



C.S.No.968 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 20.06.2024

Pronounced on: 05.07.2024

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CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.S.No.968 of 2017

1.Dr.Daphne Dilip James
2.Dr.Karthik Selvakumaran
3.Dr.Sangeetha Selvakumaran

....Plaintiffs

Vs.

David Tyagaraj

....Defendant

PRAYER: Civil Suit is filed under Order IV Rule 1 of OS Rules r/w Order VII Rule 1 of the Code of Civil Procedure praying for a Judgment and Decree for the following relief:-

(i) Granting a preliminary decree for partition of 1/3rd share to the 1st plaintiff and 1/3rd share jointly to the plaintiffs 2 and 3 and thereafter pass a final decree by appointing an Advocate Commissioner to divide the plaint schedule property into 3 equal shares and allot one such share to the 1st plaintiff and 1 such share jointly to the plaintiffs 2 and 3 by demarcating the same by metes and bounds and

(ii) Directing the defendants to pay the costs of the suit.

For Plaintiffs : Mr.C.Jagadish

For Defendant : Mr.V.S.Venkatesh



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J U D G M E N T

This is a suit for partition and separate possession of 1/3rd share to the 1st plaintiff and 1/3rd share jointly to the plaintiffs 2 and 3.

2.The plaint in brief:

The suit property was originally owned by Mrs.Catherine Dora Tyagaraj, the mother of the 1st plaintiff and the defendant and the grandmother of the plaintiffs 2 and 3. The eldest daughter, Doris Jeevarathani died on 06.09.2000, leaving behind the plaintiffs 2 and 3, her children to succeed to her 1/3rd share in the suit property. It is the case of the plaintiffs that Mrs.Catherine Dora Tyagaraj died on 22.10.2006, leaving behind a registered Will dated 30.04.2001 and a Codicil dated 19.07.2002, registered on 18.09.2002. The Will and the Codicil were probated before this Court in OP.No.286 of 2009 by order dated 23.09.2010. The defendant was appointed as Executor of the Will.

2.(i). According to the plaintiffs, under the Will, the plaint schedule property was described as schedule A to the Will and the same was bequeathed equally to the plaintiffs and the defendant in terms of Clause 6 of the Will. The B schedule property was allotted to the defendant absolutely. Though the



plaintiffs were requesting the defendant for an amicable partition in respect of the 2/3rd share and the defendant was initially promising, however at one stage, he became evasive, which forced the plaintiffs to cause a lawyer's notice on 16.10.2017. By reply dated 31.10.2017, the defendant sought to give a different interpretation to the Will denied the claim of partition.

2.(ii). According to the plaintiffs, the interpretation sought to be given to the Will of the mother, by the defendant was incorrect and baseless and therefore, they have filed a suit seeking 2/3rd share to be declared by way of a preliminary decree.

3. Written statement in brief:

The defendant admits the relationship between the parties. The defendant also admits the factum of the mother, Mrs.Catherine Dora Tyagaraj having died on 22.10.2006, leaving behind a Will dated 30.04.2001 and a Codicil dated 19.07.2002. Equally, the defendant also admits the factum of probate being granted in respect of the said Will and Codicil in O.P.No.286 of 2009.



3.(i). The defendant denies the interpretation of the bequests made in respect of the schedule A in the said Will. According to the defendant, though in earlier Clause 6, the mother had mentioned that the property would be taken equally, in later Clauses, the mother has clearly indicated, especially in Clauses 7 and 10 of the Will, that she had gone back on the earlier bequests and had sought to give larger benefit to the defendant.

3.(ii). The defendant also claims that the suit is improperly valued and the claim for partition was also barred by limitation since the plaintiffs had notice of the denial of their share even in the year 2012 when the defendant sent a reply notice and the suit has not been filed within a period of three years from the date of such denial of the plaintiffs' share.

4. On 16.02.2021, this Court has framed the following issues:

- “i) Whether the plaintiffs are entitled for partition?*
- ii) Whether the Will dated 30.04.2001 and the Codicil dated 19.07.2002 executed by the testator has been acted upon by allotting schedule A(b) and schedule A(c) (as per the Will) share to the plaintiffs?*
- iii) Whether the suit is barred by limitation?*
- iv) To what other reliefs?”*



5.The parties went for trial and before the Additional Master, the 2nd plaintiff examined himself as P.W.1 and through P.W.1, Ex.P1 to Ex.P8 were marked. On the side of the defendant, the defendant examined himself as D.W.1 and through him, Ex.D1 to D11 were marked.

