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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA  
AND

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

A.S.No.780 of 2018  
and  
C.M.P.No.21130 of 2018

1.D.Veerabadran

2.N.Premavathy ..Appellants/2 & 3 Defendants

Versus

1.R.Senthil Kumar

2.D.Sekkizhar @ Ravi ..Respondents/Plaintiffs

3. D. Sivamani ..3<sup>rd</sup> Respondent/1<sup>st</sup> Defendant

Prayer: Appeal has been filed under Section 96 of the Civil Procedure Code, against the judgment and decree dated 27.04.2018 passed in O.S.No.10 of 2014 by the District Court No.II, Kancheepuram.

For Appellants : Mr.K.Sitharthan

For Respondents : Mr.R.Krishnaswamy

JUDGMENT

(Judgment of the Court was made by T.RAJA, J.)

Before the Court below, the appellants herein are the defendants 2 and 3 and respondents 1 and 2 are the plaintiffs and third respondent is the first defendant. The plaintiffs/respondents 1 and 2 filed a suit in O.S.No.10 of 2014 with the following prayer:

(a) for a partition of the suit properties by metes and bounds and for allotment of their 7/30<sup>th</sup> share each in all the suit properties and for separate possession;



(b) for declaration that the release deed dated 24.08.2010 alleged to have been executed by Kumudhavalli and Premavathi in favour of the second defendant/Veerabadran, registered as Document No.9209/2010 on the file of Sub-Registrar Office is null and void.

2. After perusal of the oral and documentary evidences, the Court below decreed the suit by holding that the plaintiffs are entitled to 7/30<sup>th</sup> share each in the suit properties, the defendants 1 and 2 are entitled to 7/30<sup>th</sup> share each in the suit properties; and Kumudavalli, the mother of the parties, and the third defendant/Premavathi are entitled to 1/30<sup>th</sup> share each in the suit properties. It is further held that the release deed dated 24.08.2010 executed by Kumudhavalli and Premavathi in favour of the second defendant/Veerabadran, registered as Document No.9209/2010, is valid. Aggrieved by the impugned judgment and decree, the defendants 2 and 3 have filed the present appeal.

3. It is seen from the records that the parties are blood relatives and therefore, when the matter was taken up on 30.11.2021, this Court suggested the parties to settle the issue amicably.

4. Accordingly, today, when the matter is taken up, Mr.K.Sitharthan, learned counsel for the appellants, filed a Memo of Calculation dated 30.11.2021 showing allotment of number of shares between the parties. For better appreciation, the said Memo of Calculation is extracted below:-

|                          |                                        |
|--------------------------|----------------------------------------|
| Kumudavalli Ammal (wife) | - 1/36 <sup>th</sup> share             |
| Rajkumar (son)           | - 1/6 + 1/36- 7/36 <sup>th</sup> share |
| Sivamani (Son)           | - 1/6 + 1/36- 7/36 <sup>th</sup> share |
| Veerabathran (son)       | - 1/6 + 1/36- 7/36 <sup>th</sup> share |
| Sekkizhar @ Ravi (son)   | - 1/6 + 1/36- 7/36 <sup>th</sup> share |
| Premavathi (daughter)    | - 1/6 + 1/36- 7/36 <sup>th</sup> share |

4. Mr.R.Krishnaswamy, learned counsel for the respondents, on instruction from his clients, has also agreed for the above said Memo of Calculation (shares) dated 30.11.2021 filed by the appellants.

5. Therefore, recording the joint statement made by the learned counsels for the appellants and the respondents agreeing for the Memo of Calculation (shares) dated 30.11.2021, the appeal suit is partly allowed. Memo of Calculation (shares)



dated 30.11.2021 shall form part of the judgment. Consequently, the impugned judgment and decree passed by the Court below is partly modified to the extent of Memo of Calculation (shares) dated 30.11.2021. No Costs. CMP.No.21130 of 2018 is closed.

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**(\*Memo of Calculation Xerox copies enclosed)**

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

rkm

To

1. The District Court No.II,  
Kancheepuram.

2. The Section Officer  
VR Section  
High Court, Madras 104.

+1 CC to Mr.K.Sitharthan, Advocate sr 62831.

A.S.No.780 of 2018

GMI (CO)  
SP(07/03/2022)