

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH  
AND  
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

ORIGINAL SIDE APPEAL NO.101 OF 2015

N.Kalaimani

... Appellant

..Vs..

1.Mrs.Tamilkodi  
2.Mrs.Kalaiselvi [deceased]  
3.Dr.B.Renganathan  
4.Dr.R.Kaladevi  
5.Dr.R.Shanmugapriya  
6.Mr.R.Yogasaravanan

... Respondents

[R3 to 6 brought on record as Lrs of the  
deceased R2, vide order of court dt.18.06.2018  
made in CMP No.9026/2017 in OSA No.101/2015)

Original Side Appeal is filed under Order XXXVI Rule 1 of  
O.S.Rules under Clause 15 of the Letters Patent to set aside the  
judgment and preliminary decree dated 10.04.2015, made in  
C.S.No.260 of 2011.

For Appellant : Ms.D.Veda

For Respondents : Mr.V.Raghavachari for R1  
Ms.G.Sumitra for R2

JUDGMENT

(Judgment of the Court delivered by N. ANAND VENKATESH., J.)

The first defendant in the suit has filed the present  
Original Side Appeal aggrieved by the judgment and preliminary  
decree passed by the learned Single Judge in C.S.No.260 of 2011,  
dated 10.04.2015, granting a preliminary decree for partition of  
the plaintiff's 1/3<sup>rd</sup> share in the suit property.

2.The plaintiff and two defendants are brother and sisters. The suit was filed by the plaintiff on the ground that the suit property belongs to the father and on his death on 01.01.2010, each of his legal heirs are entitled to 1/3<sup>rd</sup> share in the suit property.

3.During the pendency of the present appeal, taking into consideration the close relationship between the parties and also taking into consideration that the appellant is in possession and enjoyment of the suit property and the plaintiff and the second defendant are living in their matrimonial house, a suggestion was put forth to satisfy the shares of the plaintiff and the second defendant by way of paying them money.

4.The parties and their respective counsel after a long deliberation have arrived at a settlement. This was reported before this Court today both by the parties and their respective counsel.

5. In terms of the settlement between the parties, the appeal is disposed of in the following terms:

a. The appellant shall pay a sum of Rs.53 lakhs each to the first and second respondent on or before 31.12.2018.

b. On such payment being made by the appellant to the respondents, the same shall be in full satisfaction of the share of the respondents and the respondents shall not claim any other right over the suit property.

c. On such payment being made by the appellant, he shall become the absolute owner of the suit property.

d. The judgment passed in this Original Side Appeal in terms of the settlement between the parties, shall be reduced into a final decree in the suit in C.S.No.260 of 2011.

e. In the facts and circumstances of the case there will be no order as to costs.

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Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP

Copy to:

1. The Sub. Asst. Registrar,  
Original Side, High Court  
Madras.
2. The Assistant Registrar I (OS)  
High Court, Chennai-104.

+1cc to Ms.D.Veda, Advocate, S.R.No.52025

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.51737

O.S.A.No.101 of 2015

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CS/05/09/2018



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