6.I have heard Mr.C.Jagadish, learned counsel for the plaintiffs and Mr.V.S.Venkatesh, learned counsel for the defendant.

7.Apart from taking me through the pleadings and the evidence adduced by the parties, Mr.C.Jagadish, learned counsel for the plaintiffs would mainly harp on the Will executed by the mother which has been exhibited as Ex.P2. Placing reliance on the said Will which has been duly probated with the consent of the defendant, the learned counsel for the plaintiffs would contend that in Clause 6 of the Will, Ex.P2, the mother as stated as follows:

“The above said A schedule property shall be delivered into three equal shares amongst the three parties, namely, (i) Mr.David Tyagaraj, my son of the first party, (ii) Karthik and Miss.Sangetha of the second party and (iii) Dr.Daphne Dilip James of the third party.”



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8.The learned counsel for the plaintiffs, apart from placing heavy reliance on the said Clause 6 where the mother has clearly used the word “equally” would also refer to the schedules of the Schedule A property which is the entire property, measuring one ground and 120 sq.ft., consisting main building, ground and first floor and outhouse ground and first floor. He would further invite my attention to “*schedule 'A'(a) (Allotted to the party of the first part herein) forming Part of 'A' Schedule property, the main building consist of ground and first floor where I am residing which faces Northern side running from North to South on the Western side of the 'A' Schedule property; Schedule 'A'(b) (Allotted to the party of the second part herein herein) forming part of 'A' Schedule property the out houses in Ground Floor facing Northern Side running North to South on the Eastern Side of 'A' Schedule property and on the Western side of the 'A' Schedule property forming part of the main building which is described 'A'(a) Schedule property; Schedule 'A'(c) (Allotted to the party of the third part herein) forming part of 'A' Schedule property the out house in ground floor facing Northern side running North to South on the Eastern side of the 'A' Schedule property and on the Western side of the 'A' Schedule property forming part of the main building which is described in 'A'(a Schedule property)*”. Therefore, it is the argument of the learned counsel for the plaintiffs that in the schedule A(a), A(b)



and A(c), the testatrix has spoken only about the superstructure portions to be taken by the respective parties and does not refer to the land and therefore, the only conclusion that can be drawn is that as stipulated in Clause 6, the land covered in schedule A property should be taken in three equal shares, even though the superstructure is not bequeathed equally amongst the plaintiffs and the defendant.

9.The learned counsel for the plaintiffs would also place reliance on the Division Bench judgment of the Division Bench of this Court in ***M/s.Park View Enterprises and others Vs. State of Tamil Nadu and others*** reported in ***AIR 1990 MAD 251***, where the Hon'ble Division Bench of this Court held that land and superstructure can be owned by two different persons and the rule that whatever affixed to soil belongs to soil is not applicable in India. The learned counsel for the plaintiffs would therefore pray for decreeing the suit as prayed for in the plaint.

10.Per contra, Mr.V.S.Venkatesh, learned counsel for the defendant would submit that though in Clause 6 of the Will it has been mentioned that the property, namely Schedule A and B be taken equally amongst the three parties, namely, Mr.David Tyagaraj, Karthik Sangeetha and Daphne Dilip James, he



would refer to Clause 10, where subsequent to Clause 6, the mother has stated that schedule A property is made into three divisions, namely a), b) and c) which are set out as schedule A(a) A(b) and A(c). He would therefore state that the share of the plaintiffs cannot be declared as claimed by the plaintiffs. He would also invite my attention to the cross-examination of P.W.1 who admits that the total area under his occupation is 600 sq.ft., and the total area under the occupation of 1st plaintiff is 700 sq.ft. P.W.1 also stated that he has been in possession of the same right from 2012 onwards. When P.W.1 was confronted with a specific question as to whether prior to issuance of Ex.P5, notice whether any demand for equal partition, namely 1/3rd share, P.W.1 stated that he had only orally requested his uncle multiple times.

11.The learned counsel would also invite my attention to Ex.D3, letter dated 23.11.2006 which was sent by the 1st plaintiff to the defendant where the 1st plaintiff has given options 2 and 3. Option 2 and 3 are as follows:

“Option 2 stating that the three parties can workout a settlement of property and in respect of the Will schedule A(b) and A(c) the costs can be worked out receiving of Rs.2000/- and any convenience document can be registered.

