



A.S.(MD).No.46 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 19.12.2023

Delivered on : 21.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

A.S.(MD).No.46 of 2016

and

C.M.P.(MD)Nos.3206 of 2016 & 10207 of 2022

1.M.S.S.Jabar,
2.M.S.S.Ayub Khan,
3.M.S.S.Kaja Mohamad
4.M.S.S.Mohamad Kasim .. Appellants / Defendants 2 to 5
Vs.

1.S.Sheik Ussain Rawuthar (Died)
2.S.Sabi Mohamed (Died)
3.S.Mohamed Rafi (Died)
4. S.Abdul Nazar
5.S.Siddick
6.S.Sirajudeen ... Respondents 1 to 6/ Plaintiffs
7.Mohamad Abupakkar (Died) ... 7th Respondent / 1st Defendant
8.A.Meenatchiammal
9.S.Annamalai



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10.R.Hentry Baysingar

11. S.Prabu

12. S.Kasi

13.S.Ejir Ahamadkhan

14.M.Karuppanan

15.D.Sundarajan

16.T.Ramakrishnan (Died)

17.M.Maheswari

18.S.Vennila

19.P.Mohan

20.P.Suresh Babu

... Respondents 8 to 20/ Defendants 6-18

21.R.Rakini,

22.R.Sowmiya,

(Respondents 21 and 22 are brought on record as LR's of the
Deceased 16th Respondent vide Court order dated 06.12.2021)

23.Sajalija Begum,

24.Yasmin,

25.Rahila,

26.Basheer Ahmed,

27.Marian Beevi Anitha,

28.Balkis Begum,

(Respondents 23 to 28 are brought on record as LR's of the
deceased R1 vide Court order, dated 06.12.2021).

29.Mahbarathu Nisha,

30.Shilana Benasir,

31.Shahul Abbas,



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32. Sahar Nisha (Died)

(Respondents 29 to 32 are brought on record as LR's of the deceased R2 vide Court order dated 06.12.2021).

33. Rasheedha,

34. Asif,

35. Parveen,

36. Nafeesa,

(Respondents 33 to 36 are brought on record as LR's of the deceased R7 vide Court order dated 06.12.2021).

37. M. Rahmath Nisha,

38. M. Reena Fathima,

39. M. Sona Mariyam,

40. M. Rahuman Kani,

(Respondents 37 to 40 are brought on record as LR's of the deceased R3 vide Court order dated 24.02.2023).

... Respondents

Prayer:- Appeal filed under Order XLI Rules 1 & 2 r/w. Section 96 of the Code of Civil Procedure, against the judgment and decree, dated 31.07.2015, made in O.S.No.38 of 2013, on the file of the Additional District and Sessions Judge, Dindigul.

For Appellants : Mr.H.Lakshmi Shankar

For Respondents : Mr.M.R.Radha Krishnan for R4 to 6, 37 to 40

: Mr.A.K.Hemaraj for R17 to 20

: Mr.Mohamed Ibrahim Sohibu

for M/s.Ajmal Associates for R12

: Mr.G.Prabhu Rajadurai for R24 to 31



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: Mr.S.Anand Chandrasekar
for Sarvabhuman Associates for R10
: Mr.J.Thirumalai Venkatesan for R8
: No appearance for R11,12,14,15,21&22
: R1 to 3, 7, 9, 16, 23 & 32 - Died

JUDGMENT

**(Judgment of the Court was made by
RMT.TEEKAA RAMAN, J., and P.B.BALAJI,J.)**

The unsuccessful defendants 2 to 5, who suffered a decree in a partition suit filed by the plaintiffs 1 to 6, are the appellant before us.

