

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2018

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.830 of 2014

1.C.B.Bhaskaran
2.C.B.Sarojini
3.C.B.Dilly

... Plaintiffs

Vs.

1.C.D.Rajalakshmi
2.C.D.Malini
3.C.D.Rajkumar
4.C.D.Balakrishnan

... Defendants

Plaint filed under Order VII Rule 1 of C.P.C. read with Order XXIV of High Court Original Side Rules praying to pass a judgment and decree:

(a) for partition and division by metes and bounds of the item No.1 of the Plaint Schedule mentioned property comprised in Door NO.28, (Old Door No.1), Thiru-vi-ka Road, Royapettah, Chennai - 600 014, measuring 1 Ground and 634 Sq.ft., more fully described in the plaint Schedule hereunder and allot their respective 3/4th share therein;

- (b) to direct the defendants to pay mesne profits and
- (c) for cost of the suit.

For Plaintiffs : Mr.S.Subbiah

For defendants : No appearance

J U D G M E N T

A preliminary decree for partition was granted allotting 3/4th share in the suit property to the plaintiffs in the suit item 1 and for mesne profits on 25th July 2017. On the same day, this Court had appointed a Commissioner to visit the property and suggest the modes of division. The Commissioner has filed a report suggesting modes of division.

2. Since the defendants had remained *exparte* in the suit, also, I had ordered notice to the defendants informing them about the reception of the Commissioner report. The defendants 2, 3 and 4 have been served. Notice sent to the 1st defendant has been returned with an endorsement "Deceased". The defendants 2, 3 and 4 are the legal representatives of the 1st defendant. Hence, they are brought on record as the legal representatives of the 1st defendant in the suit.

3. The Commissioner has filed a report suggesting allotment of the property shown as item 1 in the suit schedule. As per the report the red marked portion shown as schedule 'B' in the report in Annexure - A and B are suggested to be allotted to the plaintiffs towards 3/4th share in the suit property and the Blue marked portion shown as schedule 'C' in the report of the Commissioner is suggested to be allotted to the defendants towards their 1/4th share.

4. Since there is no objection to the suggestions made by the Commissioner. The report of the Commissioner is accepted and the property shown as Schedule 'B' in the Commissioner's report which is also shown as red marked in Annexure A and B is allotted to the plaintiffs. The plaintiffs have filed a memo stating that they are not pressing for relief of accounting in respect of the 2nd item of the property.

5. Hence, this final decree is confined only to the 1st item of the property finally allotting to the plaintiffs the property shown as schedule B in the Commissioner report which is marked in red in Annexure A and B towards plaintiffs 3/4th share.

6. The plaintiffs are directed to pay a further sum of Rs.10,000/- to the Advocate Commissioner as additional remuneration.

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Index : No

Internet : Yes

Speaking Order

List of the witnesses examined on the side of the plaintiffs:

PW1 - Mr.C.B.Bhaskaran

List of Exhibits marked on the side of the plaintiffs:

Sl. No.	Exhibits	Description	Dated
1	Ex.P1	Certified copy of the partition deed.	04.07.1969
2	Ex.P2	Copy of the paper publication in Times of India.	04.02.1976
3	Ex.P3	Water and Sewerage tax receipts (series).	--
4	Ex.P4	Property tax payment receipt standing in the name of C.B.Rukmankathan paid for the second half of 1998.	--
5	Ex.P5	EB White Card for the period February 2006-2008.	--
6	Ex.P6	Electricity payment receipt.	12.11.2012
7	Ex.P7	Office copy of the legal notice sent on behalf of the plaintiffs.	25.04.2014
8	Ex.P8	Acknowledgment cards.	--

Sl. No.	Exhibits	Description	Dated
9	Ex.P9	Encumbrance certificate for item (1) of the suit property.	17.09.2014

List of the witnesses examined on the side of the defendants: NIL

List of Exhibits marked on the side of the defendants: NIL

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R.SUBRAMANIAN, J.

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