**LEGAL PROCESS FOR PARTITION**

A partition suit can be filed only when a legal notice has been sent for the same and such legal notice has not been accepted to or replied back with which shall be treated as disregarded in the eyes of law.

It is only under such circumstance that a partition suit is proceeded with.

**Documents required**

The party who files such partition suit is/are advised to keep the following documents in place before filing a partition suit. They are:

1. Certified Copies/Original Copies of all the title deeds of the property/properties which you are claiming to be as an ancestral property.

2. A proper description of the property/properties which shall include the following

i. Area

ii. Location

iii.Geographical Boundaries

iv. Survey Numbers

v. Any other property details

3. Valuation of the property/properties upon which you have decided to file such partition suit. [The valuation of the same must be done by the Sub – Registrar of these property/properties]

**Partition Suit Procedure**

To file a partition suit there is a process which is required to be followed. If such procedure is no followed then due to failure of not following such procedures the suit may be dismissed on the grounds that the procedure was not followed.

The steps to be followed are given below.

1. Filing of Suit/Plaint – A plaint in a normal man’s language is the complain or the allegations which are made. They are then typed and printed in the format prescribed by the court and also aligned accordingly. Such plaint needs to be filed before the limitation period comes into play or else such suit shall be time barred. All the relevant details as stated below should be mentioned in the plaint.

* Name of the Court
* Name of the Parties to the suit
* Address of the parties
* Nature of such complain etc

2. Vakalatnama/Power of Attorney – A Vakalatnama is required by an Advocate from its client to represent them in their matter. A vakalath is a power which entitles the Advocate to fight out your case and represent himself as your duly assigned agent. It is a must required document without which no Advocate has the permission to represent his client.

3. Payment of Court Fee – Every suit which is entertained in a court requires the full payment of proper court fee before it is submitted. Therefore, the payment of proper and accurate court fee is another major criterion. The amount of the court fee varies in different cases and differs from state to state. Henceforth, proper and accurate court fee shall be submitted and pasted wherever necessary.

After all the above process are over the court shall fix up a date for “Hearing” on such date the court shall entertain the suit and decide whether it has merits to proceed further or not. Based on the merits and discretion of the court the court shall either admit or dismiss suit. If in case the court finds that there are merits in the suit then it shall allow the suit to be entertained. However, if the court finds no merits then it shall dismiss such suit without calling the opposite party/respondents.

4. On the day of hearing only if the court feels that the case has merits then it shall upon its own discretion issue notice to the opposite party and ask them to appear in the court on such next date which is fixed by the court itself.

6. Filing of Written Statement [W.S.] – Upon the receipt of notice the Opposite Part/Respondent is required to appear in the court and in the meanwhile is also required to file his Written Statement. Such written statement is a reply to the plaint and in other words can be called as a defense of the Opposite Party. Such written statement shall be filed within 30 days of the receipt of the notice which can be further extended to a period of 90 days [only if the court permits]. Such Written Statement shall explicitly deny the false allegations in the Plaint. Any such allegation which is not explicitly denied will be deemed to be accepted.

7. Replication – A replication is a reply of the written statement submitted by the opposite party/parties. Such replication shall also explicitly deny all the allegations which are falsely put by the Opposite Party/Parties and any such allegation which is not explicitly denied shall be deemed to be admitted. Once a replication is filed, the pleadings are said to be complete.

8. Filing of other relevant documents – Once the pleadings are over both the parties are given an opportunity from the court to file all relevant and necessary documents to justify their claims.

* Both the parties have an option to object documents with relevant reasons.
* Every document which is rejected or not admitted is returned to the party who was filing it.
* All such documents which have been filed shall be served to the other party/parties as photocopy/xerox.

9. Framing of Issues – Once the above process is complete, the court frames certain issues upon which the subject matter of the case is decided. These issues are the basic problems and the solution of those will give a clear picture to the court as to decide the matter. The court upon passing the final order shall deal with each issue separately.

10. List of Witness/Examination of Witness: The witnesses provided by both sides are examined and cross examined.

11. Final Hearing – On the day fixed for the final hearing, both the sides shall argue and put forward their views. Such arguments shall be strictly related to the issues framed by the court. After hearing the arguments of both the sides the court shall pass a “Final Order” either on that very day or else the