



AS.No.694 of 2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2025

CORAM:

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

**A.S.No.694 of 2017**  
**and**  
**CMP.No.22287 of 2017**

1. Rukmani
2. Muniyan @ Dura
3. Kamaraj @ Arumugam
4. Mohan @ Gopalan
5. Murugan @ Nehru

... Appellants/Defendants

-Vs-

1. Shanthi
2. Umadevi
3. Ramkumar
4. Rajkumar

... Respondents/Plaintiffs

**PRAYER:** First Appeals filed under Section 96 of the Code of Civil Procedure praying to set aside the Judgment and decree dated 24.07.2017 made in O.S.No.21 of 2010 on the file of the II Additional District Judge, at Puducherry.

For Appellants : Mr.T.Dhanasekaran

For Respondents : No Appearance

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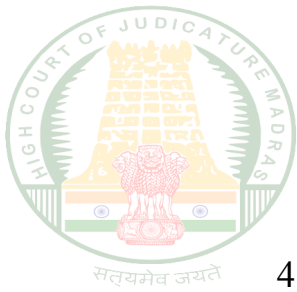
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## **JUDGMENT**

The defendants before the Trial Court are the appellants and the plaintiffs are the respondents herein.

2. For the sake of convenience, the parties will be referred to according to their litigative status before the Trial Court.

3. The brief facts which give rise to the instant Appeal is that, according to the plaintiffs, the suit property originally belongs to one Vazhumuni @ Rasan. The first plaintiff is the wife of late Vazhumuni @ Rasan and the plaintiffs 2 to 4 are his children. The first defendant is the mother of deceased Vazhumuni @ Rasan and the defendants 2 to 5 are his brothers. It is the submission of the first plaintiff that her husband Vazhumuni @ Rasan died intestate on 14.11.1992. As such, the plaintiff and the first defendant, being the Class 1 legal heirs are entitled to have each one share. Hence, the plaintiff called upon the defendants to come forward for a partition. Whereas, the defendants refused to do so, which necessitated the plaintiff to file the suit for partition.



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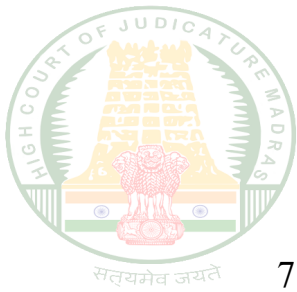
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4. The said suit was resisted by the defendants by contending that though the suit property stands in the name of the first plaintiff's husband Vazhumuni @ Rasan, the property was purchased in his name through the joint family income derived by way of labour contract with one Sica Breweries Company. It is the submission of the defendants that the brothers viz., the defendants 2 to 5 also entitled to have shares.

5. Having considered the pleadings of either side, the Trial Court framed the following issues:-

- 1. Whether the plaintiffs are entitled to 4/5<sup>th</sup> shares in the suit property?*
- 2. Whether the suit property are joint family properties?*
- 3. What are the other reliefs the plaintiffs are entitled to?*

6. At trial, on behalf of the plaintiffs, the first plaintiff was examined as PW1 and 13 documents were marked as Exs.A1 to A13. On behalf of the defendants, the 2<sup>nd</sup> defendant was examined as DW1 and the 4<sup>th</sup> defendant was examined as DW4, apart from them, 2 independent witnesses were examined and 22 documents were marked as Exs.B1 to B22.



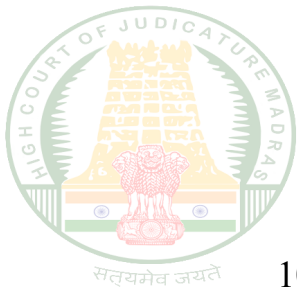
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7. The Trial Court, after having considered the oral and documentary evidence, has disbelieved the case of the defendants and ultimately, decreed the suit as prayed for. Not satisfying with the order the Trial Court, the appellants are before this Court.

8. Heard Mr.T.Dhanasekaran, learned counsel for the appellants/defendants.

9. The learned counsel for the appellants/defendants would vehemently contend that by virtue of Exs.B5 and B6, they have established the income derived by the family through the Labour contract agreement with one Sica Breweries Company, and that by virtue of Ex.B21, the joint possession of the plaintiffs with all the defendants has also been established. It was also contended that in order to prove the possession of the property, the defendants relied upon the property tax receipts and electricity receipts [Exs.B8 to B20]. He would further contend that the independent witnesses DW2 and DW3 have categorically supported the case of the defendants. Hence, prayed to allow this appeal.



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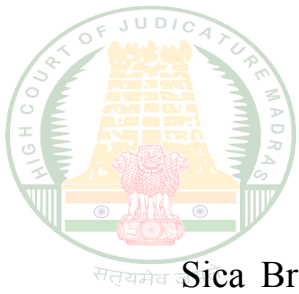
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10. Despite service of notice, there is no appearance on behalf of the respondents.

11. From the submissions of the appellants, the following point arises for determination:-

1. Whether the plaintiffs are entitled for a partition as prayed for?
2. Whether the case of purchase of suit property in the name of Vazhumuni @ Rasan through joint family nucleus is established?

12. From the submissions made by the learned counsel for the appellants, the short point to be considered is, whether is there any material to show the existence of the joint family and use of joint family income. In order to prove the existence of the Joint family, the defendants pleaded that since Vazhumuni @ Rasan being the eldest member of the family, all the joint family income were invested to purchase the suit property. To prove the existence of the joint family nucleus, the defendants have marked Ex.B5, which is a contract offer letter. Except the said letter, which stands in the name of 4<sup>th</sup> defendant, there are no proof as to how much income derived from



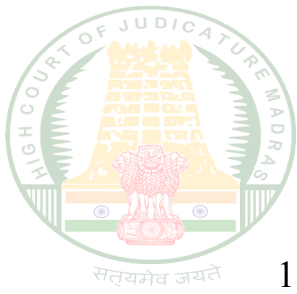
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Sica Breweries Company and who dealt those income and what are all the accounts.

13. If there is any defence disputing the title of Vazhumuni @ Rasan, it is for the defendants to establish the same before this Court. Ultimately, there are no materials before this Court to support the defendants' case. However, the learned counsel for the defendants relied upon the tax receipts and electricity receipts to substantiate their claim. But those receipts emerged subsequent to the filing of the suit. Apart from that, it is well settled principle of law that the Revenue records cannot be a document of title. Therefore, this Court is of the firm view that the defendants failed to prove the existence of the joint family and the joint family nucleus.

14. The defendants have also relied upon a suit in O.S.No.191 of 2013 to contend that there was a joint family. But, while considering the suit property, it is for some other property belongs to the first plaintiff's father-in-law. Hence, the pleading in respect of the joint possession in the suit, will in no way render any assistance to decide the suit. Therefore, this Court does not find any infirmity in the order of the Trial Court.



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15. In the result, this Appeal Suit stands dismissed by confirming the order of the Trial Court. There shall be no order as to costs. Consequently, connected CMP is also closed.

**26.02.2025**

*kmi*

Index : Yes/No

Speaking Order/Non Speaking order

NCC: Yes/No

To  
The II Additional District Judge,  
Puducherry.



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**C.KUMARAPPAN, J**

*kmi*

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