



C.S.No.166 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : **22.01.2024**

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.166 of 2022

1. Mrs.R.Anitha

2. Mrs.R.Sunitha

.. Plaintiffs

vs.

Mr.Aravindhhan

.. Defendant

Civil Suit filed Order VII Rule 1 and 2 CPC read with under Order IV Rule 1 of Original Side Rules 1956 praying for the following judgment and decree against the defendant.

a] for partition and separate possession of the suit schedule property and allocate 1/3rd share to the plaintiffs each by metes and bounds;

b] to appoint an advocate commissioner to divide the suit schedule property by metes and bounds and to allot 1/34d share to plaintiffs each;

c] For mesne profits from the date of plaint;

b] to pay the plaintiff the costs of the suit;



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For Plaintiffs : Mr.S.Sabarish

For defendant : set exparte

J U D G M E N T

The suit has been filed for partition of the suit schedule property by metes and bounds and allot one such share to each of the plaintiffs and for costs.

2. It is the case of the plaintiffs that the plaintiffs are the sisters and the defendant is their brother. The suit property was originally purchased by one Poosammal and she executed a settlement deed in favour of one Abraham, who is the uncle of the plaintiffs and the defendants. The said Abraham executed a settlement deed in favour of the mother of the plaintiffs and the defendant. Hence, the mother of the plaintiffs became absolute owner of the suit property. She died on 16.04.2021 leaving behind the plaintiffs and the defendant as her legal heirs. Hence, the plaintiffs are entitled 1/3rd share each in the suit property.



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3. The defendant remained exparte despite service of notice.

4. On the side of the plaintiffs, first plaintiff has been examined as P.W.1 and Ex.P.1 to Ex.P.6 were marked.

P.W.1 – Mrs.R.Anitha

<i>S. No.</i>	<i>Date</i>	<i>Description of documents</i>	<i>Exhibit</i>
1.	04.03.1975	Certified copy of the settlement deed executed by the grandmother of the plaintiffs	P-1
2.	18.03.1975	Copy of the settlement deed executed by one Abraham in favour of the mother of the plaintiffs	P-2
3.	01.10.2013	Copy of the death certificate of the father of the plaintiffs	P-3
4.	21.04.2021	Copy of the death certificate of the mother of the plaintiffs	P-4
5.	--	Online copy of the Guideline value of the property	P-5
6.	04.03.2015	Copy of legal heir certificate of the father of the plaintiffs	P-6

5. Heard the learned counsel for the plaintiffs and perused the records.



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6. P.W.1, in her evidence, has stated about how her mother has become absolute owner of the property. Ex.P.1 settled deed executed by the grand mother of the plaintiff dated 04.03.1975 indicate that the property was originally purchased by the grand mother of the plaintiffs and the defendant. Ex.P.2 has been filed to show that suit property has been settled in favour of the mother of the plaintiffs and the defendant on 18.03.1975. The above documents clearly show that the mother of the plaintiff is Hindu by religion. The plaintiffs father died on 13.09.2013 and their mother of the plaintiffs died on 16.04.2021. Ex.P.2 and Ex.P.3 have been filed to prove the death of the parents of the plaintiffs and the defendant. Ex.P.6 legal heir certificate has been filed to prove the relationship between the parties.

7. Considering the evidence of P.W.1 and the documents filed on behalf of the plaintiffs and as the same remain unchallenged, this Court is of the view that the plaintiffs have proved their claim.

8. Accordingly, preliminary decree is passed for division of the suit property into three equal shares by metes and bounds and allot one such share



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to each of the plaintiffs. The defendant is also entitled to remaining 1/3rd share on payment of Court fee in the final decree proceedings. The parties shall bear their own costs.

9. With the consent of the plaintiffs, Mr.B.Ravi Raja, Advocate, No.27, Law Chamber, High Court Buildings, Chennai – 600 0104, Mobile No.98400 53423 is appointed as the Advocate Commissioner to inspect and measure the suit property and file a report suggesting mode of allotment to the parties. The remuneration of the Advocate Commissioner is fixed at Rs.40,000/- [Rupees forty thousand only] apart from other expenses including surveyor and engineer expenses.

10. The advocate commissioner shall file the report along with the sketch by 29.02.2024.

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N.SATHISH KUMAR, J.

VTC

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