2. For the sake of convenience, the parties are referred to as per their rank before the Tribunal.

3. The parties are Muslims. It is the case of the plaintiffs that the property originally belonged to one Saiyappa Rowuthar, who had two sons by name, Kader Mohaideen Rawuthar, Sheik Mohaideen Rawuthar. The son, viz., Kadher Mohaideen Rawuthar died leaving behind his only son viz., Mohamed Ibrahim Rawuthar. Sheik Mohaideen Rawuthar married one Mariyam Beevi. They were blessed with 3 sons (viz., Sheik Ussain Rawuthar (first plaintiff), S.Mohamad Abupakkar (first defendant) and



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Sahul Hameed (father of plaintiffs 2 to 5) and 3 daughters (viz., Barisha Beevi, Subaitha Abdul Jack and Badhunisha. The said Sheik Mohaideen Rawuthar died leaving behind Sheik Ussain Rawuthar (first plaintiff), S.Mohamad Abupakkar (first defendant) and Sahul Hameed (father of plaintiffs 2 to 5) as legal heirs. Barisha Beevi was blessed with 4 sons (viz., defendants 2 to 5 herein) and 5 daughters. The daughters of the said Barisha Beevi have not been arrayed as parties to the suit. Similarly, the sister of plaintiffs 2 to 6, is also not arrayed as a party to the suit.

4. The case of the plaintiffs is that there was a partition in the family on 21.06.1967 under which 'A' schedule properties were allotted to Mohammed Ibrahim Rawuthar, Son of Kadher Mohaideen Rawuthar, 'B' Schedule properties were allotted to the sons of Sheik Mohaideen Rawuthar viz., Shahul Hameed Mohammed Abubakkar and Sheik Ussain and 'C' schedule properties were retained for common enjoyment between the parties. The suit has been filed in respect of 10 items of properties that were left in common and described in Schedule 'C' partition deed dated 21.06.1967. According to the plaintiffs, Mohammed Ibrahim Rowuthar pursuant to the partition deed, dated 21.06.1967 sold his undivided $\frac{1}{2}$ share in 'C' schedule property to the defendants 2 to 4, who were minors,



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in and by a sale deed, dated 20.10.1967. According to the plaintiffs, the other undivided $\frac{1}{2}$ share in the 'C' schedule property is liable to be partitioned and since the plaintiffs came to know that the defendants 2 to 5 had created sale deeds and started dealing with the schedule property, they were constrained to approach the Court for partition and also challenged the several registered documents executed by the defendants 2 to 5 in the nature of sale deeds and release deeds. According to the plaintiffs, the first plaintiff is entitled to $\frac{1}{6}$ th share and defendants 2 to 5 are jointly entitled to $\frac{1}{6}$ th share in the suit property.

5. The first defendant filed a written statement admitting the partition deed dated 21.06.1967 and also the subsequent sale deed dated 20.10.1967. However, according to the first defendant, there was an oral partition that took place in the year 1967 in respect of only suit item No.1 and the first defendant and his 2 brothers released their shares in favour of Barisha Beevi and after her demise, the defendants 2 to 5 are inherited and enjoyed the same. However, according to the first defendant, the remaining items in 'C' schedule properties were enjoyed only in common and therefore, the first defendant did not raise any objection for a decree being passed, excluding suit item No.1.



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6. The written statement filed by the fourth defendant was adopted by the defendants 2, 3 and 5. The 4th defendant has stated that the suit is liable to be dismissed on the ground of partial partition and also for improper valuation of the suit relief as the plaintiffs were not in possession of the suit schedule property. According to the 4th defendant, their mother, on coming to know that she was not allotted any share at the partition that was effected on but 21.06.1967, demanded for partition and in an oral partition, ½ share of schedule 'C' property that was kept in common, was allotted to her share. Regarding the remaining ½ share it was purchased by the defendants 2 to 4 through a registered sale deed. It is the specific case of the defendants 2 to 4 that patta was also transferred in their names in the year 1970 and they were enjoying the property and paid tax regularly and none of the plaintiffs or the first defendant had any *iota* of right or interest in the suit properties.

7. Various purchasers who have been impleaded have filed written statements stating that their purchase is valid in the eye of law and there is no cause of action for the suit.

8. The trial Court framed the following issues:



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1. Whether the plaintiffs are jointly entitled to 2/6th share in the suit properties?

2. Whether the plaintiffs are entitled for the relief of declaration that the release deed dated 30.03.2005 (Document No.435/2005 of Natham Sub Registrar office) executed by defendants 2,3 and 5 in favour of 4th defendant is null and void?

3. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 21.03.2005 (Document No.434/2005 of Natham Sub Registrar office) executed by defendants 3, 4 and 5 in favour of 2nd defendant is null and void?

4. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 15.06.2005 (Document No.857/2005 of Natham Sub Registrar office) executed by defendants 3, 4 and 5 in favour of 2nd defendant is null and void?

5. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 31.01.2005 (Document No.103/2003 of Natham Sub Registrar office) executed by 7th defendant as the Power Agent of defendants 2 to 5 in favour of 6th defendant is null and void?

6. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 16.08.2004 (Document No.1140/2004 of Natham



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Sub Registrar office) executed by defendants 2 to 5 in favour of 8th defendant is null and void?

7. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 26.11.2009 (Document No.183/2010 of Natham Sub Registrar office) executed by defendants 2 to 5 in favour of 9th defendant is null and void?

8. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 27.12.2004 (Document No.1939/2004 of Natham Sub Registrar office) executed by 5th defendant for himself and on behalf of defendants 2 and 4 in favour of 9th defendant is null and void?

9. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 27.12.2004 (Document No.1940/2010 of Natham Sub Registrar office) executed by 5th defendant for himself and on behalf of defendants 2 and 4 in favour of 10th defendant is null and void?

10. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 02.06.2010 (Document No.1397/2010 of Natham Sub Registrar office) executed by 6th defendant in favour of 1st defendant is null and void?

11. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 02.06.2010 (Document No.2097/2010 of Natham



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Sub Registrar office) executed by 9th defendant in favour of 1st defendant is null and void?

12. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 02.06.2010 (Document No.1398/2010 of Natham Sub Registrar office) executed by 10th defendant in favour of 1st defendant is null and void?

13. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 27.12.2004 (Document No.34/2005 of Natham Sub Registrar office) executed by 5th defendant for himself and on behalf of defendants 2 to 4 in favour of 12th defendant is null and void?

14. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 17.07.2008 (Document No.1452/2008 of Natham Sub Registrar office) executed by 12th defendant in favour of 13th defendant is null and void?

15. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 24.10.2008 (Document No.2189/2008 of Natham Sub Registrar office) executed by 13th defendant in favour of 14th defendant is null and void?

16. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 12.12.2005 (Document No.1946/2005 of Natham



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Sub Registrar office) executed by 2nd defendant in favour of defendants 15 and 16 is null and void?

17. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 21.06.2007 (Document No.1108/2007 of Natham Sub Registrar office) executed by 2nd defendant in favour of defendants 17 and 18 is null and void?

18. Whether the plaintiffs are entitled for the relief of declaration that the sale deed dated 23.09.2005 (Document No.1485/2005 of Natham Sub Registrar office) executed by 5th defendant for himself and on behalf of defendants 2 to 4 in favour of defendants 17 and 18 is null and void?

19. To what other relief the plaintiffs are entitled?

The trial Court also framed the following Additional issues:

- 1). Whether the suit is bad for non-joinder of necessary parties?
- 2). Whether the defendants are in joint possession and enjoyment of the suit properties along with the defendants?
- 3). Whether the suit valued under Section 37 (2) of T.N.C.F. S.V. Act for the relief of partition is correct?

9. Before the trial Court, the 3rd plaintiff examined himself as P.W.1 and 25 documents were marked as Ex.A1 to Ex.A25, on the side of the



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plaintiffs. On the side of the defendants, 4th defendant examined himself as D.W.1, 18th defendant examined himself as D.W.2 and 12 documents were marked as Ex.B1 to Ex.B12.

10. The trial Court while answering the issues framed, held that the oral partition pleaded by the defendants 2 to 5 under which the mother allotted to the remaining $\frac{1}{2}$ share was not acceptable and proceeded to hold that the plaintiffs were entitled to a share. In so far as non-joinder of necessary parties. The trial Court held that even in 1967, Ex.A2- partition deed, female heirs were not included and as per their custom, females did not have any shares in the family properties and in such circumstances, the plea of non-joinder by the defendants 2 to 5 was rejected.

