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AS(MD)No.105 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.10.2025

CORAM

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

AS(MD) NO. 105 of 2018

1.K.Alagu Subramanian
2.A.Kalavathi

Appellants/Defendants

Vs

K.Durairajan (Died),
1.K.Varadharajan
2.Dhanalakshmi
3.Rajakumari
4.K.Thiruvengataperumal
5.D.Senniammal
6.Rani @ Seethaladevi
7.Muruganandam
8.Vivekanandan
9.Arulanandan
10.Santhi

Respondents /Plaintiffs

Prayer: This appeal is filed under Section 96 of the Code of Civil Procedure against the Decree and Judgement passed in O.S.No.83 of 2015 dated 24.01.2017 on the file of the II Additional District and Sessions Judge, Thanjavur.

For Appellants : Mr.G.Karnan
For Respondents : Mr.M.P.Senthil



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JUDGMENT

(Judgment of the Court was made by Hon'ble C.V.KARTHIKEYAN., J.)

The defendants in O.S.No.83 of 2015 on the file of the II Additional District and Sessions Court at Thanjavur are the appellants herein.

2.O.S.No.83 of 2015 had been filed seeking partition and separate possession of an undividable 1/6th share each to plaintiffs 2 to 5 and 1/6th share to the plaintiffs 6 and 8 to 11 of the suit schedule properties. The suit schedule properties have been listed in the schedule to the plaint. All the parties in the suit are the brothers and sisters. The suit after due process had come up for trial and by judgment dated 24.01.2017 the learned II Additional District and Sessions Judge, Thanjavur, had passed a preliminary decree which is extracted here:

01. That the suit be and the same is hereby decreed.

02. That the plaintiffs 2 to 5 and the 1st defendant are hereby entitled to the partition of 1/6th share each in the suit properties.

03. That the plaintiffs 8 to 11 are hereby entitled to partition of 1/6th share jointly belonging to the deceased 1st plaintiff's share in the suit properties.

04. That the plaintiffs 6 & 7 and the 2nd defendant are hereby not entitled to any share in the suit properties; and to that effect preliminary decree is passed;



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05. That it is hereby declared that the plaintiffs are at liberty to initiate final decree proceedings to work out their shares in pursuance of preliminary decree:

06. That there be no order as to costs"

3. Challenging the same, the present first appeal has been filed by the defendants. Pending appeal, the fifth respondent namely, D.Senniammal had unfortunately passed away. Her legal representatives are already on record as the respondents 7 to 10. A memo in this regard has been filed by the learned counsel for the appellants. Before issuing the order copy, the Registry may record the death of the fifth respondent and further record that the respondents 7 to 10 are the legal heirs of the deceased fifth respondent.

4. During the course of hearing, we have noticed that the parties had taken a prudent decision to settle the issues among themselves. In this regard, we must appreciate the learned counsels for the appellants and the respondents for taking efforts in bringing conciliation among the parties.

5. In this connection, a joint compromise memo had been presented before us and signed by each of the appellants and each of the respondents. The deceased fifth respondent was represented by her legal representatives.



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6. We have called each one of the two appellants and all the respondents and they are present in the court and they confirmed about the terms of the compromise memo. The compromise memo is written both in English and Tamil and the parties have signed in both English and Tamil versions. It had also been signed by the learned counsels on 27.10.2025. The terms of the compromise memo filed in this appeal are as follows:

"The appellants and the respondents are brother and sister and legal heirs. The Respondents filed suit in O.S.No. 83 of 2015 before the II Additional District & Sessions Judge, Thanjavur for the relief of partition claiming 1/6th share in suit said property. Suit was decreed on 24.01.2017 challenging the same the above said appeal has been filed before this Hon'ble Court by the appellant.

2. While pending the appeal the parties are comprised between them to effect that the Suit schedule property in T.S.No. 1503 and 1505 B to the extent of 6195 Sq ft, which is shown as item no. 1 to 4 in the plaint it is agreed by all the parties that the above said extent of 6195 sq. ft is equally divided to the respective parties to the extent 1032 sq. ft. each namely 1. Durairajan, 2. Varadharajan, 3.Dhanalskshmi, 4.Rajkumar, 5. Thiruvengadaperumal, 6.Alagu Subramanian.

3. The suit schedule property shown as 5th item is not dividable therefore it is agreed that the property neither sold nor railway acquired land, the money received party same has to be equally divided among 6 persons.

4. The Durairajan and Alagu Subramanian are residing separately



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property in a small house in the above said suit schedule property. Therefore it is agreed it is allotted share 1032 sq. ft. in the same house area along with house.

5. The above said agreement are executed parties and signed in the tamil version is filed along with this compromise memo.

6. As per the compromise written version between the parties and signed all the parties, all the parties agree to measure and fix the 4 boundaries as per the measurement each person is entitled to patta and revenue records.

7. The parties have also written down the compromise memo in Tamil and the same is reproduced below:

"தஞ்சாவூர் டவுன் வார்டு எண் 6 பிளாக் எண் 32 வானக்காரத் தெருவில் அமைந்திருக்கும் வீட்டு மனையானது 6195 சதுர அடியில் உள்ள சொத்தை மொத்தம் ஆறு(6) பாகமாக பிரிப்பதற்கான முழு விபரம்.

