

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 20.04.2018

CORAM

THE HON`BLE MR.JUSTICE N.SATHISH KUMAR

Tr. C.S.No.305 of 2016 & T.O.S.No.27 of 2016 &

A.Nos.114 and 115 of 2018

Tr.C.S.No.305 of 2016

B.Mahalakshmi

... Plaintiff

Vs.

1. S.Vasanthi

2. S.Malleswari

... Defendants

T.O.S.No.27 of 2016

Mlleswari

... Petitioner

Vs.

1. B.Mahalakshmi

2. S.Vasanthi

(Impleaded as per the Order passed in A.No.3518 of 2018 in
T.O.S.No.27 of 2016)

... Respondents

Civil Suit filed under Order IV Rule 1 of Original Side Rules 1956

read with Order VII Rule 1 CPC praying for the following judgment and decree against the defendants.

- a) To partition the suit property morefully described in the schedule hereunder into three equal share by metes and bounds and allot 1/3 share to the plaintiff and handover the possession of the said 1/3 share in the suit property to the plaintiff;
- b) for costs of the suit

T.O.S.No.27 of 2016

Original Petition No 183 of 2015 was filed under Sections 232 and 276 of Indian Succession Act, XXXIX of 1925 for the grant of Letters of Administration. Against this petition a Caveat was filed on by the Caveators As per order of this Court, the Original Petition No.183 of 2015 was converted into Testamentary Original Suit No.27 of 2016.

For Plaintiff in Tr.C.S.No.
305 of 2016 &
for first respondent in
T.O.S.No.27 of 2016 : Mr.SP.Chockalingam

For 1st defendant in
Tr.C.S.No.305 of 2016
second respondent in
& T.O.S.No.27 of 2016 :Mr.K.M.Kodaiarasu

For 2nd defendant in
Tr.C.S.No.305 of 2016
& petitioner in
T.O.S.27 of 2016 : : Mr.S.Sridhar

COMMON JUDGMENT

The suit in Tr.C.S.No.305 of 2016 has been filed for partition of the suit property and allot 1/3 share to the plaintiff.

2. The Testamentary Suit in T.O.S.No.27 of 2017 has been filed for grant of letters of administration of the Will dated 14.03.2002.

3. Since the parties and the subject matter is one and the same, both the Transfer Civil Suit No.305 of 2016 and Testamentary Suit in T.O.S.No.27 of 2017 have been taken up joint disposal.

4. When the matter is taken up today, the learned counsel for the plaintiff submitted that the parties have reached at an amicable settlement before the Tamilnadu Mediation and Conciliation Centre, High Court Madras and therefore, they had entered into a compromise.

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5. The parties are also present before this Court and they also admitted that they have entered into a compromise before the Mediation Centre, High Court, Madras and signed the Memo of Compromise.

6. In the terms of compromise, now the parties want to include one additional condition that the parent document shall be kept in a locker in Chennai Co-operative Bank, Pudupet, Chennai -2 and shall be opened by all the parties.

7. In view of the compromise entered into between the parties, the suit in C.S.No.305 of 2016 is decreed in terms of the Compromise Memo filed by the parties and that the parent document shall be kept in a locker in Chennai Co-operative Bank, Pudupet, Chennai -2 and shall be opened by all the parties and the Compromise Memo shall form part of the decree.

8. Since a decree has been passed in C.S.No.305 of 2016, no adjudication is required in the testamentary suit and the testamentary suit in T.O.S.No.27 of 2016 is dismissed as infructuous.

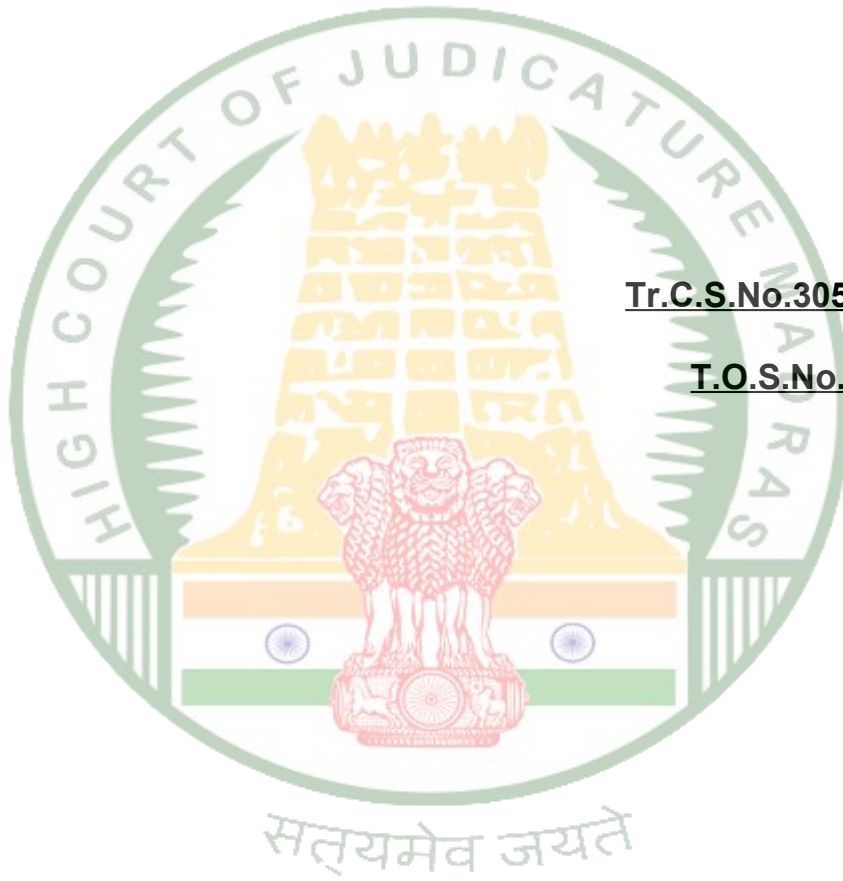
9. The Court Fee paid in both the suits are ordered to be returned to the parties. Consequently, connected miscellaneous applications are closed.

