



C.S. No.218 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.S. No.218 of 2021

P. J. Lakshmi W/o. Late P.D. Jana Krishna ... Plaintiff

vs.

1. Padmini Natarajan D/o. P.V. Deenathayalan
2. P.D. Malliga D/o. P.V. Deenathayalan
3. P.D. Komalavalli @ Saranya Gopinath (Deceased)
D/o. P.V. Deenathayalan
4. M. Balamurugan, Sivababu Siruvanigam
5. Kulandaisamy - Chennai Dairy
6. Ravi - Sri Annai Communication
7. Prince - Sri Annai Security
8. Sakthivel - Om Sakthi Travels
9. Abdul Rahman - Juice Stall
10. Azeez - Tea Shop
11. K.N. Vijayan - Sri Krishna Sweet Stall
12. Elangovan - Food Stall
13. Gopinath
14. G. Vijay
15. G. Vinoth

[Defendants 13 to 15 brought on record as legal heirs of
the 3rd defendant vide order dated 29.09.2021
in A. No.3020 of 2021] ... Defendants

PRAYER: The Plaintiff is filed under Order IV Rule I of Original Side Rules read with Order VII Rule 1 of Civil Procedure Code praying to pass a Preliminary Decree and Judgment by dividing the Suit properties into four shares and allot Item 1 of the Suit schedule i.e., the property settled in favour

Page No.1



C.S. No.218 of 2021

of the 1st settlee namely Late Mr. P.D. Janarthanan @ P.D. Janarthan @ P.D.

Janakrishna to the Plaintiff and for costs.

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For Plaintiffs : Mr. Praveen Alaxander

For Defendants : Mr. Avinash Wadhwani
D1 & D2 for M/s. V. Srimathi

D3 : Died
D4 to D15: Notice served -
No appearance.

JUDGMENT

This Suit has been filed by the Plaintiff for the relief of partition and to pass a Preliminary Decree and Judgment by dividing the Suit properties into four shares and allot Item 1 of the Suit schedule i.e., the property settled in favour of the 1st settlee namely Late Mr. P.D. Janarthanan @ P.D. Janarthan @ P.D. Janakrishna to the Plaintiff and for costs.

2. The brief averments of the Plaint are as follows:-

The Plaintiff married one P.D. Janakrishna on 29.08.1999 and after marriage, she lived with her husband at 1st Floor, Door No.7B, Bharathi Main Road, Perambur, Chennai-600 011 along with the parents of her husband. Out of the wedlock, no issues were born to them. After the marriage, the Plaintiff came to know that her husband was suffering from

Page No.2



C.S. No.218 of 2021

health problem called "inbalance legrid segration" which was existing, prior to marriage and her husband was taking treatment for that. Due to that health problem, her husband was unable to concentrate on his business and to maintain the family. Hence her father in law promised to give rental income from the shops in the ground floor of the Suit schedule property to run the family. The defendants 1 to 3 are her sister in laws and they used to come on rare occasions to meet their parents. Already they were provided with Sridhana articles and the marriage was solemnized by her father in law on his own expenses.

2.1. The schedule property is the self acquired property of Mr. P. Vijaya Ranga Mudaliar, who is the father of her father-in-law Tr. P.V. Dheenathayalan and the said property was settled in favour of her father-in-law on 08.03.1973. The father-in-law of the Plaintiff P.V. Dheenathayalan had executed a Deed of Settlement in respect of the schedule property on 05.12.2008 in favour of the Plaintiff's husband and the defendants 1 to 3 with their respective shares mentioned in the Schedule of the Settlement Deed. The father-in-law of the Plaintiff owned immovable properties in Purasawalkam and T.Nagar and the property situated in



C.S. No.218 of 2021

Purasawalkam was sold to perform the marriage of her sister-in-laws.

Further the property situated in T.Nagar was sold and the sale proceedings were given to the defendants 1 to 3. Therefore, the father-in-law of the Plaintiff had provided a fractional share in the Suit schedule property to the defendants 1 to 3. As per the Settlement Deed executed by the father-in-law of the Plaintiff, the absolute and full power of alienation was given to the Settlor and his wife Mrs. Sumathi Thayalan and the Settlor had reserved, for himself and his wife, the right to collect the rents or income arising from the property during their lifetime. An extent of 1484 sq. ft. in land, 670 sq. ft. of Plinth and open space in Ground Floor, 1200 sq. ft. in I floor and open terrace in II Floor of land in Patta dated 30.03.1985 over which a building with a plinth of 900 sq. ft. has been constructed bearing Door No.7B, Bharathi Road, Perambur, Madras, was settled in favour of the husband of the Plaintiff namely Mr. P.D. Janarthanan @ P.D. Janarthan @ P.D. Janakrishna. The 1st defendant was provided with 120 sq. ft. of Plinth and open space and the 2nd defendant was provided with 120 sq. ft. of plinth and open space, whereas the 3rd defendant was provided with 50 sq. ft. from the total extent of property comprised in Suit schedule property. The substantial share had been settled in favour of the Plaintiff's husband.