11. The trial Court further held that at the time of passing of final decree, the equities could be worked out and though plaintiffs prayed for declaring relief to set aside various release deed and sale deeds, the trial Court has refused to grant all such reliefs and has merely granted a preliminary decree for partition, declaring the $\frac{1}{6}$ th share of the first defendant and $\frac{1}{6}$ th share of the plaintiffs 2 to 6 jointly. The trial Court has also accepted the plea of the first defendant that the first item of suit



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property comprised in Survey No.374/2 was subject to an oral partition under which the mother of the defendants 2 to 6 was allotted the same and while granting a decree for 2/9th share, the trial Court has excluded the share in Survey No.375/2 to the first defendant.

12. We have heard Mr.H.Lakshmi Shankar, learned counsel for the appellants, Mr.M.R.Radha Krishnan, learned counsel for the respondents 4 to 6, 37 to 40, Mr.A.K.Hemaraj, learned counsel for the respondents 17 to 20, Mr.Mohamed Ibrahim Sohibu, learned counsel for the 12th respondent, Mr.G.Prabhu Rajadurai, learned counsel for the respondents 24 to 31, Mr.S.Anand Chandrasekar, learned counsel for the 10th respondent and Mr.J.Thirumalai Venkatesan, learned counsel for the 8th respondent.

13. Points for consideration:

(I) Whether the plea of customary practice of excluding female sharers to right in property under Muslim Law is sustainable?

(II) Whether the suit for partition is bad for partial partition and for non-joinder of proper and necessary parties?

(III) Whether plaintiffs are entitled to any share in the suit



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property?

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14. The learned counsel for the appellants would state that admittedly, under Ex.A2 partition, even according to the plaintiffs, the properties comprised 29 items across 4 villages. However, the suit for partition has been laid only in respect of 10 items of the properties out of the said 29 items and the remaining 19 items have not only been not included in the suit for partition, but absolutely, there is no whisper about the same and he contended that the suit for partition is liable to be dismissed on the threshold on the ground of seeking partial partition, leaving out the several items of property that are available in the partition. He would further state that the plaintiffs have omitted to implead female heirs available in all branches and even though plaintiffs have pleaded customary practice that female members were not entitled to a share, they have also not established the same at trial. He explained the rank of the parties in the appeal and stated that the succeeding first respondent had died and the respondents 23 to 28 Legal representatives were brought on record. Similarly, the 2nd respondent and the respondents 24 to 28 legal representatives were brought on record. However, pending the appeal, 23rd respondent also died and the legal representatives of 23rd respondent are



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already available on record as respondents 24 to 28.

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15. The learned counsel for the appellants would also invite our attention to the release deed in Ex.B1, dated 05.01.1972, in and by which the father of the plaintiffs 2 to 6 had released his share to his brothers and sisters. Therefore, according to the learned counsel for the appellants, when Shahul Ahamed has already relinquished the suit property, their legal heirs, especially, the plaintiffs 2 to 6 cannot maintain the suit for partition as they cannot claim to be entitled to any share. He would also state that the suit has been filed after 40 years after the parties, had acted upon the oral partition under which 10 items of the suit schedule properties were allotted to the mother of the defendants 2 to 5. He would also invite our attention to the registered document Ex.B4 under which, the properties have, in fact, been allotted to the female members and therefore, he would contend that the theory of customary practice has been set up only to get over the lacuna in not impleading the female heirs as parties to the suit.

16. The learned counsel for the respondents / plaintiffs would state that when there was a partition in the family and by registered



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documents Ex.A2, dated 21.06.1967, there was no necessity for an oral partition within a period of two months thereafter. He would also state that in Ex.A2, the first appellant has signed as a witness and as per prevailing custom, the female heirs were rightly not included in the array of parties in the suit. Further, he would also invite our attention to the mortgage deed in Ex.A25, in which, the appellants themselves have shown southern boundary as property belonging to Shahul Hameed and Abubakkar. He would also reiterate that C schedule property was not released and retained in common ground.

