

AMENDED PLAINT

IN THE COURT OF THE HON'BLE ADDL. CITY CIVIL JUDGE
MAYO HALL, BANGALORE (CCH-29)

O.S.NO.25874/2010

BETWEEN :

1. Mrs. Radhika Vasudevan,
W/o Sri Vasudevan
Aged about 61 years,
R/o No.3, Srinivasa Avenue,
P & T Colony Road,
Madurai
 2. Mrs. Padmini Narayan,
W/o Sri Narayan,
Aged about 58 years,
R/o. No.4350, "Shirlene Court"
Grove City Ohio
3123, U.S.A
(Transposed as 2nd Plaintiff as per
Order dt.20.7.2012)
- : Plaintiffs

AND :

- 1) G. Parthasarathy,
Since dead by LRs
 - 1a) Smt Indira Parthasarathy,
Aged about 80 years,
Since dead by LRs
All the LRs are already on
Record (Plaintiffs 1 and 2,
Defendants 3, 4 and 5)
- 2) Mrs. Padmini Narayan,
(Transposed as 2nd Plaintiff as per
Order dt.20.7.2012)
- 3) Sri P. Mukundan,
S/o Sri G. Parthasarathy,
Aged about 61 years,
r/o. Residency Apartment,
No.19. Bawa Road.

Radhika Vasudevan
Radhika Vasudevan
GPA holder
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4) Sri P. Muralidhar,
S/o Sri G. Parthasarthy,
Aged about 54 years,
Residing in Gopal 237 46A,
5th Main, Chamarajapet,
Bangalore

5) Sangeeth Ravikanth,
W/o MR. S. Ravikanth,
Aged about 52 years,
R/o. No.12, 1st Cross Road,
Shankarapuram,
Bangalore

: Defendants

MEMORANDUM OF PLAINT UNDER ORDER VII, RULE 1 OF THE CODE OF CIVIL PROCEDURE

The Plaintiff begs to submit as follows:-

- 1) The address of the Plaintiff is as stated above and also that of her Counsel, Sri S. Komal Kumar, Veerapillai Street, Bangalore.
- 2) The address of the Defendants is as stated in the cause title as Defendants reside in Bangalore, Chennai and U.S.A for all purposes of proceedings in this High Court.
- 3) The Plaintiff is the daughter of Defendant No.1 who is the Kartha of the family under Hindu Law and under the Hindu Law and under the Hindu Law of Succession. The Plaintiff submits the Family Tree as **Document No.1.**
- 4) The Defendant Nos.2 and 5 are the younger sisters of the Plaintiff and the Defendants 3 and 4 are the brothers of the Plaintiff.
- 5) The Plaintiff is married and so also the Defendant No.5 and further the Defendant No.3 is also married and residing in

P. Muralidhar
P. Sangeetha
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PADMINI NARAYAN

Chennai with his family and the Defendant No.4 is married and residing with his family in Bangalore as stated in the cause title.

- 6) As a matter of fact, the Plaintiff and the Defendant No.2 Mrs. Padmini Narayan who visited India about two years back met their father, the Defendant No.1 and also the other Defendants as they had some nascent information to the Hindu Law of Succession in respect of the ancestral properties for a definite share and by then, the share of the married daughters in respect of Hindu Joint family was not fully spelt out in view of certain conflicting Judgments all over the country.
- 7) The Hon'ble Supreme Court of India declared under certain circumstances, while interpreting the amendment to the Hindu Succession Act, conferring rightful share for the daughters came to be pronounced and very recently, the Hon'ble High Court of Karnataka pronounced Land mark judgment as the State Government also amended as the State Law conferring title to the daughters either married or unmarried and that is to say equal share with the brothers.
- 8) In the light of the above submissions, the Plaintiff made a fervent Appeal to the Defendant No.1 under **Document No.2** dated 01.05.2010 and the Defendant No.1 as requested by the Plaintiff circulated among the Defendants and also made each and every Defendant individually as to the claim of the daughters and elicited their view in the matter.

