

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 25th DAY OF APRIL 2017

THE HON'BLE MR. JUSTICE P.KALAIYARASAN

C.S. No.335 of 2009

and

A. No. 2123 of 2017

Sujatha @ Rani,
Wife of Late Mr. B.B.Devaraja
Residing at 23/12, New Secretariat Colony
1st Main, Kilpauk
Chennai 600 010.

..Applicant/Plaintiff

VS

1. Mrs. Shanthi,
W/o. Theagarajan
No.21 East Road, West C.I.T.Nagar,
Chennai 600 035.

2. Mrs. Yasodha
W/o. Mr. Raja P.Velu,
8020, Blarney Stone Way,
Manlius
New York-13104.

3. Mrs. Vimala,
W/o. Mr. A. Thanappan,
No.102, 7th Street,
A.K.Samy Nagar,
Kilpauk,
Chennai 600 010.

4. Mrs. Kamala,
W/o. Mr. M. Anbazhagan
No.103, A.K.Swamy Nagar,
7th Street, Kilpauk,
Chennai 600 010.

..Respondents/Defendants

Civil Suit praying that this Hon'ble Court be
pleased to pass a Judgment and decree against the
defendants:-

a. To effect partition of the suit property more

fully mentioned in the schedule hereunder by metes and bounds, and to divide the schedule property among the plaintiff and the defendants in accordance with the WILL of Late Mrs.Rambai, dated 5th August 1996 and probated on 8th September 2000 and to allot the respective shares to the plaintiff hereunder and to put them in possession of their respective shares;

b. To appoint an Advocate Commissioner to survey the property mentioned in the schedule hereunder and to effectively and peacefully execute the partition in accordance with the WILL dated 05.08.1996 of Late Mrs. Rambai.

c. for cost of the suit.

A. No. 2123 of 2017

Application praying that this Hon'ble Court be pleased to pass final judgment and decree as prayed for in the plaint on the basis of the report of the Advocate Commissioner dividing the suit property in to 5 shares as set out in schedule 'B' and 'C' and the rough sketch annexed thereto.

This suit along with the application coming on this day before this court for hearing the court made the following order:

This application has been filed seeking to pass final decree on the basis of the report of the Advocate-Commissioner.

2. As per the preliminary decree, houses shown as "B" schedule in Ex.P.3 is to be divided into two equal halves and to be allotted to the third and fourth defendants. The houses as under "C" schedule in Ex.P.3 is

to be divided into three equal parts and one part each to be allotted to the plaintiff, first and second defendants.

3. The Advocate-Commissioner appointed by this Court filed the report with sketch saying that the properties mentioned above are indivisible. She further says that building in the above said properties are totally damaged and incapable to live.

4. The third and fourth respondents / defendants appeared before this Court along with their counsel and represented that their shares may be allotted to them, as per the Advocate-Commissioner's sketch, which is in conformity with the preliminary decree.

5. Learned counsel appearing for the plaintiff, D1 and D4 represent before this Court that the properties can be allotted as demarcated by the Advocate-Commissioner in the II sketch enclosed with the Commissioner's Report. D3 and D4 together and the plaintiff, D1 and D2 together will make workable the shares allotted to them though mentioned as incapable for division by the Advocate-Commissioner. Accordingly, this application is allowed. Thus all the parties agree to take their share as suggested by the Advocate-Commissioner.

There will be a final decree in terms of the prayer made in this application. The II sketch filed by

the Advocate-Commissioner shall form part of the Decree.
No costs.

sd/-P.K.J

18.07.2012

//Certified to be a true copy//

Dated this the day of 2017

R.s/24.11.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies
of the Order/Judgment Decree in this format.