

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

Civil Suit No.592 of 2019 &
O.A.No.912 of 2019

1.S.Sivanandha Bhoopathy @ S.Bhoopathy Ammal

2.P.Vijayalakshmi

...Plaintiffs

Vs.

1.C.Vijaya Alwar

2.C.Muthamizh Kumaran @ Sunil Kumar

3.C.Shree Rangam

...Defendants

Plaint filed under Order 7 Rule 1 of the Code of Civil Procedure, read with Order 4 Rule 1 of the Madras High Court Original Side Rules, praying for judgment and decree against the defendant:

(a) Granting preliminary decree for partition of the suit properties, directing the suit properties to be divided into 2 equal shares and allot one such share to the plaintiffs together;

(b) By appointing of commission on application to be made by the plaintiff, and put them in possession thereof through process of Court;

(c) Directing the defendants to pay the rental arrears amount of Rs.11,70,000/- together with future interest @ 18% per annum to the plaintiffs;

(d) Granting permanent injunction restraining the defendants, their men, agents, servants, persons claiming under them or acting in trust for them etc, from in any manner alienating the suit property or creating any sort of encumbrances over the same;

(e) Directing the defendants to pay the cost of the suit to the plaintiff.

For plaintiffs : Mr.N.Vijaya Basker
for Law Vision

For defendants : Defendants set ex-parte on
31.03.2021

JUDGMENT

The Civil Suit is filed by the plaintiffs for

(a) By granting preliminary decree for partition of the suit properties, directing the suit properties to be divided into 2 equal shares and allot one such share to the plaintiffs together;

(b) By appointing of commission on application to be made by the plaintiff, and put them in possession thereof through process of Court;

(c) Directing the defendants to pay the rental arrears amount of Rs.11,70,000/- together with future interest @ 18% per annum to the plaintiffs;

(d) Granting permanent injunction restraining the defendants, their men, agents, servants, persons claiming under them or acting in trust for them etc, from in any manner alienating the suit property or creating any sort of encumbrances over the same;

(e) Directing the defendants to pay the cost of the suit to the plaintiff.

2. It is the case of the plaintiffs that father of the second plaintiff and the defendant's father have jointly purchased the property of the land and building to an extent of 7,200 sq.ft comprised in Old T.S.No.16 & 47, New T.S.No.47/12, Block No.9, situated Parasuraman Kovil Street, West Mada street, Ayanavaram, Chennai - 23 on 10.07.1978 vide registered Doc.No.1776/1978 with SRO, Anna Nagar, Chennai. The father of the defendant died on 13.01.2009 leaving behind the defendants as his legal heirs to inherit his estate. The husband of the first plaintiff and the father of the second plaintiff executed a Settlement deed in favour of the plaintiffs in respect of his undivided share in the suit schedule property on 14.07.2010 which was registered as Doc.No.2447/2010 before the SRO, Anna Nagar, Chennai. The defendants are residing in the northern side of portion and receiving the rental income of Rs.55,000/- per month whereas the plaintiffs are receiving a meagre amount of Rs.15,000/- per month from the southern side of portion of the property. The defendants are refusing to give share in the rental income and to divide the suit schedule mentioned property equally. The plaintiffs has also issued a legal notice dated 06.03.2017 and even after receipt of the notice the defendants had not come forward neither to give share in the rental income nor to

divide the suit schedule property and the defendants are trying to sell the suit schedule property to the third parties. Hence, the plaintiffs have filed the suit for the relief stated supra.

3. The defendants were called absent and were set ex-parte by this Court on 31.03.2021.

4. During the course of trial, the second plaintiff examined herself as P.W.1 and marked Exs.P-1 to P-7.

5. On a perusal of the plaint averments, the evidence of the first plaintiff as P.W.1 and Exs.P-1 to P-7, it is clear that the plaintiffs are entitled for the arrears of rent and for a preliminary decree dividing the suit property into two equal shares. Since the defendant has not paid any arrears of rent, the plaintiffs issued a legal notice, which was received from the first defendant but has not responded for the same. Hence, the plaintiffs are entitled to the decree as prayed for alone in the suit in respect of clause (a) alone.