C.S. No.218 of 2021

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2.2. The father-in-law of the Plaintiff died on 29.10.2012 and in pursuance of the life interest in favour of Mrs. Sumathi Thayalan and she was residing in a portion in the I floor of the property. The Plaintiff's husband passed away on 16.03.2018 and as per the terms of settlement, she had succeeded to the share of her husband as Class-I heir and she is residing in the property settled in favour of her husband. Subsequently, the life interest holder Mrs. Sumathi Thayalan also died on 07.11.2020. The Plaintiff addressed a notice on 24.12.2020 to the defendants 1 to 3 to effect partition of the property as per the Settlement Deed. However, the defendants 1 to 3 had sent a reply dated 18.01.2021 claiming some false rights. As per the Settlement Deed, the right to collect and enjoy the rents derived from the property was reserved to the settlor and his wife Mrs. Sumathi Thayalan during their life time and after death of parents of the Plaintiff's husband, the Plaintiff became entitled to share in the rents from the shops in the Suit schedule property. The defendants 1 to 3 were given limited right to collect the rent in respect of the shops mentioned in the schedule of the Settlement Deed and pay the taxes levied by the statutory authorities and are liable to share with the Plaintiff the rental income arising from the property. There are



C.S. No.218 of 2021

nine tenants in the ground floor of the premises and a notice was also addressed to all of them on 24.12.2020 informing them about the Plaintiff's rights in the Suit property. The tenants were put to notice that the Plaintiff is the owner of larger moiety of land and building comprised in the Deed of Settlement.

2.3. After the demise of her husband, the defendants had made several attempts to move her away, in order to grab the entire property and also they gave false complaints against the Plaintiff. The schedule property was frequently visited by the strangers after the death of her mother-in-law and it was informed by the strangers that the defendants 1 to 3 are negotiating for the sale of the property. After demise of mother-in-law of the Plaintiff, the defendants 1 to 3 had suddenly locked the terrace in the II Floor and unlawfully prevented the Plaintiff from using the Suit Schedule property, thereby, the Plaintiff was unable to access the essential amenities which were to be drawn from the second floor. Only after informing by the police authorities, they have refrained from such acts.

2.4. The Plaintiff's husband owned movables comprising of deposits in bank and other gold and silver articles which were retained by the defendants 1 to 3 and the list will be set out separately. The defendants 1 to 3 have not



C.S. No.218 of 2021

come forward to disclose the monthly rents received by them from the Suit property. The Plaintiff was not provided with proper financial assistance during her life time for maintenance by her husband on account of the Suit schedule property being settled in favour of the husband. The Plaintiff, as a Class-I heir, had succeeded to the share of her husband who died intestate and he is entitled for partition of Suit schedule property by metes and bounds. Therefore, she has filed the Suit for partition.

3. The brief averments of the Written Statement filed by the 1st defendant, adopted by the 2nd defendant, are as follows:-

The defendants denied each and every allegation made in the Plaint as false, frivolous and vexatious, save those that are expressly and specifically admitted herein. The Plaintiff has no cause of action to institute the Suit and the Suit deserves to be dismissed in *limine*. The Plaintiff has suppressed the material facts and has approached this Court with unclean hands. The Plaintiff has unscrupulously concealed the pendency of the Suit in O.S. No.4984 of 2020 on the file of City Civil Court, Chennai and the said Suit was filed by the defendants 1 to 3 along with their mother against the Plaintiff herein for recovery of possession and mesne profits. As a counter



C.S. No.218 of 2021

blast to the Suit and in order to obviate a quick trial in the other Suit, the instant Suit has been filed with a malafide intention to harass these defendants and to unjustly enrich herself. The defendants 1 to 3 are the daughters of P.V. Deenathayalan and Sumathi Thayalan. The Plaintiff married their brother Janakrishna and did not share a good relationship. The parents of the defendants 1 to 3 and their brother, died before filing of the Suit and after filing of the Suit, the 3rd defendant died on 06.06.2021 and her legal heirs are arrayed as defendants 13 to 15. The defendants 4 to 12 are the tenants in the Suit property.