Option 3 indicated that the portions allotted to the plaintiffs being 600 and 700 sq.ft., approximately and the defendant portions being 3500 sq.ft, instead of going for



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probate, the convenience documents could be executed based on the above division and that the plaintiffs were willing to pay for their square footage of conveyance and the defendant should bear the costs of his square footage”.

The learned counsel placing reliance on the said communication would submit that the plaintiffs themselves correctly understood the Will of the mother that the defendant was entitled to 3500 sq.ft., and the plaintiffs were entitled only to 600 and 700 sq.ft., respectively. He would also submit that in view of Section 88 of the Indian Succession Act, Clauses 7 and 10 which are subsequent clauses admittedly, would prevail over Clause 6 of the Will, especially there being in an inconsistency between the said clauses.

12.The learned counsel for the defendant would also take me through the Codicil executed by the testatrix on 19.07.2002 to correct typographical errors in the Will dated 30.04.2001 and drawing my attention to the contents of the Codicil, the learned counsel for the defendant would submit that even in the Codicil, the mother has not indicated that the plaintiffs are entitled to equal share in the suit property and therefore, the intention of the mother has been brought about clearly and he would therefore pray for dismissal of the suit.



13.The learned counsel for the defendant also placed reliance on the following decisions:

1.(1995) 5 SCC Page 444 (Kaivelikkal Ambunhi (Dead) by LRS and others Vs. H. Ganesh Bandary).

2.(2003) 12 SCC Page 419 (Azeez Sait Dead by Lrs and Others Vs. Aman Bai and Others).

3.(2004) 3 SCC Page 376 (Vasantiben Prahladi Nayak and Others Vs. Somnath Muljibhai Nayak and Others).

4.(2009) 9 SCC Page 689 (Shub Karan Bubna Alias Shub Karan Prasad Bubna Vs. Sita Saran Bubna and Others).

5.2016) 15 SCC Page 463 (Parvathamma and Others Vs. Vankatsivamma and Others).

6.(2022) 3 SCC Page 757 (K.Arumuga Velaiah Vs. P.R.Ramasamy and others).

14.In ***Kaivelikkal Ambunhi's*** case, the Hon'ble Supreme Court referring to Section 88 of the Indian Succession Act, held that when there is an inconsistency between earlier and subsequent parts or clauses of a Will, the subsequent part or clause would prevail.

15.In ***Azeez Sait's*** case, the Hon'ble Supreme Court, deciding the suit for partition, held that when the plaintiff had accepted the rights under the



partition deed and also acted upon it, the plaintiffs would be estopped from alleging that the partition was nominal and not intended to be acted upon. This decision is relied on to fortify the arguments that the parties have been in possession and occupation of their respective entitlements under the Will and therefore, the plaintiffs cannot now turn around and claim any equal share.

16.In *Vasantiben Prahlaji Nayak's* case, the Hon'ble Supreme Court referring to Article 65 Explanation A of the Limitation Act, 1963, and its applicability to the suit for partition, held that Article 65A does not have any application to a partition suit of the suit for partition is the process by which joint enjoyment of the property is transformed into an enjoyment severally and there is no conferment of new title.

17.In *Shub Karan Bubna's* case, the Hon'ble Supreme Court held that in a final decree proceeding there is no fresh or new relief and it does not attract the provisions of the Limitation Act. The Hon'ble Supreme Court differentiated preliminary decree passed in a mortgage suit and in a partition suit and held that the even when a preliminary decree is passed in a partition suit, the proceedings should be continued by fixing dates for further proceedings till a final decree is passed. It is the duty and function of the court and performance of such function does not require a reminder or nudge from the litigant.



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18.In *Parvathamma's* case, the Hon'ble Supreme Court held that merely because there is an unequal division of family property, an inference of coercion cannot be drawn.

19.In *K.Arumuga Velaiah's* case, the Hon'ble Supreme Court dealing with provisions of the Registration Act more specially, Section 17 held that when there was no challenge to the findings of the First Appellate Court that the suit properties were partitioned even in the year 1964, the same was binding on the parties and have attained finality and a fresh suit for partition and for separate possession was not maintainable and the Hon'ble Supreme Court further held that the principles of *res judicata* squarely applied to the case on hand before me.

20.I have carefully considered the arguments advanced by the learned counsel on either side.