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- 9) The Plaintiff is still in the dark as to the outcome of the discussions or the views expressed among the Defendants. However, the Defendant No.2 is in full agreement with the views expressed by the Plaintiff and as such, the Plaintiffs fulfill all the observations, ratio, decidendi, and the operative portion of the judgment pronounced by the Hon'ble High Court of Karnataka to demand equal right for the daughters on par with the brothers and the 1st Defendant wants to avoid litigation but he seems to be helpless in view of not arriving of proper consensus in respect of the suit schedule properties "A", "B" and "C". Schedule "A" & "B" are urban properties in Chamarajpet, Bangalore and Schedule "C" is agricultural land in Sy.No.56/1 and 56/2 in Kolar Village, Tavarekere Hobli, C.K. Tandya, fully described in the schedule hereunder as suit schedule properties for partition and mesne profits.
- 10) The Defendant No.1 and his wife, the mother of the Plaintiff is residing in Schedule A" and the Defendant No.4 Sri P. Muralidhar is residing with his family in the "B" Schedule property and the vacant land in front of the family house where the Defendant No.1 and his wife are residing, there is a Nursery in existence and also, there is a service road leading from the Main Road to the suit schedule "A" Property with an entrance and this Service Road is common to the family of the 1st Defendant and his brothers three in number who are residing in different portions in the back ground of "A" Schedule and "B" Schedule Property.
- 11) There is also a Nursery adjoining the family main house and some vacant land towards the North of the 'B'

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Schedule property and the compound wall adjoining the neighbor, Mrs. Naidu's property, have been built and walled to demarcate the property of late Naidu and the Schedule properties 'A' and 'B'.

11 (a) The Plaintiffs are seeking partition and separate possession of their 1/6th share in the A, B & C schedule properties. Sri P. Muralidhar (4th Defendant) has 1/6th share in the schedule properties which are composite properties names as Schedule A & B. Late G. Parthasarathy (1st Defendant) died leaving behind him his legal representative Smt. Indira Parthasarathy and the Plaintiffs Smt. Radhika Vasudevan and Smt. Padmini Narayan and Defendants Sri P. Mukundan, Sri P.Muralidhar and Smt. Sangeeth Ravikanth to succeed to his estate. Smt. Indira Parthasarathy (Defendant 1(a) died on 30-4-2018. When she was in sound state of mind and health, on 8-12-2015 she bequeathed her share in the immovable properties, which is 1/6th share in favour of the Plaintiffs Smt. Radhika Vasudevan and Smt. Padmini Narayan and Smt. Sangeeth Ravikanth in the proceedings. The copy of the Will be produced along with a Memo and a list. The Will bequeaths the immovable properties to the extent of her 1/6th share by virtue of the testamentary succession and she was owning title and possession in respect of her 1/6th share in the properties. She bequeathed and transferred her 1/6th share in favour of each of the

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Plaintiffs Smt. Radhika Vasudevan, Smt. Padmini Narayan and Smt. Sangeeth Ravikanth, the 5th Defendant in the proceedings. The original Will will be produced on hearing of the application for amendment.

11(b) The Plaintiffs further submit that the 3rd Defendant Sri P. Muralidhar has come forward and has executed a registered deed of relinquishment on 4-7-2018 in favour of Smt. Radhika Vasudevan, Smt. Padmini Narayan and Smt. Sangeeth Ravikanth, the Plaintiffs 1, 2 and the 5th Defendant. Under the said registered deed, the Plaintiffs and the Defendant No.5 have paid an amount of Rs.61,34,513/- and have acquired right, title, interest and ownership in respect of 1/6th share, inclusive of the constructed property No.237/46 and 237/46-A, V Main, Chamrajpet, Bengaluru, in all measuring 19,278 sq. ft. in Schedule A and Schedule B properties conjointly. The document of relinquishment provides for right, title, interest and ownership in respect of the properties wherein Sri P. Muralidhar, the 4th Defendant has a right in respect of the property. Thus, the Plaintiffs 1 & 2 Smt. Radhika Vasudevan and Smt. Padmini Narayan and Smt. Sangeeth Ravikanth have become joint owners of the A & B schedule properties. Being joint owners of the A & B schedule properties, the Plaintiffs and the Defendant No.5 are entitled to claim their right