1.மேற்படி கூறிய சொத்தின் தென்பாகத்தில் அமைந்துள்ள ஒட்டு வீடு மற்றும் கொள்ளை ஆகிய இரண்டையும் சமமாக பிரிக்கப்பட்டு, அதில் உள்ள வீடு (ஒட்டு கட்டிடம்) உள்ள முன்பாகம் (1032) சதுரடி திரு.கி.துரைராஜன் (டேட்) அவர்கள் மற்றும் அவர்கள் வாரிசு, திரு.டி.முருகானந்தம் டி.விவகோனதம், டி.அருளானந்தம், திருமதி. சாந்தி அவர்களுக்கு ஒதுக்கப்படுகிறது.

இதில் மீதி உள்ள கட்டிடம் அல்லாத முனை பின்பாகம் (1032) சதுரடி திரு.கி.திருவேங்கடம் அவர்களுக்கு ஒதுக்கப்படுகிறது.

2.மேற்படி கூறிய சொத்தின் வடபாகத்தில் அமைந்துள்ள ஒட்டு வீடு, மற்றும் கொள்ளை ஆகிய இரண்டையும் சமமாக பிரிக்கப்பட்டு, அதில் உள்ள வீடு (ஒட்டு கட்டிடம்) உள்ள முன்பாகம் (1032) சதுரடி திரு.கி.அழகசுப்பிரமணியன் அவர்களுக்கு ஒதுக்கப்படுகிறது.



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இதில் மீதி உள்ள கட்டிடம் அல்லாத மனையின் பாகம் (1032) சதுரடி திரு.கி.வரதராஜன் அவர்களுக்கு ஒதுக்கப்படுகிறது.

மேற்படி கூறிய இருவர், திரு.கி.வரதராஜன், திரு.வேங்கடம் ஆகிய இருவரின் மனைக்க பாதை பின்புறமே ஒதுக்கப்படுகிறது.

மேற்கூறிய சொத்தின் கீழ்க்கு நோக்கிய பாகத்தில் உள்ள ஒட்டு கட்டிடம் உள்ள வீடு, காலி மனை ஆகிய இரண்டையும் சமமாக 1032, மற்றும் 1032 சதுரடி என திருமதி.தனசெகரி மற்றும் திருமதி ராஜகுமாரி ஆகிய இருவருக்கும் ஒதுக்கப்படுகிறது.

மேலும் இவர்களுக்கு சொந்தமான மனை தஞ்சாவூர் மாவட்டம் கும்பகோணம் வெது வார்டு வடக்கு வள்ளுவத் தெருவில் உள்ள வீடு 1217 & 1218 என்கிற சர்வே எண்ணில் உள்ள வீடு இரயில்வே நிர்வாகத்தால் ஆக்கிரமிப்பு மேற்கொள்ளப்படுவதாக வந்த செய்தி அடிப்படையில், அதனை இரயில்வே நிர்வாகம் செயல்படுத்தும் போது அதற்கான தொகையை வழங்கும்போது அதனை மேற்கூறிய ஆறு(6) நபர்களுக்கும் சமமாக பிரித்து பங்களிக்கப்பட வேண்டும் என்பதை ஒப்புக்கொள்கிறோம்"

7. A perusal of the compromise memo shows that the parties had come to an understanding as to how the properties should be divided. It has been stated that the item Nos. 1 to 4, which are situated at S.Nos. 1503, 1505 measuring 6195 sq. ft, should be equally divided among the respective parties to an extent of 1032 sq. ft each. This would indicate the legal heirs of K.Durairajan and each one of the parties, namely, Durairajan, Varadharajan, Dhanalakshmi, Rajakumari, K.Thiruvengataperumal and K.Alagu Subramanaian. We are conscious that K.Durairajan had died pending the suit and his shares devolved upon his legal heirs.



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8. The property shown as 5th item is not divisible. It is stated that the indivisible 5th property may be acquired by Railway Department and if it is done, the compensation amount would be equally divided among the individuals/their legal representatives.

9. In view of the fact that the parties had agreed and fixed the four boundaries and that each one of them would apply for patta and for mutation of revenue records in their names, we are of the considered opinion that final decree in terms of compromise memo can be passed. The parties need not file an final decree application. Accordingly, final decree is passed in the suit in O.S.No.83 of 2015 on the file of the II Additional District and Sessions Court, Thanjavur. A copy of final decree maybe forwarded to the District Court for recording the same in the suit register. The joint compromise memo both in English and Tamil shall form part of the final decree.

10. This appeal suit is decreed accordingly in terms of compromise memo dated 27.10.2025. No order as to costs.

(C.V.K., J.) (R.V., J)
27.10.2025

CM



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To,

1. II Additional District and Sessions Judge, Thanjavur.



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**C.V.KARTHIKEYAN., J.
and
R.VIJAYAKUMAR., J.**

CM

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