3.1. The defendants 1,2 and the legal heirs of the deceased 3rd defendant are the absolute owners of the Suit property at Old No.7B, New No.1, Bharathi Road, Perambur, Chennai in Perambur Village Purasawalkam Taluk in R.S. No.442/73, Chennai Zone, Chennai District comprised in R.S. No.442/3 Part being an extent of 1,484 sq. ft. in land, 670 sq. ft. of Plinth area and open space in ground floor and 1200 sq. ft. in I Floor and open terrace in II Floor. The suit property was purchased by the defendants' grand father namely Mr. P. Vijayaranga Mudaliar in a public Court auction. Thereafter, patta was issued in his name and thereafter, their grand father



C.S. No.218 of 2021

settled his property in favour of their father Mr. P.V. Dheenathayalan through

a Settlement Deed dated 08.03.1973. The defendants' father had executed a

registered Settlement Deed on 05.12.2008 in favour of his daughters and son.

The settlor retained a life interest for himself and conferred a life interest on

his wife, the mother of the defendants. After the lifetime of the mother, a life

interest in favour of the defendants' brother Mr. JanaKrishna was intended to

be created. However, the brother predeceased his mother on 16.03.2018.

There is no cause of action for filing the Suit.

3.2. The Plaintiff has, based her claim upon the Settlement Deed, ignored the vital terms of the said deed. As per Clause 13 of the Settlement Deed, if the defendants' brother Mr. Janakrishna, has no issues, the property has to be given to the defendants 1 to 3. Admittedly, the Plaintiff and her late husband did not have any child. As per the Clause 13 of the Settlement Deed, the Plaintiff is not entitled to any share and the Suit is liable to be dismissed. The health problem of the defendants' brother was solely attributable to the attitude of the Plaintiff and her lack of interest in their matrimonial life. In fact, the Plaintiff did not provide the basic necessities of life to the defendants' brother. All these factors compelled the defendants



C.S. No.218 of 2021

brother to file a petition for divorce in O.P. No.2115 of 2004 on the file of the

II Additional Family Court, Chennai on the ground of cruelty and the petition

was allowed on 09.10.2009 and the marriage was dissolved. The Plaintiff preferred an appeal in C.M.A. No.806 of 2010, where a compromise was arrived at and it was also not worked out. In the meantime, the brother of the defendants died.

3.3. The Plaintiff would always abuse and use unparliamentary words towards the defendants and their aged mother. The defendants mother lodged a complaint before the Women Welfare Commission, Chennai and they also conducted enquiry and directed the Commissioner of Police, Greater Chennai to grant protection to the defendants' mother from the Plaintiff vide a letter dated 27.09.2018. The defendants are entitled to the rental income from the Suit property. Even during the life time of the defendants' mother, she had asked these defendants to collect the rental income. To that effect, a Power of Attorney was also executed by her in favour of her daughters on 29.04.2018. She had also given an undertaking affidavit on 01.03.2020 stating that only these defendants alone are entitled to the rental income. The defendants 1 and 2 were the earning members of the family even at the time of their



C.S. No.218 of 2021

marriage and the 1st defendant was employed in the Indian Overseas Bank, whereas the 2nd defendant employed in SIDCO. Therefore, the marriage expenses were borne out from their own savings and not from the income derived from the income of the property.

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3.4. It is true that the Settlement Deed was executed on 05.12.2008. But it is false to state that substantial portion was settled in favour of the Plaintiff's husband. As per the Settlement Deed, in the absence of issues to the Plaintiff and her husband, the property goes to Settles 2 to 4 i.e., these defendants 1,2 and their deceased Sister / 3rd defendant, absolutely with full powers of alienation. On the death of the Settlor, the mother and the brother, and in the absence of any issues between the Plaintiff and her husband, the rights of the defendants is assured. This vested interest cannot be divested at the instance of Plaintiff whims. Since the husband of the Plaintiff predeceased his mother, in whose favour, life interest was created, the late brother of the defendants was not entitled to any share. As there are no issues to the Plaintiff, automatically after the life time of the brother, the properties goes only to these defendants. The Plaintiff is excluded from the Settlement Deed and cannot derive any benefit under the Deed. The cause of action



C.S. No.218 of 2021

mentioned in the Plaint is imaginary and illusive. The Plaintiff has no interest in the property and has not accrued any right to sue these defendants.

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As per Clause 13, the Plaintiff is a stranger and has no interest in the property. Therefore, the Suit is liable to be dismissed.

4. Based on the above said pleadings, upon hearing both sides and perusing the records, this Court had framed the following issues on 21.09.2023:-

(i) Whether the Plaintiff is one of the legal heirs of P.D.

Janarthanan @ P.D. Janarthan @ P.D. Janakrishna in her alleged capacity as his wife.

(ii) Whether the Plaintiff is entitled to 1/4 share in respect of the first item of the Suit property.

(iii) Whether the Plaintiff is entitled to a preliminary decree in respect to the partition of the Suit property as prayed for and to what other relief, if any.

