

(10) The Advocate Commissioner shall file his report and rough sketch on or before 29.01.2024. Fee for the Advocate Commissioner is fixed at Rs.40,000/- which shall be payable directly to the Advocate Commissioner by the plaintiff.

(11) On such report and sketch, final decree will be passed in accordance with law;

(12) Considering the facts and circumstances of the case and the relationship of the parties, both parties are directed to bear their respective costs.

Call on 29.01.2024.

Index : yes / no

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Neutral Citation : yes / no

Speaking/Non Speaking order

kmk

List of witnesses examined on the side of the plaintiff:

P.W.1-Dr.R.Jaganathan (plaintiff)

List of Witnesses examined on the side of the defendants:

Nil

List of documents marked on the side of the plaintiff:

Ex.P.1	13.11.2000	Original certificate of marriage of the plaintiff with Dr.Sashikala
Ex.P.2	21.04.1993	Original death certificate of Dr.R.S.Rajagopalan
Ex.P.3	31.01.2007	Original death certificate of Dr.Suganthi Rajagopalan
Ex.P.4	08.02.2007	Original death certificate of Dr.Sashikala
Ex.P.5	21.01.1967	Original sale deed registered as Doc. No.94/1967 pertaining to Schedule-B property
Ex.P.6	01.02.2002	Original sale deed registered as Doc. No. 168/2002 pertaining to Schedule -C property
Ex.P.7	12.04.1984	Ex.P7 original sale deed registered as Doc. No.1238/1984 pertaining to Schedule-D property
Ex.P.8	12.10.2004	Original sale deed registered as Doc. No.3244/2004 pertaining to Schedule - E property
Ex.P.9	29.08.1986	Original sale deed registered as Doc. No.1615/1986 pertaining to Schedule - A property
Ex.P.10	29.08.1986	Original sale deed registered as Doc. No.1616/1986 pertaining to Schedule - A property
Ex.P.11	29.08.1986	Original sale deed registered as Doc. No.1617/1986 pertaining to Schedule - A property
Ex.P.12	29.08.1986	Original sale deed registered as Doc. No.1635/1986 pertaining to Schedule - A property
Ex.P.13	29.08.1986	Original sale deed registered as Doc. No. 1633/1986 pertaining to Schedule-A property
Ex.P.14	29.08.1986	Original sale deed registered as Doc. No. 1666/1986 pertaining to Schedule - A property



Ex.P.15		Original sale deed registered as Doc. No. 1736 of 2001 pertaining to Schedule – F property
Ex.P.16	01.03.2007	Schedule-F property dated 12.07.2001. certified copy of the legal heirship certificate of Dr.Sashikala
Ex.P.17	26.05.1993	certified copy of the legal heirship certificate of Mr.R.S.Rajagopalan
Ex.P.18	11.01.2023	Ex. P18 computer generated copy of the Death, Certificate Mr.R.S. Rajasopalan
Ex.P.19	11.01.2023	computer generated copy of the Death Certificate of Dr.Suganthi Rajagopalan
Ex.P.20	--	Certified copies of Certificate of Incorporation (series) in respect of Trinity Nursing Home Private Limited along with the balance sheet showing share holding of members (3 certified copies).

List of documents marked on the side of the Defendant(s):

Nil

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