



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 17TH DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE N.SESHASAYEE

O.A. Nos.770 and 638 of 2017

and

A. Nos.1391 & 3351 of 2017

and

A. No.2150 of 2021

in

C.S. No.691 of 1982

M.A.Venkatakrishna
residing at No.56,
Strotten Muthia Mudali Street,
Madras 600 001.

... Plaintiff

-Versus-

1.M.Nirmala (since deceased)(*)

2.M.Rangaprakash
residing at No.19,
Sambasivam Street,
T.Nagar, Madras-600 017.

3.M.Shyamsundar
residing at No.19,
Sambasivam Street,
T.Nagar, Madras-600 017.

4. Mrs. M. Leela (*)
Apt, B.No.2, BNR II Street,
North Boag Road, T.Nagar, Chennai 600 017.



(*)(4th defendant is impleaded as per order
dated 30.01.2018 and 28.02.2018 in
A.Nos. 745 and 746 of 2018)

... Defendants

O.A. Nos.770 & 638 of 2017 & A. Nos.1391 & 3351 of 2017:-

M.A.Venkatakrishna
Now residing at A-2, No.1, Rajarathnam Street,
Kilpauk, Chennai – 10.

... Applicant/Plaintiff

-Versus-

1.M.Nirmala (since deceased)

2.M.Rangaprakash

3.M.Shyamsundar
(All previously residing at Old No.2,
New No.19, Sambasivam Street,
T.Nagar, Chennai – 17)
Present address not known

..Respondents/Defendants

O.A. No.770 of 2017:-

Original Application praying that this Hon'ble Court be pleased to
appoint an advocate receiver to take over my father's estate, all suit
schedule properties from the clutches of the defendants, safe guard them,
render them remunerative and pass over my share of incomes on monthly
basis.

O.A. No.638 of 2017:-

Original Application praying that this Hon'ble Court be pleased to



issue interim injunction restraining the Respondent/Defendants, their children and their power agent, her men or servants from further demolition or construction and alienations.

A. No.1391 of 2017:-

Application praying that this Hon'ble Court be pleased to pass an order to appoint an advocate commissioner to sell the schedule mentioned properties by public auction.

A. No.3351 of 2017:-

Application praying that this Hon'ble Court be pleased to allow this petitioner/plaintiff to report the matter to the concerned Income Tax Officer and also order a certified copy of the advocate Commissioner report be issued.

A.No.2150 of 2021:-

1.M.Rangaprakash
No.19, Sambasivam Street,
T.Nagar, Madras-600 017.

2.M.Shyamsundar
No.19, Sambasivam Street,
T.Nagar, Madras-600 017.



North Boag Road, T.Nagar, Chennai 600 017.

... Applicants/
Respondents/
Defendants 2 to 4

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-Versus-

1.M.A.Venkatakrishna
No.56, Strotten Muthia Mudali Street,
Chennai 600 001,
Now residing at A-2,
No.1, Rajarathinam St.
Kilpauk, Chennai 600 010.

2.Jolly Bannerji,
No.38, Taylor Estate, Second St.,
Kodambakkam, Chennai 600 024.

3.C.Lane,
No.38, Taylor Estate, Second St.,
Kodambakkam, Chennai 600 024.

... Respondents 2 and 3
Third Parties/Tenants

Application praying that this Hon'ble Court be pleased to direct the tenants, viz., Jolly Bannerji, the Second Respondent herein who is occupying the first floor and C.Lane, the Third Respondent herein who is occupying the ground floor (rear portion) of the property, viz., No.38, Taylor Estate, Second Street, Kodambakkam, Chennai 600 024 to hand over vacant possession of the respective portion in their occupation to the Advocate Commissiner Mr.P.B.Balaji.

These Applications coming on this day before this court for hearing in

the presence of Mr.M.A.Venkatakrishna, the applicant in O.A.Nos.770 &



638 of 2017 and A.Nos.1391 & 3351 of 2017 and for the 1st respondent in A.No.2150 of 2021 appearing in person and Ms.K.Bhanumathi, advocate for the respondents in O.A.Nos.770 & 638 of 2017 and A.Nos.1391 & 3351 of 2017 and for the applicants in A.No.2150 of 2021 and Mr.P.B.Balaji, the Advocate Commissioner appearing in person and upon reading the order herein dated 09.09.2021 and this Court suggested to the plaintiff to work-out the value of his share entirely in Kodambakkam property (Item No.2), the plaintiff initially took some time to spare a thought over it, and later informed the Court that he is agreeable to work out his share entirely in 'A' schedule, Item No.2 property at Kodambakkam, and this Court doth recording the same, **It is ordered as follows:-**

That the Commissioner appointed therein be and is hereby directed to suggest mode of dividing Item No.2 property, in a manner that the plaintiff shall have a plot in Item No.2, equivalent to Rs.3.0 crores and in other words, plaintiff must have a plot, which whose extent is proportionate to Rs.3.0 / 8.0 crores in 'A' schedule Item No.2 and he shall also provide alternate suggestions in this regard.