6. In the result, the suit is decreed as prayed for insofar as prayer in clause (a) alone. As far as the other prayers in clauses (b),(c) and (d) are concerned, the same does not arise at this stage. No costs. Consequently, the connected application stands closed.

22.09.2021
(1/2)

Internet: Yes

mrm

<https://www.mhc.tn.gov.in/judis/>

Witnesses examined on the side of plaintiff:-

P.W.1 Mrs.P.Vijayalakshmi (second plaintiff)

List of documents marked on the side of plaintiff:-

Exhibit	Date	Description of the exhibit
P-1	10.07.1978	Certified copy of sale deed dated 10.07.1978.
P-2	14.07.2010	Certified copy of the settlement deed dated 14.07.2010.
P-3	23.09.2010	Certified copy of General Power of Attorney executed by the plaintiff's dated 23.09.2010.
P-4	10.09.2015	Copy of Survey plan and Extract from town survey land registered dated 10.09.2015.
P-5		Photocopy of Electricity Card
P-6	06.03.2017	Original legal notice sent by the plaintiffs
P-7	09.03.2017	Original Return covers of D-2 & D-3.

Witnesses examined on the side of defendant:-- Nil

Documents marked on the side of defendant:- Nil

Court witness and Court documents : Nil

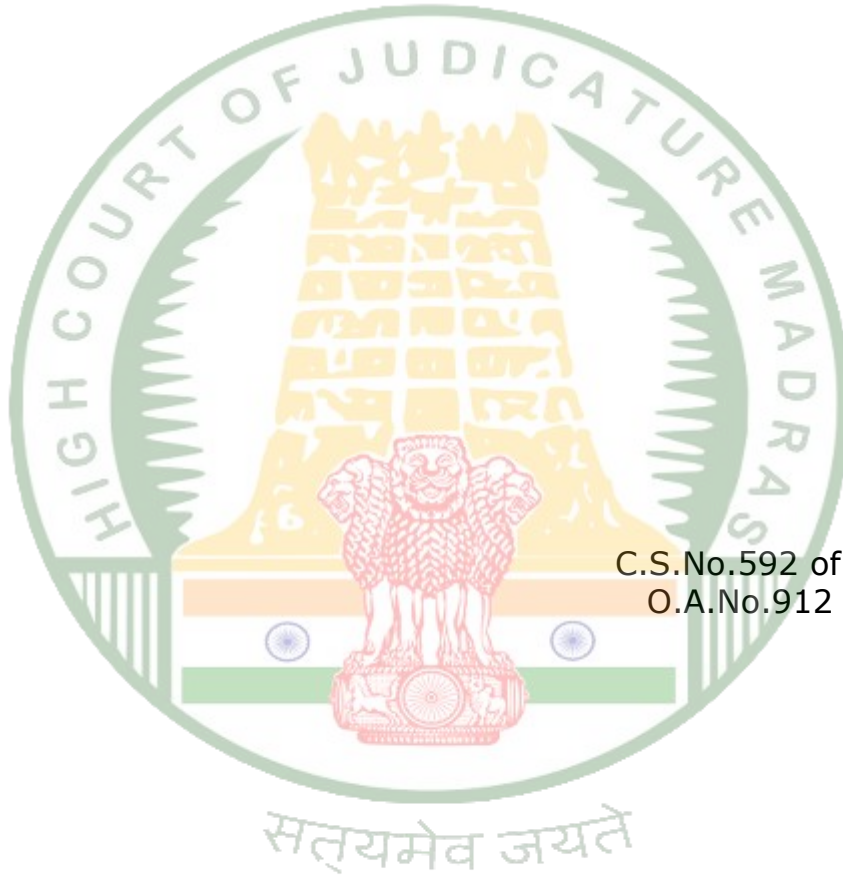
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22.09.2021
(2/2)

Registry to note: Registry is directed to issue the judgment copy along with the above typed list of witnesses and documents.

V.PARTHIBAN.,J

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WEB COPY

22.09.2021