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as against the third Defendant for an equitable partition in respect of the immovable properties as described in the schedule A, B & C to the plaint. The document of relinquishment is produced with a separate memo and list.

- 12) It appears that the 1st defendant and his two sons, viz., Sriyuths. P. Mukundan and P. Muralidhar appear to have entered into a Memorandum of Agreement in respect of Schedule-A and Schedule-B properties and this Memorandum of Agreement is an unregistered document in respect of the ancestral Hindu Undivided Family property and the Plaintiff and her sister, Mrs. Padmini Narayan about two years back, went round Bangalore and Chennai with the defendants 1,3 and 4 to get a copy of the same but in vain and this document is kept a guarded secret for a long time and it is not at all a valid and legal document to ignore and deny the claims of rightful share of the Plaintiffs, Defendants 2 and 5, who are the daughters of the family and very strangely, the defendant No.1 and his wife continued to enjoy in possession of the schedule-A property and the Plaintiff is not definite as to the Khata that stand in respect of schedule-A and B. But the Plaintiff's assets that it is an ancestral undivided Joint Family property of the family of late K. Srinivas Iyengar, the Grand Father of the Plaintiff and the 1st defendant, after the death of her Grand father, the property came to be enjoyed by his son, Sri K.S. Gopal Swamy Iyengar and as such, the

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original documents in respect of Schedule-A and B properties are definitely with the 1st Defendant and the Plaintiff is entitled to get copies of the Registered Documents of the Schedule "A" and B" and also C - Schedule property which result in an ancestral property in view of the disposal of certain other properties of the ancestors including that of the Hindu Agency that the 1st defendant was carrying on and unfortunately, the defendant No.3 is enjoying the fruits of suit schedule-C property and as such, the 3rd defendant is liable to account for all the fruits that he has earned in his Horticultural business out of the C-Schedule property.

13) The Plaintiff further submits that the Plaintiff and her two sisters viz., Defendant Nos.2 and 5 are married and as such, the male members of the family thought that could ignore the daughters of the family and deal with Schedule-A, B and C properties which is the subject matter for partition by metes and bounds as all the parameters of the Hindu Succession Act and also the amendments of both the Central Government and the State Government have given a rightful place to claim the share in the suit schedule properties A, B and C.

14) The Plaintiff and the defendants are in joint possession and enjoyment of the suit schedule properties and as such, the daughters of the family have a rightful claim not only to claim their rightful share but also demand to

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render proper accounts to decide mesne profits out of the schedule A, B and C in the circumstances of the case and in accordance with the Law of Succession applicable under the Hindu Law, as declared by the Hon'ble Supreme Court of India and the Karnataka High Court recently. Hence, the suit.

- 15) The cause of action for the suit arose some time in June 2008 when the Plaintiffs and the Defendant No.2 who arrived in India from United States of America and demanded their rightful share with the 1st Defendant, the Kartha of the family and the Defendants 3 and 4 were silenced for no reason at all and the Defendant No.5 maintained stoic silence when the Plaintiffs, the Defendant No.2 and the 5th Defendant went to the extent of meeting the family Lawyer in his chambers Sri V.A. Mohan Rangam on the above said date and the month in 2008 but due to the time factor, Sri. V.A. Mohan Rangam was not able to remember the facts and could not give any definite answer to the queries raised by the 2nd Defendant and now, the further cause of action arose and continued as such when the Plaintiff sent an affectionate letter in the month of May 2010 to the 1st Defendant, the Kartha of the family who has understood the position of law as to the pronouncement of Karnataka High Court and circulated the document No.2, to all the Defendants, but there has been no consensus said to have expressed by the Defendants 3 to 5 as such, the Plaintiffs has a regular cause of action to file the partition suit of her 1/6th share in "A", "B" and "C" schedule

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properties and the Defendants 1 to 5 do have the equal share of 1/6th in the suit schedule properties "A", "B" and "C".