2. That the parties hereto, if they have any suggestions to make, are also required to give their proposal to the Commissioner well in advance.



3. That these O.A.Nos.770 and 638 of 2017 and A. Nos.1391 & 3351 of 2017 and A. No.2150 of 2021 in C.S. No.691 of 1982 be posted on 27.09.2021 at 2.15 p.m. through physical hearing.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
17th DAY OF SEPTEMBER 2021.

Sd/-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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23.09.2021

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O.A. Nos.770 and 638 of 2017
and
A. Nos.1391 & 3351 of 2017
and
A. No.2150 of 2021
in
C.S. No.691 of 1982

ORDER :-

DATED: 17.09.2021

THE HON'BLE MR.JUSTICE
N.SESHASAYEE

FOR APPROVAL: 23/09/2021

APPROVED ON: 23/09/2021

Copy to:

Mr.P.B.Balaji,
Advocate Commissioner
No.19, Law Chambers,
High Court Buildings
Chennai.
Ph. No.: 98403 67776



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... Applicant/Plaintiff

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These Applications coming on this day before this court for hearing

the court made the following order:-

Heard both sides. The plaintiff appeared in person. The defendants appeared along with their respective counsel. The learned Commissioner is also present before the Court.



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2. 'A' Schedule has two items of properties to be divided, in each of which, the plaintiff has $\frac{1}{4}$ share. There is a 'B' schedule, which has a larger track of 10 acres in Sendrumbakkam Village, Chengalpet District and the learned Commissioner informs the Court that he faces some difficulty in identifying the property and he is not getting any support from the local revenue authorities. And, there is yet another property in 'C' schedule, which is a small plot of land in Andhra Pradesh. Apart from above, there are insurance policies, silver and gold articles etc., scheduled in Schedule D to F, in the plaint.

3. Ordinarily, the Court will pass one consolidated final decree, since it will enable balancing the equities affecting the rights of the parties easily. However, in this case, a departure has to be made for two reasons :

- (a) The litigation is pending close to about 40 years now, and it is important the litigants are given some specific properties, which may enable them to enjoy it absolutely atleast now.
- (b) Parties themselves are agreeable to go for the partition of 'A' schedule properties first, since they face some difficulty in identifying the 'B' schedule property.



Chennai-600 003, and has an extent of 1,946 sq.ft., with an old non-residential building. The second item of 'A' Schedule property is in Kodambakkam, abutting Kodambakkam Highway, and it is almost a square plot slightly measuring short of 80x80 ft., There are couple of residential accommodations, and a portion of which is partly under the occupation of the tenants.

5. Earlier, this Court has directed the parties to Mediation, and before the Mediators, the parties have agreed to a certain valuation of both the items of properties. As per their agreement, the value of Item No.1 is fixed at Rs.4 crores and the value of Item No.2 is fixed at Rs.8 crores. In all, the total value of both the items of properties is Rs.12 crores.

6. The plaintiff is entitled to 1/4th share in this. In other words, he is entitled to a extent equal to 1/4th share in the entire value of the properties. This would work out to Rs.3.0 crores.

7. Item No.1 (Devaraja Mudali Street) has a frontage of only 20 ft., on the west, and it is in a contiguous zone. Therefore, it will be difficult to divide the property into $\frac{3}{4}$ by $\frac{1}{4}$ as it may pose huge inconvenience to both the set of sharers. Therefore, this Court suggested to the plaintiff to work-



out the value of his share entirely in Kodambakkam property (Item No.2).

The plaintiff initially took some time to spare a thought over it, and later informed the Court that he is agreeable to work out his share entirely in 'A' schedule, Item No.2 property at Kodambakkam. This is now recorded.

8. The Commissioner is now directed to suggest mode of dividing Item No.2 property, in a manner that the plaintiff may have a plot in Item No.2, equivalent to Rs.3.0 crores. In other words, plaintiff must have a plot, whose extent is proportionate to Rs.3.0 / 8.0 crores in 'A' schedule Item No.2. He may also provide alternate suggestions in this regard. The parties, if they have any suggestions to make, are also required to give their proposal to the Commissioner well in advance.

Post the matter at 2.15 p.m., on 27.09.2021, through physical hearing.

Sd./-N.S.S.J.
17.09.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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