21.Issues 1 and 2:

The short but interesting question that arises for decision in the suit is with regard to interpretation of the Will dated 30.04.2001. Admittedly, the



mother of the 1st plaintiff, grandmother of the plaintiffs 2 and 3 and mother of the defendant, Mrs.Catherine Dora Tyaraj was the owner of the said suit A schedule property. There is no dispute with regard to the schedule B property set out in the Will which was bequeathed to the defendant. In fact, the plaintiffs, as well as, the defendant admit that the mother died leaving behind the said last Will dated 30.04.2001 along with a Codicil dated 19.07.2002 and that probate was also granted in favour of the defendant, namely the executor of the Will in O.P.No.286 of 2009. The controversy has arisen only because of the inconsistent clauses in the Will dated 30.04.2001.

22.The relevant clauses which have given rise to disputes amongst the partition are culled out for easy reference:

“Clause 6: The above said 'A' Schedule property shall be delivered into three equal shares among the three parties namely, (I) Mr.David Tyagaraj my son of the first party (ii) Mr.Karthick and Miss. Sangeetha of the second party (iii) Mrs.Daphne Dilip James of the third party.

Clause 7: After my life time my husband Mr.Muthusamy Masilamani Tyagaraj shall enjoy 'A' and 'B' Schedule mentioned property and during his lifetime has shall receive rents and paid taxes to the authorities of the Schedule mentioned property and he absolutely enjoy the said property. After his life time, the said property shall be



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divided among the three parties as described in the schedule hereunder.

Clause 10: Further, in the 'A' Schedule property there are three division made which is further sub-divided into (a), (b) and (c) of which is the following manner Schedule 'A'(a) to my son who is the first party herein Schedule only shall be enjoyed by Mr.Karthick Selvakumar and Miss. Sangeetha Selvakumar who is the second party herein. Schedule 'A'(c) shall be enjoyed by Mrs.Daphna Dilip James who is the third party herein.”

23.In the Codicil to the Will dated 19.07.2002 has been marked as Ex.P3. Though the Codicil reads that it is the Codicil to the Will dated 27.04.2001 registered as Doc.No.87 of 2002, admittedly the said Codicil can only refer to the Will dated 30.04.2001 which is bearing Doc.No.87 of 2002. However, no issue is raised with regard to the incorrect date of the Will mentioned in the Codicil. Importantly, in the Codicil, the testatrix has mentioned as follows:

“Whereas in my said Will, I bequeathed portion of the 'A' Schedule (b) property to my Grand Children namely (1) Mr.Karthick Selvakumar, son of Dr.E.Selvakumar, aged about 20 years, (2) Miss.Sangeetha Selvakumar, D/o Dr.E.Selvakumar age about 18 years, both are residing at



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No.14, Moosa Sait Street, T.Nagar, Chennai-17 wherein I mentioned that the Out house in Ground floor should be allotted to them and

Whereas in Schedule 'A' (c) property I have allotted the same property to my Daughter Mrs.Daphne Dilip James, Wife of Mr.Dilip Daniel James, Indian Christian, aged about 41 years residing at St.Peter's School, St.Anne's Rd, BANDISHOLA, OOTACAMUND. THE NILGIRIS which is a mistake and it must be a typographic error. My intention is to give the Ground Floor to Grand Children and the corresponding 1st Floor (Including the room above the car shed) to my daughter Mrs.Daphne Dilip James and therefore the description of the property in Schedule 'A' © property of my Last Will aforesaid which should be read as Forming part of 'A' Schedule property the Outhouse in First Floor (including the room above the car shed) facing Northern side running North to South on the Eastern side of the 'A' Schedule property and on the Western side of the 'A' Schedule property forming part of the main building which is described as 'A'(a) schedule property.

I have not mentioned anything about the use of bore well situated in the 'A' Schedule property. This bore well situated in the 'A' schedule property will be used in common by all the beneficiaries of 'A' Schedule property.”



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24. On a conjoint reading of the clauses in the Will and the Codicil together, it is clear that there is a glaring inconsistency between the Clauses 6 on one hand and Clauses 7 and 10 in the Will on the other hand. There can be no second opinion on the settled legal position that in a Will, in terms of Section 88 of the Indian Succession Act, if there is an inconsistency between two clauses, namely earlier clause and later clause or even the earlier part of a clause and later part of a clause, then it is the later clause or later part of the clause that would prevail. This position has already been settled by the decision of the Hon'ble Supreme Court in ***Kaivelikkal Ambunhi (Dead) by LR's and Others Vs. H. Ganesh Bhandary*** reported in (1995) 5 SCC 444.