5. The learned counsel appearing for the Plaintiff would submit that the Plaintiff is the wife of one Late P.D. Janarthanan @ P.D. Janarthan @ P.D. Janakrishna. Originally the Suit property was belonged to the grand-father of



C.S. No.218 of 2021

the said P.D. Janakrishna namely P. Vijaya Ranga Mudaliar. He purchased the said property through Court auction on 26.02.1931. Thereafter, the said late P.Vijaya Ranga Mudaliar settled the said property in favour of his only son namely Late Mr. P.V. Dheenathayalan through a Settlement Deed dated 08.03.1973. In turn, the said Mr. P.V. Dheenathayalan, vide a Settlement Deed dated 05.12.2008 settled the property in favour of his son and life interest was retained by himself and the mother-in-law of the Plaintiff. As per the Settlement Deed, the suit property has been settled in favour of the Plaintiff's husband and the Plaintiff, being the wife of the settlee, after the demise of her husband, is entitled to the property.

5.1. The said Mr. P.V. Dheenathayalan had three daughters and a son. The 1 to 3 defendants are the daughters and the husband of the Plaintiff is the son. As per the Settlement, till the life time of the settlor and his wife, i.e., mother-in-law of the Plaintiff can enjoy the property till her life time and thereafter, the Plaintiff's husband was given absolute right and the husband of the Plaintiff died on 16.03.2018. After the demise of her husband, the Plaintiff and her mother-in-law are entitled to the share of the Plaintiff's husband and the mother-in-law of the Plaintiff also died on 07.11.2020. After



C.S. No.218 of 2021

the demise of the husband and the mother-in-law of the Plaintiff, the Plaintiff

and the defendants 1 to 3 are entitled to share the Suit properties. The

Plaintiff is entitled to 1/4 share and the defendants 1 to 3 are each entitled to

1/4 share. The defendants 4 to 12 are the tenants of the Suit property. During

the pendency of the Suit, the 3rd defendant died. Therefore, 13 to 15

defendants were brought on record as they are the legal heirs of the 3rd

defendant. The Plaintiff caused notice dated 24.12.2020 for partition over the

properties. After receipt of the said notice, the defendants issued a reply

notice dated 18.01.2021. The Plaintiff had also issued notice to the tenants in

respect of payment of rent to her and the defendants 1 to 3 had attempted to

evict the Plaintiff from the Suit property. Therefore, she has filed the present

Suit. In order to prove the case of the Plaintiff, she has examined PW1 and

marked Ex.P.1 to Ex.P.11. On the side of the defendants, they examined

DW1 and marked Ex.D.1 to Ex.D.24. The Plaintiff has categorically deposed

about her case and the Settlement was executed by her father-in-law in favour

of her husband. Therefore, she is entitled to 1/4 share over the Suit property

and she is also entitled for partition over the property.

6. The learned counsel appearing for the defendants would submit that



C.S. No.218 of 2021

the Plaintiff filed a Suit for partition alleging that the property was settled in favour of the Plaintiff's husband through a Settlement Deed dated 05.12.2008. In fact, the Plaintiff suppressed the material facts and already due to family dispute, her husband filed a petition for divorce against the Plaintiff and the said petition was allowed and divorce was granted. Originally the property belonged to the grand-father of the defendants 1 to 3. Their grand-father purchased the said property through a Court auction in the year 1931. Thereafter, he settled the property in favour of his only son, i.e., father of the defendants, namely Mr. P.V. Dheenathayalan through a Settlement Deed dated 08.03.1973. Thereafter, the father of the defendants had settled the property in favour of his son and daughters vide Settlement Deed dated 05.12.2008. In the Settlement Deed, the life interest for the Settlor namely, the father of the defendants and his wife, the mother of the defendants, was retained and after the life time of the parents of the defendants 1 to 3, the property shall go to the 1 to 3 defendant's brother. The brother of the defendants 1 to 3 has no issues. Therefore, after the life time of the brother of the defendants 1 to 3, the property has to go to the daughters i.e., the defendants 1 to 3. But unfortunately the brother of the defendants 1 to 3, who is the husband of the Plaintiff, predeceased his mother, on



C.S. No.218 of 2021

16.03.2018. During the life time of the Plaintiff's husband and brother of the defendants 1 to 3, he had no issues.

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6.1. As per Clause 13 of the Settlement Deed, if the first Settlee, who is the husband of the Plaintiff, has no issues, which includes adopted child, automatically the property allotted to him, shall go to the settlees 2 to 4 i.e., the defendants 1 to 3 herein, absolutely with full powers of alienation. Therefore, after the demise of the husband of the Plaintiff and the mother of the defendants, the property shall automatically go to the other settlees, i.e., the defendants 1 to 3 herein. Therefore, the Plaintiff has no any right over the property and the Suit for partition is liable to be dismissed.

7. Heard both sides and perused the entire materials.

8. Answers to the Issues:

This case has been filed by the Plaintiff for the relief of partition of her share over the property.

