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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 13TH DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE N.SESHASAYEE

C.S.No.565 of 1998

1.K.Mohamed Ghouse, (Deceased)
S/o. Abdul Kareem Sahib,
1/1, Nainiappa Garden III Lane,
Old Washermenpet,
Chennai – 600 021.

2.M.J. Mohamed Ali.
S/o.M.Md.Jan Sahib,
No.7, Begam Sahib III Street,
Mount Road,
Chennai- 600 002.

*3.Mumtaj Begum

*4.Mohammed Javid

*5.S.Avifa Yasmin
All are residing at
1/1, Nainiappa Garden III Lane,
Old Washermenpet,
Chennai – 600 021.
*(Impleaded as per order dated 20.03.2006 in Application No. 1252 of 2006 and delay condoned carry out amendment dated 28.07.2006 in A.No. 2528 of 2006)

... Plaintiffs

-Versus-

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1.Syed Ali,
S/o. Syed Jawad,
No. 177/4006 (Old No. 98),
Poonamalle High Road,
Kilpauk,
Chennai – 600 010.

2.Syed Mehdi,
No. 177/4006 (Old No. 98),
Poonamalle High Road,
Kilpauk,
Chennai – 600 010.

3.Syed Mohamed
S/o. Syed Ismail,
177/4 & 177/5(Old No. 98),
Poonamalle High Road,
Kilpauk,
Chennai – 600 010.

4. S.A.A. Ispahani Trust rep.
By Syed Ali, 1st Defendant
functioing at the above
address No. 177/4 & 5 (Old No. 98),
Poonamalle High Road,
Kilpauk,
Chennai – 600 010.

... Defendants

C.S.No. 565 of 1998

Civil Suit praying that this Hon'ble Court be pleased to pass a judgment and Decree against the Defendants:

a) Granting a preliminary decree for partition directing the division of the 'A' Schedule properties mentioned in the Schedule properties mentioned in the Schedule here under by metes and bounds into two equal

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half share and allot one such share and separate possession to the first plaintiff by appointment of Commissioner of this Hon'ble Court.

b) Granting a preliminary decree for partition, directing the division of the 'B' Schedule properties mentioned in the Schedule hereunder by metes and bounds into equal half share and separate possession to the 2nd plaintiff by appointment of Commissioner of this Hon'ble Court.

c) Directing the defendants to render accounts to the plaintiffs in respect of the income from the suit properties from 9.1.1998 to till the date of filing of the suit.

d) Directing the defendants to pay the plaintiffs future mesne profits in respect of the suit properties from the date of filing the suit, till the date of allotment of one half share and separate possession thereof delivered to the plaintiffs in 'A' and 'B' Schedule Properties.

e) Directing the defendants to pay the plaintiffs the costs of this suit; and

This civil suit is coming on this day before this court for hearing and the plaintiff herein not appearing in person or by an Advocate and upon reading the plaint filed herein and this court having observed that the Plaintiffs are not keen to prosecute the suit and, **it is ordered as follow:-**

2) That the suit in C.S.No. 565 of 1998, be and is hereby dismissed for default.

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3) That there shall be no costs of this suit.

WITNESS, THE HON'BLE MR.JUSTICE SANJIB BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 13TH DAY OF SEPTEMBER 2021

sd/-
ASSISTANT REGISTRAR (OS I)

//Certified to be true copy//
Dated at Madras this the day of 2022.

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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28.10.2021

C.S.No. 565 of 1998

ORDER
DATED 13/09/2021

THE HON'BLE MR.JUSTICE
N.SESHASAYEE

FOR APPROVAL: 29/12/2021

APPROVED ON: 06/01/2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM : JUSTICE **N.SESHASAYEE**

C.S.No.565 of 1998

1.K.Mohamed Ghouse (deceased)
2.M.J.Mohamed Ali
3.Mumtaj Begum
4.Mohammed Javid
5.Avifa Yasmin ...Plaintiffs
(P3 to P5 are impleaded as per order dated 20.03.2006 in Application no.1252 of 2006 and delay condoned carry out amendment dated 28.07.2006 in A.No.2528 of 2006)

Vs.

1.Syed Ali
2.Syed Mehdi
3.Syed Mohamed
4.S.A.A.Ispahani Trust rep.
by Syed Ali, 1st Defendant
functioning at the above
address No.177/4 & 5 (old No.98),
Poonamallee High Road,
Kilpauk, Chennai - 600 010. ...Defendants

PRAYER : Civil Suit filed under Order IV Rule 1 O.S. Rules read with Order VII Rule 1 Civil Procedure Code :

(a) granting a preliminary decree for partition directing the division of the 'A' Schedule properties mentioned in the Schedule properties mentioned in the Schedule here under by metes and bounds into two equal half share and allot one such share and separate possession to the first plaintiff by

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appointment of Commissioner of this Hon'ble Court.

(b) granting a preliminary decree for partition, directing the division of 'B' Schedule properties mentioned in the Schedule hereunder by metes and bounds into equal half share and separate possession to the 2nd plaintiff by appointment of Commissioner of this Hon'ble Court.

(c) directing the defendants to render accounts to the plaintiffs in respect of the income from the suit properties from 9.1.1998 to till the date of filing of the suit.

(d) directing the defendants to pay the plaintiffs future mesne profits in respect of the suit properties from the date of filing the suit, till the date of allotment of one half share and separate possession thereof delivered to the plaintiffs in 'A' and 'B' Schedule Properties.

(e) directing the defendants to pay the Plaintiffs the cost of this suit; and

(f) granting such other further relief as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Plaintiffs : No appearance

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JUDGMENT

The Additional Master-I before whom the case is pending has reported that the matter has been posted for commencement of trial but, neither side turned up for three consecutive hearings. Hence, this case is posted before this Court today. Even today, none turned up.

2.It appears the plaintiffs are not keen to prosecute the suit.

3.In the result, the Suit is dismissed for default. No costs.

Sd/- N.S.S.J.
13/09/2021

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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