25. No doubt, in Clause 6, the mother has stated that A schedule property shall be divided into three equal shares amongst the three parties, namely the plaintiffs and the defendant. However, in Clause 7, she has retraced her bequests in Clause 6 by clearly mentioning that after the lifetime of her husband, the property shall be divided amongst the three parties as described in the schedule herein. In Clause 10, the Testator has further clarified that A schedule property is further sub-divided into three portions, namely (a), (b) and (c) and allotted specific portions to the 1st plaintiff, the plaintiffs 2 and 3 and the defendant. The Testatrix has also specifically stated that the parties 1, 2 and 3



who are allotted shares in the A schedule property, after the lifetime of the testatrix shall not improve or put forth any superstructure on the second floor.

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26.It is an admitted position that while describing the schedule, the testatrix has mentioned the total property as schedule 'A' and the respective portions allotted to the plaintiffs and the defendant as schedule A(a), A(b) and A(c). Schedule A(a) has been specifically allotted to the party of the first part, namely the defendant, schedule A(b) is allotted to the party of the second part, namely plaintiffs 2 and 3 and schedule A(c) is allotted to the party of the third part, namely the 1st plaintiff. The word used in the Schedule is “allotted” in the schedules A(a), A(b) and A(c). No doubt, there is no specific mention of any land share in schedule A(a), A(b) and A(c). Therefore, it is to be seen whether the mother had intended an equal 1/3rd share to the 1st plaintiff (1/3rd share), plaintiffs 2 and 3 (1/3rd share) and the defendant (1/3rd share) or in proportion to the superstructure allotted by way of Schedules A(a), A(b) and A(c).

27.In this regard, the Codicil executed by the mother which is also an admitted document and forms part of the probate in O.P.No.286 of 2009 assumes significance and relevance. The Codicil has already been extracted herein above. The testatrix has clearly stated that the portions in schedule A(b)



and A(c) were allotted to the respective plaintiffs. The testatrix was conscious of the fact that she intended to give the ground floor of the out house portion to the grandchildren and the corresponding first floor above the ground floor of the outhouse portion (car shed) to her daughter, Daphne Dilip James and the said intention has been clarified in the Codicil. If really the testatrix had intended the total schedule A property is to be taken in three equal shares, she would have atleast clarified the same in the Codicil, though she specifically mentions about the bore well not being mentioned in the schedule A property in the Will dated 30.04.2001, she has stated that the said bore well would be common to all the beneficiaries.

28.Yet another relevant factor is the manner of depiction of the schedules A(a), A(b) and A(c). The Schedules A(a), A(b) and A(c) allot/bequeath specific portions to the plaintiffs and the defendant and clearly states that it is forming part of the A schedule property which indicates that the mother has carved out specific portions in the total property to be allotted to her son, daughter and grandchildren. If really the intention of the mother was to give an equal 1/3rd share in the land on which the main building and outhouse building stand, there would have been specific mention about the same which is neither found in the Will nor in the Codicil. Admittedly, reading of Clauses 7



and 10 go to show that there has been deviation/change in the bequests originally made under Clause 6. Applying Section 88 of the Indian Succession Act, I have no difficulty in holding that it is only later Clauses 7 and 10 that would prevail and supersede Clause 6 of the Will. However, it does not mean that the plaintiffs are not entitled to any share. Admittedly, the properties have been bequeathed to them under the Will dated 30.04.2001 of which probate is granted. It is trite law that a probate of a Will does not confer any title and therefore, there is absolutely nothing wrong on the part of the plaintiffs in seeking partition.

29.No doubt, they have claimed a higher share than what they are entitled to, but the Court trying a partition suit has always got the power to mould the relief and grant the said relief, namely the actual share to which the plaintiffs are entitled to. Therefore, the share of the plaintiffs will only to be proportionate to the share in the superstructure allotted to them in Schedule A(b) and A(c) respectively together with proportion land share in the form of undivided share in Schedule A property which is measuring 1 ground and 120 sq.ft. However, unfortunately, the Will does not set out the extent of the outhouse portion or the car shed portion. Even in the plaint, the plaintiffs have given only the total property as the schedule of property. Therefore, the Court is



not in a position to ascertain the exact share of the plaintiffs in the land on which the main building as well as the outhouse building / car shed are put up.

Unless the plaintiffs disclose the actual land area over which the outhouse portion/car shed portion are constructed, the extent of built up area, their land share cannot be determined and carved out.