20.04.2018

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Note : Issue copy on 24.04.2018

N.SATHISH KUMAR, J
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Tr.C.S.No.305 of 2016 &

T.O.S.No.27 of 2016

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20.04.2018

Tr.C.S.No.305 of 2016
and
T.O.S.No.27 of 2016

N.SATHISH KUMAR, J.

The matter is listed today under the caption 'for being mentioned' at the instance of the learned Counsel appearing for the Plaintiff in the T.O.S.No.27 of 2016.

2.The learned counsel appearing for the plaintiff in T.O.S.No.27 of 2016 submitted that while disposing this matter, this Court has passed an order to refund the court fee paid to the parties. It is the contention of the learned counsel that no court fee has been paid in T.O.S.No.27 of 2016. The same shall be recorded.

3.In view of the same, the direction issued in Paragraph No. 9 of the Judgment that court fee paid in both the suits are ordered to be returned to the parties is deleted.

4.Paragraph No.9 of the order dated 20.04.2018 made in Tr.C.S.No.305 of 2016 & T.O.S.No.27 of 2016 is to be read as follows:

"9.The Court fee paid in the partition

N.SATHISH KUMAR, J.

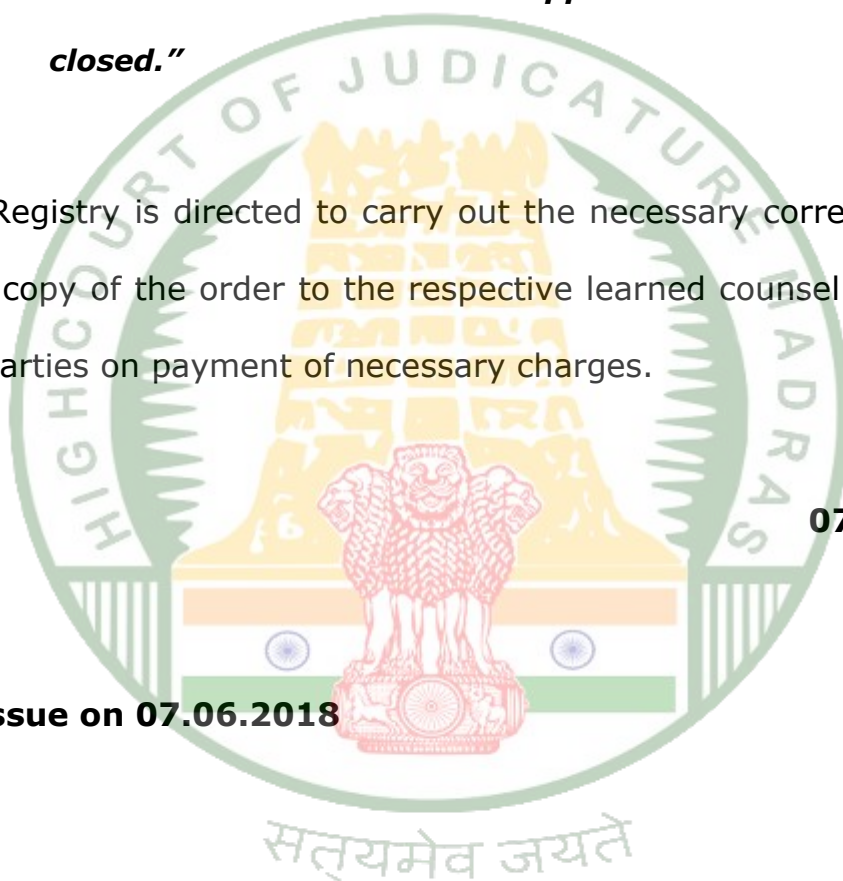
suit (Tr.C.S.No.305 of 2017) alone is ordered to be returned to the parties. Consequently, connected miscellaneous applications are closed."

5.Registry is directed to carry out the necessary corrections and re-issue copy of the order to the respective learned counsel appearing for the parties on payment of necessary charges.

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07.06.2018

Note: Issue on 07.06.2018



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**Tr.C.S.No.305 of 2016
and
T.O.S.No.27 of 2016**