According to the Plaintiff, the Suit property, originally belonged to one Mr. P. Vijaya Ranga Mudaliar and he purchased the same in the year 1931 through a Court auction on 26.02.1931. The said P. Vijaya Ranga Mudaliar,



C.S. No.218 of 2021

in turn, settled the property to his son namely Mr. P.V. Dheenathayalan by

executing a Deed of Settlement dated 08.03.1973. Thereafter, the said Mr. P.

Dheenathayalan had settled the said properties in favour of his son and daughters, where a substantial portion of property is settled in favour of the Plaintiff's husband and the remaining portions were settled in favour of the defendants 1 to 3. The Plaintiff's husband died on 16.03.2018. As per the Settlement Deed, till the demise of Mr. P. Dheenathayalan and his wife Mrs. Sumathi Thayalan, they were entitled to enjoy the property and after their life time, the property has to go to the Plaintiff's husband and the Plaintiff's husband died on 16.03.2018 and the mother-in-law of the Plaintiff died on 07.11.2020. Therefore, the Plaintiff and the defendants are entitled to share the property.

8.1. According to the defendants, they have admitted the relationship between the parties and the fact that the property owned by their grand father Mr. P. Vijaya Ranga Mudaliar and he settled his property by executing a Settlement deed in favour of his son namely Mr. P.V. Dheenathayalan, who in turn, executed a Settlement Deed in favour of his son and daughters, i.e., the Plaintiff's husband and the defendants 1 to 3 respectively. However,



C.S. No.218 of 2021

according to them, while settling the property, the said Mr. P.V.

Dheenathayalan, reserved his right to enjoy the property and after his life time, life interest was given to his wife. Moreover, if the Plaintiff's husband has no issues, the property has to go to the defendants 1 to 3. Unfortunately, the husband of the Plaintiff predeceased his mother on 16.03.2018 and the mother of the Plaintiff's husband died on 07.11.2020. Since the Plaintiff's husband died issueless, the defendants alone are entitled to the property and the Plaintiff has no right over the property. Therefore, the Suit for partition filed by the Plaintiff is not maintainable and the same is liable to be dismissed.

10. Issue No.1:

(i) Whether the Plaintiff is one of the legal heirs of P.D. Janarthanan

@ P.D. Janarthan @ P.D. Janakrishna in her alleged capacity as his wife.

In this case, there is no dispute that the Plaintiff is the wife of the deceased Mr. P.D. Janarthanan @ P.D. Janarthan @ P.D. Janakrishna and he died intestate without any issues. According to the defendants, the husband



C.S. No.218 of 2021

of the Plaintiff filed a petition for divorce in O.P. No.2115 of 2004 and the

same was allowed and divorce was granted in favour of the husband of the

Plaintiff. However, the said decree was challenged through an appeal before

this Court in C.M.A. No.806 of 2010, where the matter has been

compromised between the parties. As per the compromise subsequent to the

filing of the C.M.A., the Plaintiff and her husband joined together and were

living together in the matrimonial home. Thereafter, the said CMA was

allowed and the decree and judgment passed by the Family Court by granting

divorce, was set aside. In order to prove the same, the Plaintiff has filed

Ex.P.10, a Compromise Memo. On a careful perusal of the same, it revealed

that as per the compromise memo, the divorce granted through a Decree

dated 09.10.2009 passed by the II Additional Family Court, Chennai in O.P.

No.2115 of 2004, was set aside. Therefore, the marriage between the

Plaintiff and her husband was in existence till the death of her husband. The

Legal Heir Certificate has been marked as 'Ex.P.4'. As per Ex.P.4, the

Plaintiff and his mother namely Mrs. Sumathi Thayalan are the legal heirs of

the deceased namely Mr. P.D. Janarthanan @ P.D. Janarthan @ P.D.

Janakrishna. Therefore, the Plaintiff, being the wife of her husband namely

Mr. P.D. Janarthanan @ P.D. Janarthan @ P.D. Janakrishna, is one of the legal



C.S. No.218 of 2021

heirs. Thus, *issue no.1* is answered.

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11. *Issue No.2: Whether the Plaintiff is entitled to 1/4 share in respect of the first item of the Suit property.*

The Plaintiff filed the Suit for the relief of partition claiming 1/4 share over the property. According to the Plaintiff, the Suit property was settled in favour of her husband namely Mr. P.D. Janarthanan @ P.D. Janarthan @ P.D. Janakrishna, by her father-in-law namely Mr. P.V. Dheenathayalan through a Settlement Deed dated 05.12.2008. The defendants have also admitted the execution of Settlement Deed by the father of defendants 1 to 3. The copy of the Settlement Deed has been marked as Ex.P.2. According to the Plaintiff, as per the Settlement Deed, the property was settled in favour of her husband and her husband died on 16.03.2018 and after the demise of her husband, she is entitled to her share over the property as a legal heir. The date of death of the Plaintiff's husband was also not denied and the Plaintiff has produced the Death Certificate of her husband as 'Ex.P.3'. The Legal Heir Certificate has been marked as 'Ex.P.4'. As per Ex.P.4, the Plaintiff and his mother namely Mrs. Sumathi Thayalan are the legal heirs of the deceased namely Mr. P.D. Janarthanan @ P.D. Janarthan @ P.D. Janakrishna. Therefore, the Plaintiff



C.S. No.218 of 2021

has proved that she is the wife of the deceased Mr. P.D. Janarthanan @ P.D.