30.In such view of the matter, the Court is clearly not in a position to grant a preliminary decree even for a lesser share, though the plaintiffs are not entitled to equal 1/3rd share in Schedule A property. In such circumstances, the Court is not in a position to grant a preliminary decree on the available materials placed by the plaintiffs or even the defendant. Therefore, giving liberty to the plaintiffs to institute a proper suit for partition giving required measurements of the constructed areas in Schedule A property, the issues are answered against the plaintiffs.

31.Issue No.3:

The right to seek partition is a continuous right and therefore, there is no question of dismissing the suit as being time barred. The decisions on which reliance is placed by the learned counsel for the defendant would not apply to the facts of the present case. In fact, the Hon'ble Supreme Court has in two of the decisions held that there can be no limitation even for a final decree



application, pursuant to the preliminary decree been passed. Therefore, in such circumstances, I do not find any merit in the contention of the learned counsel for the defendant that the suit is barred by limitation.

32.In fine, the suit is dismissed giving liberty to the plaintiffs to institute a fresh suit for partition, if they are advised so, giving better and full particulars of the extent of the built up area, over which different superstructures have even constructed, in order to enable the Court to grant a preliminary decree. Considering the relationship between the parties, there shall be no order as to costs.

05.07.2024

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List of Witness on the side of the plaintiffs:

P.W.1 – Dr.Karthik Selvakumaran

List of Exhibits on the side of the plaintiffs:

<i>Sl. No.</i>	<i>Exhibits</i>	<i>Description</i>
1.	Ex.P1	Certified copy of the Sale Deed executed by Tamil Nadu Housing Board in favour of Catherine Dora Tyagaraj dated 08.03.1974.
2.	Ex.P2	Certified copy of registered Will of Catherine Dora Tyagaraj registered as Doc.No.87 of 2002 in SRO, Kodambakkam dated 30.04.2001.



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3.	Ex.P3	Certified copy of the registered Codicil of Catherine Dora Tyagaraj registered as Doc.No.12 of 2002 in SRO, Kodambakkam dated 19.07.2002.
4.	Ex.P4	Photocopy of probate issued by the High Court of Judicature at Madras in respect of the Will and Codicil of late Catherine Dora Tyagaraj dated 23.09.2010.
5.	Ex.P5	Office copy of the Legal Notice dated 19.10.2017 sent by the plaintiffs along with acknowledgement card.
6.	Ex.P6	Served copy of the Reply Notice issued by the defendant dated 31.10.2017.
7.	Ex.P7	Office copy of Notice from the counsel for the plaintiffs to the counsel for the defendant with acknowledgement dated 12.08.2021.
8.	Ex.P8	Office copy of Reply notice sent by the counsel for the defendant to the counsel for the plaintiff along with postal cover dated 09.09.2021.

List of Witness on the side of the Defendant:

D.W.1 – David Tyagaraj

List of exhibits marked on the side of the Defendant:

<i>Sl. No.</i>	<i>Exhibits</i>	<i>Description</i>
1.	Ex.D1	Original payment receipt dated 10.07.2001.
2.	Ex.D2	Original payment receipt issued by Madras Cemeteries Board of Catherine Dora Tyagaraj dated 23.10.2006.
3.	Ex.D3	Letter sent by the 1 st plaintiff dated 23.11.2006.
4.	Ex.D4	Certified copy of the petition in O.P.No.286 of 2009 on the file of Madras High Court.
5.	Ex.D5	Certified copy of consent affidavit of the 1 st plaintiff dated 15.04.2008.
6.	Ex.D6	Certified copy of the consent affidavit of the 2 nd plaintiff.
7.	Ex.D7	Certified copy of the consent affidavit of the 3 rd plaintiff.



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8.	Ex.D8	Certified copy of the order passed in O.P.No.286 of 2009 dated 23.09.2010.
9.	Ex.D9	Certified copy of the Will dated 23.09.2010.
10.	Ex.D10	Online printout copy of Death Certificate of Mr.M.M.Tyagaraj. (Certificate u/s.65B submitted)(The learned counsel for the plaintiffs objected to mark the document on the ground that the certificate u/s.65B is not in accordance with u/s.65B (4) of Indian Evidence Act).
11.	Ex.D11	Online printout copy of Death Certificate of Mrs.C.D.Tyagaraj. (Certificate u/s.65B submitted) (The learned counsel for the plaintiffs objected to mark the document on the ground that certificate u/s.65B is not in accordance with u/s.65B of Indian Evidence Act).

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Pre-delivery judgment made in
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