17. Mr.G.Prabhu Rajadurai, learned counsel for the respondents 24 to 31 besides adopting the arguments of Mr.Radhakrishnan, learned counsel appearing for the respondents 4 to 6 and 37 to 40, would state that C schedule property was not kept in common for the entire family, but, kept in common for the sharers of Schedule A and Schedule B in the said partition and contended that the appellants have miserably failed to prove the oral partition in favour of their mother in 1967 and subsequently 1/2 share that was purchased in the name of the contesting defendants alone would not be available for partition and the remaining ½ share would be available for partition. The learned counsel for the first defendant would



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submit that except lands comprised in Survey No.375/2, all the other items in of that are kept in common. He would further state that there was no oral partition in respect of other items of the C schedule property.

18. We have paid our anxious and careful consideration to the submissions advanced by the learned counsel for the parties.

19 (a). At the outset, the plaintiffs have come up with a specific case that female members are not entitled to a share in the property and that it is a custom prevalent in their community.

19(b). In order to establish the said factum of such a custom being prevalent, the plaintiffs have not been able to adduce any evidence whatsoever. The mere fact that in 1967, female heirs were kept out of partition would not automatically give rise to a presumption of a custom being prevalent in the community. In fact, it is the very specific case of the appellants that their mother had specifically complained that she was not given any share in the partition in the year 1967 and that was the reason why she was allotted 10 items in schedule C property out of a total of 29 items. It only probablises the case set up by the appellants that their mother went and questioned the partition amongst the male members alone



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and in order to pacify her, 10 items of schedule C property were allotted to her. This also answers the question raised by the learned counsel for the respondent as to the necessity of an oral partition soon after a registered partition in the family.

19(c). The Quran, recognises female heirs to be Quranic sharers and therefore, the female heirs are allotted specific shares in property to succeed by way of interstate succession. Therefore, the contention that Parthashini women are excluded by custom is wholly unsustainable and cannot be countenanced, especially, when the Quran allots specific shares to female heirs namely, mother, wife, daughter, etc. Even under the earlier position in Muslim Law, prior to the Quranic shares being recognised and allotted to female shares, custom by which daughters were disentitled to share in the property by way of custom had to be pleaded and proved by cogent evidence. Here in the facts of the present case, we do not see any evidence in support of any such customary practice, leave alone pleading which is of utmost importance and necessity to establish a plea of custom.

19(d). It is also seen that the appellants, after the demise of the mother, mutated revenue records in their names and they have been in absolute possession and enjoyment of the properties allotted to them (item



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Nos.1 to 10) and there has been absolutely no claim made in respect of the said items for more than 4 decades.

20 (a). We also notice from Ex.B1 dated 05.01.1972 that Shahul Hameed, who is the father of the plaintiffs 2 to 5 has released his share to his brothers and sisters. If really, the theory of custom, in and by which female heirs are not entitled to family property is true, then even in 1972, the said Shahul Hameed would not have released his share to all his brothers and sisters, but would be executed the sale deed only in favour of his brothers. Even Ex.A1 and Ex.B1 are not amongst male members alone, but, they also involved female members.

20(b). Therefore, we hold that the plea of custom as pleaded by the plaintiffs does not stand proved. Consequently, the female members are also entitled to a share in the family property. Admittedly, none of the female members have been impleaded as parties in the suit and the suit fails, on the ground of non joinder of proper and necessary parties.

21. Coming to the question of partial partition, the learned counsel for the plaintiffs would submit that the schedule property in Ex.A2



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- partition deed, dated 21.06.1967 was kept in common to be enjoyed by sharers of Schedule A and Schedule B property to the said document.

However, in the present partition suit, the plaintiff has chosen 10 items out of 29 items, which even according to them, were left in common for enjoyment of all the sharers, namely, parties to Ex.A2 - partition deed. Though the learned counsel for the respondents would submit that the items had been sold pending the suit and earlier and therefore, they have not included the same, we are unable to countenance the said submission for the simple reason that the plaintiffs were totally silent with regard to these items of property and there is also no *iota* of evidence adduced by the plaintiffs to show that apart from these 10 items of the properties, all the other items of properties are unavailable in view of alleged sales by the parties to Ex.A2 - partition deed. Thus, on the question of partial partition also, we have to necessarily answer this issue in favour of the appellant.