Janarthan @ P.D. Janakrishna. The defendants also admitted the Settlement deed. Now, this Court has to analyse the conditions of the Settlement Deed.

11.1. On a careful perusal of the above said Settlement Deed, it reveals that the property comprised in Old Door No.7B, New No.1, Bharathi Road, Perambur, Chennai-600 011 in Perambur-Purasaiwalkam Taluk, in Chennai Zone, in Chennai District comprised in R.s. No.442/3 part an extent of 5 Ground and 1446 sq. ft. more fully described in Schedule, out of an extent of 5 Grounds 1,446 sq. ft. in R.S. No.442/3 comprised in Patta dated 14.05.1935 in Block No.23, Division 6, Perambur, an extent of 4 Grounds 346 sq. ft. has been acquired by Corporation of Madras. Out of the remaining extent of One Ground 1,100 sq. ft. and extent of 1,521 sq. ft. has been encroached by the neighbour in R.S. No.442/50.

•As on date, an extent of 1,484 sq. ft. of land in Patta dated 30.03.1985 over which a building with a plinth of 960 sq. ft. and in First Floor 1200 sq. ft. has been encroached bearing Door No.7B, Bharathi Road, Perambur, Madras-600 011 was settled in favour of Mr. P.D. Janarthanan @ P.D. Janarthan @ P.D. Janakrishna, who is the husband of the Plaintiff herein.



C.S. No.218 of 2021

•The wife of Mr. P.V. Dheenathayalan i.e., mother of the defendants 1 to 3

and mother-in-law of the Plaintiff, namely Mrs. Padmini Natarajan, has been given fully absolute power to collect the rent and to pay taxes for Shop No.II of the property or Estate, particularly, measuring 120 sq. ft. of plinth and open space in property Door No.7B, Bharathi Road, Perambur, Chennai in Perambur Village, Purasawalkam Taluk in R.S. No.442/1973 in Chennai Zone in Chennai District.

•The 3rd Settlee, Mrs. P.D. Malliga has been given full right to collect rent and pay tax for the Shop No.B of the property or Estate partly measuring 120 sq. ft. of plinth and open space, in property Door No.7B, Bharathi Road, Perambur, Chennai-600 011 in Perambur Village, Purasawalkam Taluk in R.S. No.442/1973 in Chennai Zone, in Chennai District.

•The 4th Settlee, Mrs. G. Saranya Gopinath, has been given full right to collect rent and pay tax for the Shop No.1 of this property or Estate partly measuring 50 sq. ft. of plinth and open space on the southern side of Bharathy Main Road, abutting Perambur High Road, in property Old Door No.7B, New No.1, Bharathi Road, Perambur, Chennai-600 011, in Perambur in Perambur Village, Purasawalkam Taluk in R.S. No.442/73, in Chennai



C.S. No.218 of 2021

Zone, in Chennai District.

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Therefore, the properties have been separately settled by the Settlor in favour of the settlees. From Clause-4 of the Settlement Deed, it is clear that the Settlees, shall be entitled to the rents, profits and income of whatsoever nature of and from the said property after the Life time of the Settlor and shall be liable for the taxes and maintenance for and in respect of the said property after the life time of the Settlor Mrs. Sumathi Thayalan, the wife of the Settlor herein.

11.2. Further in Clause-13, it has been stated as follows:-

"13. The Settlees 2 to 4 shall hold, possess and enjoy the property more particularly described in the Schedule hereunder for their respective share absolutely for ever with the powers of alienation such as sale, gift, mortgage etc., unconditionally after the life time of the settlor and Mrs. Sumathi Thayalan, the wife of the settlor herein and the First Settlee shall enjoy the property during his life time if the first Settlee has no issue which includes adopted child also automatically the property allotted to him shall go to Settlees 2 to 4 herein absolutely with full powers of alienation. If the First Settlee adopted any child that child has no right over the property after the lifetime of the Settlor, and Settlor's wife and First Settlee and the First Settlee's wife, if the First Settlee has no issue, the property shall go to Settlees 2 to 4 herein absolutely".

