



S.A.No.496 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2022

C O R A M

THE HONOURABLE Ms.JUSTICE **P.T.ASHA**

S.A.No.496 of 2022

G.Revathy

...Appellant

- Vs.-

1.K. Nagarathinam

2.P. Anjalakshi

3.S.Ramesh

4.Kalpana

5.S.Lalitha

6.S.Prabhakaran

7.S.Mahendiran

...Respondents

Prayer : Second Appeal filed under Section 100 of Civil Procedure Code praying to set aside the judgment and decree of the lower appellate Court passed by XX Additional Sessions Judge, City Civil Court, Chennai in A.S.No.394 of 2018 dated 23.11.2021 confirming the judgment and decree of the IV Assistant City Civil Court, Chennai in I.A.No.750 of 2017 in O.S.No.3289 of 2012 dated 28.11.2017.

For Appellant : Mr.R.Baskar



WEB COPY



S.A.No.496 of 2022

J U D G M E N T

The plaintiff is the appellant before this Court, challenging the final decree passed by the learned IV Assistant Judge, City Civil Court, Chennai in I.A.No.750 of 2017 in O.S.No.3289 of 2012, dated 28.11.2017.

2. The challenge is only on the ground that the plaintiff has not been allotted the front portion of the property (on the Eastern side, which is the customary system). Considering the very limited scope of the appeal, I do not intend to traverse into the details of the pleadings, taking into consideration the fact that the preliminary decree has attained finality and the final decree is challenged only with reference to allotment of sharers.

3. The grievance of the appellant is that she alone had approached the Court for partition, she being the youngest and she ought to have got the front portion of the property, which is marked as portion No.1 in sketch No.2 of the Advocate Commissioner's Report. Except for this, there are no other grounds that have been raised in the grounds of appeal.



4. The Courts below have given sufficient reasons for not allotting the front portion to the appellant. The learned IV Assistant Judge, City Civil Court, Chennai, in his judgment, has stated that the front portion of the property had been allotted to the first respondent, taking into consideration the fact that he has been in possession of the same for a very long time. The Commissioner has allocated equal shares to all the four sharers and access to all the portions has been provided through the passage from the main Road. The Advocate Commissioner has filed his report along with the sketch, in which, the Commissioner has taken in the following factors.

"5. I have arrived to the suit schedule at about 10.30a.m. but entered only at 11 a.m., after arrival of all the counsels and all the parties. The property is old tiled house and it is facing south side by Venkatachala Naicker Street and 2/3 of the suit schedule property in the possession and enjoyment of the 1st respondent, which include an unused shop portion, a hall, a kitchen and a bedroom. The unused shop portion is claimed by the 1st respondent that it was a milk selling shop and the rent of the shop had been received by the 1st respondent previously and now it is unused, some waste things are stored in it. The petitioner is in possession the 1/3rd portion of the suit schedule property which includes two unused bedroom. An old lady is residing in the hall and she is claimed to be mother-in-law of the petitioner. The respondents



S.A.No.496 of 2022

3rd to 7th are not residing in the suit schedule property and it is agreed by them."

WEB COPY

Thereafter, the Commissioner has measured the property and prepared his sketch. The appellant has not been able to show the proof for his contention that it is customary to allot the front portion to the youngest member of the family. The appellant has not made out any question of law warranting interference of this Court.

5. Accordingly, the Second Appeal is dismissed. No costs.

29.06.2022

Index:Yes/No
Speaking Order : Yes/No
srn

To

- 1.The XX Additional Sessions Judge, City Civil Court, Chennai
- 2.The IV Assistant City Civil Court, Chennai



WEB COPY



S.A.No.496 of 2022

P.T.ASHA.J

srn

S.A.No.496 of 2022

29.06.2022