

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2018

CORAM

THE HONOURABLE MR.JUSTICE **N. SATHISH KUMAR**C.S.No.601 of 2015

B.K. Vijayalakshmi
rep by her Power Agent
Mr.R.K.Venkatadri

... Plaintiff

//vs//

Mr.B.Jayachandran

... Defendant

Plaint filed under Order VII Rule 1 of Civil Procedure Code read with Order IV Rule 1 of Madras High Court Original Side Rules for declaring that the plaintiff is entitled to 5/6th share in the suit property as absolute owner and consequently directing a division of the suit property by metes and bounds and according to good and bad soil and convenience of enjoying and putting the plaintiff in separate possession of her 5/6th share; directing the defendant to pay to the plaintiff a sum of Rs.30,00,000/- being the past profits due to the plaintiff till date of the suit; directing an enquiry into future profits from the date of plaint till date of delivery of separate possession of plaintiff's 5/6th share under Order 20 Rule 12 C.P.C., and directing the defendant to pay to the plaintiff the cost of the suit.

For Plaintiff : Mr. K. Chandrasekaran
For Defendant : Mr.P.B. Balaji

JUDGMENT

The suit has been filed for declaring that the plaintiff is entitled to 5/6th share in the suit property as absolute owner and consequently directing a division of the suit property by metes and bounds and according to good and bad soil and convenience of enjoying and putting the plaintiff in separate possession of her 5/6th share; directing the defendant to pay to the plaintiff a sum of Rs.30,00,000/- being the past profits due to the plaintiff till date of the suit; directing an enquiry into future profits from the date of plaint till date of delivery of separate possession of plaintiff's 5/6th share under Order 20 Rule 12 C.P.C., and directing the defendant to pay to the plaintiff the cost of the suit.

2. Heard both sides. The defendant admitted the share of the plaintiff. In the written statement, he contended that he is also entitled to the remaining 1/6 share, in respect of which he has paid court fee.

3. In view of the stand taken by the defendant that he is also entitled to 1/6 share, the suit can be disposed of by invoking Order XII Rule 6 of C.P.C. and Preliminary Decree is passed for dividing the suit property into 5/6 share and 1/6 share. The plaintiff is entitled to 5/6 share and the defendant is entitled to 1/6 share.

4. In view of the above the suit is disposed of. The parties shall bear the costs considering their entitlement of shares.

10.04.2018

Speaking / Non-speaking Order

Index : Yes/No

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N. SATHISH KUMAR, J.

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