As per Clause 13, the Settlees 2 to 4 hold, possess and enjoy the



C.S. No.218 of 2021

properties more particularly described in the Schedule hereunder for their respective shares absolutely forever with the powers of alienation such as sale, gift, mortgage etc., unconditionally after the life time of the settlor and his wife.

11.3 As far as the 1st Settlee is concerned, he shall enjoy the property during his life time. If the 1st Settlee has no issues, which includes the adopted child also, the property allotted to him shall go to the settlees 2 to 4 herein absolutely with full powers of alienation. If the 1st settlee adopted any child, the child has no right over the property. After the life time of Settlor, the Settlor's wife and the 1st settlee shall enjoy the property during the life time of the 1st settlee and his wife and if the 1st settlee has no issues, the property shall go to the settlees 2 to 4 herein absolutely. Therefore, as per the condition in the Settlement, the First Settlee namely Mr. P.D. Janarthanan @ P.D. Janarthan @ P.D. Janakrishna, husband of the Plaintiff, can enjoy the property till his life time. After his life time, if he had no issues, the property allotted to him shall go to the settlees 2 to 4, absolutely.



C.S. No.218 of 2021

At this juncture, the learned counsel appearing for the Plaintiffs has relied upon the judgment of this Court in ***C. Sarojini vs. M. Mallika (Died) in S.A. No.666 of 2017***. On a careful perusal of the said judgment, it is seen that it will not be applicable to the present facts of the case as the facts of the case are distinguishable. Further, the learned counsel appearing for the defendants also relied the judgment in ***Rajes Kanta Roy vs. Santi Debi and another reported in (1956) 2 Supreme Court Cases 606***. On a careful perusal of the said judgment, it is clear that *the Court would construe in favour of vested interest unless intention to contrary clearly and definitely discernible from entirety of deed and normal rule is where entire estate is applied for benefit of donee, but enjoyment of property is postponed while present income thereof is to be applied for benefit of donee, donee's interest is vested, not contingent.*

11.4. In this case, it is an admitted fact that the first settlee namely Mr. P.D. Janarthanan @ P.D. Janarthan @ P.D. Janakrishna, the husband of the Plaintiff died prior to his mother. As per the condition of the Settlement Deed, the Settlor and his wife, the 1st Settlee and 1st Settlee's wife, have life interest and if no issues to the 1st settlee / Plaintiff's husband, then the



C.S. No.218 of 2021

property shall go to the settlees 2 to 4 / defendants 1 to 3 daughters, after the life time of the Plaintiff's husband and his wife i.e., the Plaintiff. Therefore, the Plaintiff has no any transferable right over the Suit properties and during her life time, she can enjoy the property. The defendants 1 to 3, who are the settlees 2 to 4, are entitled to the property only after the life time of the Settlor and Settlor's wife, 1st Settlee and the wife of the 1st Settlee, if the 1st Settlee has no issues. Since the 1st Settlee, the husband of the Plaintiff, had no issues and the 1st Settlee also died and now the only living person is the 1st Settlee's wife namely the Plaintiff, she has right to enjoy the property till her life time and after her life time, the property settled in favour of the Plaintiff's husband will go to the defendants 1 to 3. Therefore, the Plaintiff can only enjoy the property till her life time and the defendants 2 to 4 have no right over the property allotted to the Plaintiff's husband, till the life time of the Plaintiff. After the life time of the Plaintiff, the defendants 1 to 3 and the legal heirs of the 3rd defendant namely the defendants 13 to 15 are entitled the said property. The Plaintiff also in her evidence stated that she is living in the portion allotted to her husband and the defendants have also admitted the same. Therefore, the Plaintiff is not entitled to 1/4 share in respect of the first item of the Suit property and she has only right of enjoyment till her lifetime.



C.S. No.218 of 2021

Thus, the **issue no.2** is answered.

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12. Issue No.3:

Whether the Plaintiff is entitled to a preliminary decree in respect to the partition of the Suit property as prayed for and to what other relief, if any.

In view of the above discussions and the decisions arrived at by this Court through Issue Nos.1 and 2, the Plaintiff, being the interest holder, is not entitled to Preliminary Decree for partition in respect of the Suit property and she is also not entitled to any other relieves.

13. In the result, the ***Suit is dismissed***. Considering the nature of Suit and relationship between the parties, there shall be no order as to costs.

