

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.04.2018

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.S.No.764 of 2010
T.O.S.No.33 of 2005 and Tr.C.S.No.509 of 2015
and
A.No.5195 of 2017 in C.S.No.764 of 2010

C.S.No.764 of 2010

J.Gopalakrishnan

... Plaintiff

Vs.

1. P.N.Manoharan,
2. P.N.Ramesh Babu
3. P.N.Danalakshmi
4. P.N.Anusuya
5. P.N.Hemamalini
6. P.N.Nagarajan

... Defendants

T.O.S.No.33 of 2005

1. P.N.Manoharan
2. P.N.Ramesh Babu
3. Dhanalakshmi

... plaintiffs

/vs/

P.N.Nagarajan

... Defendant

Tr.C.S.No.509 of 2015

P.N.Nagarajan

... Plaintiff

/vs/

1. P.N.Dhanalakshmi

2. P.N.Manoharan

3. P.N.Anusuya

4. P.N.Ramesh Babu

5. P.N.Hema Malini

...

Defendants

PRAYER in C.S.No.764 of 2010: Plaint under Order IV Rule 1 of O.S.Rules read with Order VII Rule 1 of C.P.C praying to (a) direct the respondent to execute the sale by accepting the balance sale consideration of Rs.3,10,000/- and to hand over the possession within a prescribed time and on failure to do so, this Court may execute the sale deed on behalf of the defendants (b) to award the cost of the suit .

Prayer in T.O.S.33 of 2005 : T.O.S. numbered on conversion of O.P.No.314 of 2005 filed Under Section 232 and 276 of Indian Succession Act XXXIX of 1925 and Order XXV Rule 5 of O.S. Rules praying that the letters of Administration with the Will annexed may be granted to the plaintiffs as the legatees and the sons and wife of the deceased Thiru P.A.Nilakantan having effect limited to the state

of Tamil Nadu.

Prayer in Tr.C.S.509/ 2015 : Complaint filed in O.S.No.7143 of 1996 under Order VII Rule 1 of C.P.C. on the file of VII Additional City Civil Court, Chennai and on being transferred and numbered as Tr.C.S.No. praying for partition of the suit A , B and C schedule properties by metes and bounds and also for separate possession of his 1/6th share.

For Plaintiff in C.S..764/2010 : Mr. V.Manohar

For Defendants 1 to 5 in

C.S.764/2010 : Mr. V.Raghavachari

For 6th defendant in C.S.764/2010: Mr.V.Kannan

For plaintiffs in TOS.33/2005 : Mr.K.Sridhar &L.Kishore

For defendant in TOS.33/2005 : Mr.V.Kannan

For Plaintiff in Tr.C.S.509/2015 : Mr.V.Kannan

For defendants in Tr.C.S.509/20105: Mr.V.Raghavachari

JUDGMENT

For the purpose of convenience, the parties are hereby

mentioned as they are ranked in T.O.S.No.33 of 2015.

2. The T.O.S.No.33 of 2015 has been filed to issue Letters of Administration in respect of the Will dated 15.07.1994 executed by the father of the plaintiffs 1 and 2, respondents 1 to 3 in O.P.No.314 of 2005 and husband of the third plaintiff. The defendant in the above T.O.S. filed a suit in O.S.No.7143 of 1996 before the City Civil Court, Chennai. Now, it was transferred and re-numbered as Tr.C.S.509 of 2015 on the file of this Court. A third party has filed another suit in C.S.No.764 of 2010 before this Court for specific performance based on a sale agreement dated 19.06.2009, executed by the plaintiffs 1 to 3 and respondents 1 to 3 in O.P.NO. 314 of 2005.

3. Pending suits, the parties have settled the dispute among themselves and as per the settlement, the parties have agreed for decreeing the suit in T.O.S.No.33 of 2005 and Letter of Administration can be granted. Consequently, Tr.C.S.No.509 of 2005 and C.S.No.764 of 2010 could be dismissed and the parties have also filed a compromise memo to that effect before this Court on 23.04.2018.