22. Insofar as the plea of oral partition in favour of the mother of the appellants, namely, defendants 2 to 5, the first defendant has stated that there was a family partition / oral partition in 1967. However, it is the case of the first defendant that only one item, namely, land comprised in Survey No.375/2, which was the first item of the schedule C property was allotted



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to mother of the appellants and the remaining properties were left to be enjoyed in common.

22(b). The said stand of the first defendant establishes the fact that there was an oral partition, admittedly, in the year 1967 involving the mother of the appellants. Though it is the case of the first defendant that the remaining items were not subject matter of the oral partition, from the conduct of the parties, we are able to see that these 10 items of schedule C of suit properties which forms part of schedule C and claimed to be the portion allotted to the mother have not been subject matter of any of the registered release deeds or partition deeds, executed amongst the family members, at any point of time. These items of properties have been in the hands of the appellants and their mother after over 40 years and there has been absolutely no interference whatsoever to their possession and enjoyment of the said items of the property.

22(c). In fact, it is seen that the mutation of revenue records in favour of the appellants have also been taken place, pursuant to the demise of their mother and at no point of time, the plaintiffs have chosen to question the separate and absolute enjoyment of these items of the property at the



hands of the mother of the appellants, or thereafter by the appellants.

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22(d). After this long silence of 40 years, by allowing the appellants to enjoy the properties, which according to them were allotted in the oral partition, coupled with the fact that there was an oral family partition in the year 1967, though not admitting the properties involved in the entity, we can only see that the case pleaded by the appellants is probable, true and genuine.

22(e). Admittedly, the members of the family have been engaged in documentation of the properties available to the family by way of partition deed and release deeds. If really there are 10 items of the schedule property, then those documents would have certainly covered these items of the property as well.

22(f). We also find that in Ex.B1, all family members were parties and in Ex.B4 also, though Shahul Hameed was very much alive on the date of execution, he did not join the execution of Ex.B4, since he has already released his share in favour of his siblings under Ex.A4. Therefore, when the father of the plaintiffs 2 to 6 himself had no right or



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interest in the suit properties, his legal representatives, cannot maintain a suit for partition.

23. Be that as it may, the plaintiffs have not been able to establish the plea of custom in family partition as put forth by them and consequently, we hold that the female members are also sharers and entitled to a share in the family properties. In the light of the said findings and in the absence of the female members to the suit for partition, the suit is certainly bad for not only non joinder of necessary parties but also on the ground of partial partition, even according to the plaintiffs, the Schedule C property in Ex.B2 contained 29 items, however the suit items are only 10 in number and there is absolutely no explanation whatsoever with regard to the omission of the remaining 19 items. On the ground of partial partition also besides non joinder, the suit is liable to fail. .

24. Even otherwise it can be safely gathered from the conduct of the parties that right from 1967 the appellants and before their mother have always been in absolute and continuous possession and enjoyment, in their own right, paying tax and other charges, including alienation of many items of property and the fact that the suit has been filed after 40 years,



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after the family partition in the year 1967 and strengthened by the fact that the first defendant admits an oral partition having taken up in the year 1967 under which a property was allotted to the mother of the appellants, we hold that the case of the appellants that there was an oral partition under which the suit properties were allotted to the appellants' mother is most probable and the long silence of the plaintiffs only strengthens the same.

25. In fine, we hold that the plaintiffs are not entitled to any decree for partition of the suit properties and consequently the judgment and decree of the trial Court in O.S.No.38 of 2013, is hereby set aside. The Appeal Suit is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

(T.K.R.J.) & (P.B.B.J)
21.03.2024

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Index: Yes/No
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To



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1.The Additional District and Sessions Judge,
Dindigul.

2.The Section Officer,
VR Section, Madurai Bench of Madras High Court, Madurai.

RMT.TEEKAA RAMAN, J.,
and
P.B.BALAJI,J

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Pre-delivery judgment in
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