28.10.2025

Index : Yes/No
Speaking Order : Yes/No
mjs

Page No.27



C.S. No.218 of 2021

APPENDIX:

List of Plaintiff side Witnesses:

PW1 : Mrs. P.J. Lakshmi

List of Plaintiff side Documents:

Exhibit No.	Date	Description of Documents
Ex.P.1	29.08.1999	Original Marriage invitation of the Plaintiff.
Ex.P.2	05.12.2008	Certified copy of the Settlement Deed registered as Doc. No.4539/2008.
Ex.P.3	16.03.2018	Computer generated copy of the Death Certificate of Plaintiff's husband Mr. P.D. Janakrishna.
Ex.P.4	10.08.2018	Computer generated copy of the Legal Heir Certificate of Plaintiff's husband.
Ex.P.5	14.08.2018	Computer generated copy of the residence certificate of the Plaintiff issued by Tahsildar.
Ex.P.6	07.11.2020	Computer generated copy of the Death Certificate of Mrs. Sumathi Thayalan.
Ex.P.7	24.12.2020	Office copy of the Legal Notice sent by the Plaintiff to the defendants.
Ex.P.8.	18.01.2021	Photocopy of the Reply Notice sent by the defendants to the Plaintiff.
Ex.P.9.	29.10.2012	Computer generated copy of the Death Certificate of Mr. P.v. Deenathayala Mudaliar.
Ex.P.10	20.06.2011	Certified copy of the Joint Memo of Compromise, Judgment and Decree in



C.S. No.218 of 2021

		C.M.A. No.806 of 2010.
Ex.P.11	-	Original Post Burial Ceremony Invite.

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List Defendant Side Witnesses:

DW1 : Mrs. Padmini Natarajan

List Defendant Side Documents:

Exhibit No.	Date	Description of Documents
Ex.D.1	-	Divorce order.
Ex.D.2	-	Compromise memo in C.M.A. No.806/2010.
Ex.D.3	04.09.2018	Notice
Ex.D.4	15.09.2018	Notice
Ex.D.5	26.02.1931	Photocopy of the Auction Deed under which Sri P. Vijaya Ranga Mudaliar acquired the property.
Ex.D.6	14.05.1935	Photocopy of the
Ex.D.7	08.03.1973	Certified copy of the Settlement Deed executed by Sri P. Vijaya Ranga Mudaliar vide Doc. No.2305/1973.
Ex.D.8.	30.03.1985	Photocopy of the extract from permanent land Register in the name of Sri. P.V. Deenathayalan Mudaliar.
Ex.D.9.	12.07.2006	Photocopy of the CSR along with the Police complaint by P.V. Dheenathayalan, Sumathi and Janakrishna against P.J. Lakshmi.
Ex.D.10	05.12.2008	Certified copy of the Settlement Deed by Sri P.V. Dheenathayalan Mudaliar vide



WEB COPY



C.S. No.218 of 2021

		Doc. No.4539/2008.
Ex.D.11	11.12.2012	Computer generated copy of the Death Certificate of P.V. Dheenathayalan Mudaliar.
Ex.D.12	20.01.2015.	Photocopy of the extract from permanent land Register in the names of 1. P.D. Sumathi Thayalan, 2. Mrs. Padmini, 3. Mrs. P.D. Malliga, 4. Mrs. G. Saranya, 5. P.D. Jana Krishna.
Ex.D.13	04.04.2018	Photocopy of the Minutes of the meeting.
Ex.D.14	03.07.2018	Computer generated copy of the Death Certificate of P.D. Janakrishna.
Ex.D.15	07.07.2018	Photocopy of the CSR along with complaint filed with the Inspector, Sembium Station against P.J. Lakshmi by Mrs. Sumathi Thayalan in C. No.848/2018.
Ex.D.16	10.08.2018	Computer generated copy of the Legal Heir Certificate of P.D. Janakrishna.
Ex.D.17	07.12.2018	Photocopy of the Visitors pass along with Complaint filed with the Commissioner of Police against P.J. Lakshmi by Mrs. Sumathi Thayalan in C.No.2973/2018.
Ex.D.18	27.09.2018	Photocopy of the order passed by the Women Commission, Tamil Nadu.
Ex.D.19	23.10.2019	Photocopy of the complaint filed with the Inspector, Sembium Station against P.J. Lakshmi and her mother Kowsalya by Mrs. Padmini Natarajan.
Ex.D.20	01.03.2020	Photocopy of the undertaking affidavit of Mrs. Sumathi Thayalan.
Ex.D.21	25.08.2020	Photocopy of the Plaint filed in O.S. No.4984/2020 before the City Civil Court,



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C.S. No.218 of 2021

		Madras by the defendants 1,2 and 3 and their mother against the Plaintiff.
Ex.D.22	18.01.2021	Office copy of the Reply issued by the defendants 1 and 2 to Legal Notice issued by the Plaintiff.
Ex.D.23	21.12.2021	Photocopy of the Police complaint lodged by the tenant.
Ex.D.24	24.08.2022	Photocopy of the Police complaint lodged by the defendants 1 and 2.

28.10.2025

To

The Sub-Assistant Registrar (Original side),
High Court, Madras.

P.DHANABAL.,J

mjs



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C.S. No.218 of 2021

C.S. No.218 of 2021

28.10.2025

Page No.32