- 16) As the subject matter of the suit is one of the partition among the members of the Hindu Undivided Joint ancestral properties, a fixed court fee is paid in accordance with the annexed valuation slip.
- 17) There is no other suit pending on the same cause of action in this Hon'ble Court or in any other Forum.

Wherefore, the Plaintiff prays for a judgment and Decree in the following terms:-

- (a) For a decree of 1/6th share in each and every suit schedule properties viz., "A", "B" and "C";
- (b) To determine the mesne profits in accordance with law with costs.

SCHEDULE-"A"

Vacant land and building thereon in the name and style "SRINIVAS" in property bearing No.237/46, 5th Main Road also called Puttannachetty Road, Chamarajpet, Bangalore, bounded on the East by: A common Service Road and Passage with a Gate facing the Service Road, West by : The property mentioned as "B" Schedule with vacant land and the buildings bearing No.237/46A, Puttannachetty Road, Chamarajpet, 5th Main, Bangalore, North by The properties divided to the brothers of the 1st Defendant and South by Puttannachetty Road, 5th Main, Chamarajpet, Bangalore.

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SCHEDULE-"B"

Vacant land with newly constructed Twin Building bearing Municipal No.237/46-A, 5th Main, Chamarajpet, Bangalore bounded on the East by: The schedule "A" Property, West by : Partly covered by Mr. Naidu's property, North by some areas divided among the brothers of the 1st Defendant and South by the 5th Main Road, Chamarajpet, Bangalore.

SCHEDULE-"C"

Agricultural Lands in Sy.No.56/1, 56/2, called C.K. Thandy, Kolur Village, Tavarekere Hobli, Bangalore South, Bangalore Rural District, bounded on the East by Government Land, West by Private Property, North by Private property and also the property on the South, with agricultural operations of Horticulture produce run by the 3rd Defendant in the name and style K.S.G. Farm & Nursery.

Advocate for Plaintiff

P. and V. V.
P. and V. V.
 G/A holder PADMINI NARAYAN
 Plaintiff

Verification

I, the Plaintiff mentioned above state that what are stated above are true and correct to the best of my knowledge, information and belief.

Bangalore

Date:

P. and V. V.
P. and V. V.
 G/A holder PADMINI NARAYAN
 Plaintiff

IN THE COURT OF THE HON'BLE ADDL. CITY CIVIL JUDGE
MAYO HALL, BANGALORE

O.S.NO.25874/2010

BETWEEN:

Mrs. Radhika Vasudevan : PLAINTIFF

AND:

Sri G. Parthasarathy and others : DEFENDANTS

VERIFYING AFFIDAVIT

I, Mrs. Radhika Vasudevan, w/o Sri Vasudevan, aged about 69 years, R/o No.3, Srinivasan Avenue, P & T Colony Road, Madurai and camping at Bangalore do hereby solemnly affirm and state on oath as follows:

1. I am the Deponent and Plaintiff in the above case and I know the facts and circumstances of the case those to which I am deposing to.
2. I submit that the statements made in the accompanying Memorandum of amended Plaint at Paragraphs No.1 to 17 are true and correct to the best of my knowledge, information and belief.
3. In support of the above, I submit DOCUMENT NOS.1 to 3 .

Identified by me:

Advocate

Bangalore,

Radhika V.

GPA Radhika Vasudevan
Deponent *PADMA NARAYAN*