4. The said compromise memo has been signed by the plaintiffs 1 and 2 and the defendant in T.O.S.33 of 2005 and also the third party/plaintiff in C.S.No.764 of 2005 and their respective counsels. The learned counsel appearing for the 3rd plaintiff in T.O.S.No.33 of 2005 has made an endorsement that he is not pressing the suit pertaining to the third plaintiff. Accordingly, the T.O.S.No.33 of 2005 is dismissed as not pressed as against the third plaintiff.

5. Recording the terms of the said compromise memo, T.O.S.No.33 of 2005 is decreed in respect of plaintiffs 1 and 2 and dismissed as not pressed as against the 3rd plaintiff and C.S.No.509 of 2015 and C.S.764 of 2010 are dismissed. The said compromise memo shall form part of the decree. No costs. Consequently, connected miscellaneous application is closed. The plaintiffs in T.O.S.No.33 of 2005 are directed to execute a security bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand to the satisfaction of the Assistant

Registrar(O.S.II), High Court, Madras. The plaintiffs are directed to render true and correct accounts once a year.

26.04.2018

mrp

Index : yes/no

Internet: yes/no

speaking order/non-speaking order

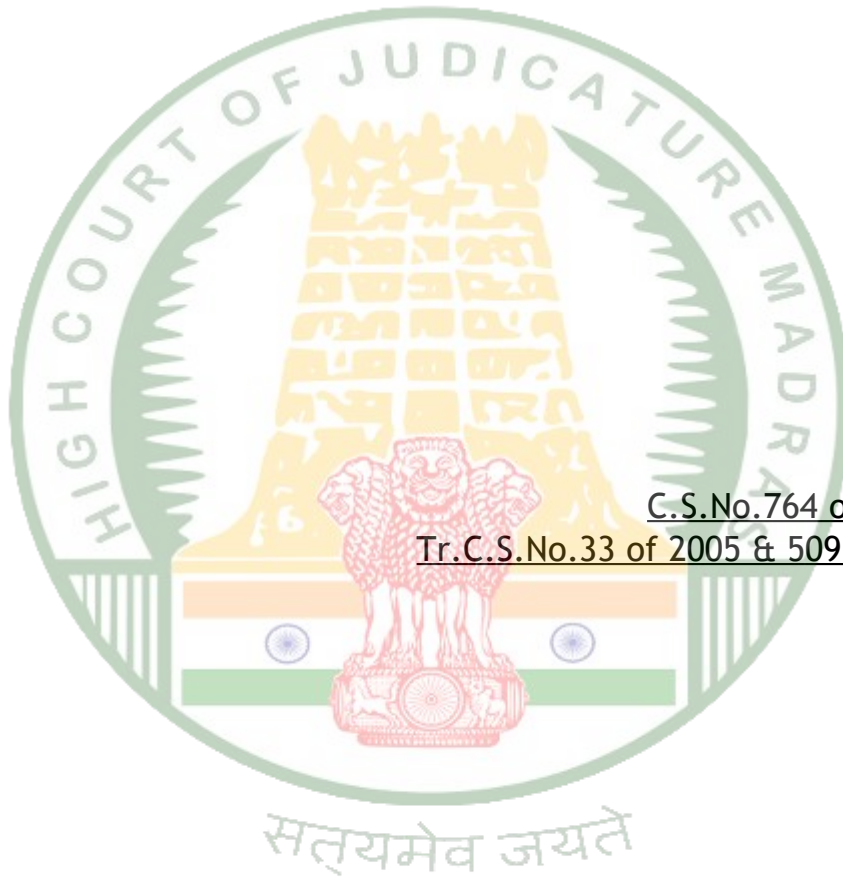
Note : Registry is directed Issue decree on or before 31.06.2018.



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V.BHARATHIDASAN .J,

mrp



C.S.No.764 of 2010 ,
Tr.C.S.No.33 of 2005 & 509 of 2015

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