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C.S.No.438 of 2015 & T.O.S No.5 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.S.No.438 of 2015 and O.A No.580 of 2015
and
T.O.S No.5 of 2017 (O.P No.218 of 2016)

S.Sharmila

.. Plaintiff in
C.S. No.438 of 2015 &
Respondent in
T.O.S No.5 of 2017

vs.

S.Surendra Babu @ Sudhakar

.. Defendant in
C.S. No.438 of 2015 &
Petitioner in
T.O.S No.5 of 2017

Prayer in C.S No.438 of 2015: Civil Suit filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of CPC, praying to pass the following judgment and decree against the defendant.

a) for preliminary decree of partition of the suit schedule properties and to allot 1/2 share to the plaintiff.

b) To direct the defendant to pay 1/2 share to the plaintiff over the past rental income received from the tenants in the suit schedule Item-I property for a period



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of three years before the date of the suit.

c) To direct the defendant to pay 1/2 share to the plaintiff over the future rental income received from the tenants in the suit schedule Item-I property from the date of suit till a metes and bounds partition is effected.

d) granting permanent injunction restraining the defendant, his men, agents and any other person claiming through him from alienating or in any manner creating further encumbrance over the suit schedule properties until metes and bounds partition and separate allotment of the share to the plaintiffs is effected.

e) To direct an enquiry under Order 20 Rule 12 of Civil Procedure Code for fixing the actual past and future rental income from the suit schedule Item- I property.

f) to pay costs of this suit.

Prayer in T.O.S No.5 of 2017: Petition filed under Sections 232 and 276 of the Indian Succession Act 1925 and Order XXV Rule 5 of O.S Rules to grant Letters of Administration with the Will annexed to him as the son beneficiary under the Will of the deceased having effect throughout the State of Tamil Nadu. As per order of this Court, the Original Petition



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No.218 of 2016 was converted into Testamentary Original Suit No.5 of 2017.

For Plaintiff in
C.S No.438 of 2015 &
Respondent in TOS No.5 of 2017 : Mr.M.Mohideen Pitchai

For Defendant in
C.S No.438 of 2015 &
Petitioner in TOS No.5 of 2017 : M/s.R.T.Shyamala

COMMON JUDGMENT

The Civil Suit is filed for partition, past and future mesne profits, permanent injunction and for costs and the Testamentary Original Suit is filed for grant of Letters of Administration.

2. The learned counsel on either side has submitted that the matter has been settled between the parties before the Mediation Centre and they have entered into a compromise. Pursuant to the same, they have filed a Settlement Agreement dated 21.06.2023 which has been duly signed by them and their respective counsel.



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3. In view of the submissions made by the learned counsel on either side and recording the Settlement Agreement, these two Suits stand disposed of, in terms of the said Settlement Agreement, which shall form part of the Decree. The plaintiff, namely S.Surendra Babu @ Sudhakar in TOS No.5 of 2017 is directed to execute a security bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in favour of the Assistant Registrar (O.S-II), High Court, Madras. No costs. Court Fee is ordered to be refunded to the plaintiff as per law. Consequently, connected original application is closed.

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Index:Yes/No

Speaking/Non-speaking order:Yes/No

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A.A.NAKKIRAN,J.

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