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C.S.No.116 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.12.2023

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.116 of 2023

A.No.6855 of 2023

Aishwarya Ramji

.. Plaintiff

Versus

Ashwathnarayan Ramji

.. Defendant

Prayer in C.S.No.116 of 2023: Plaint filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of the Code of Civil Procedure, to pass a judgment and decree to:

- a) divide the immovable properties described in schedule A as per the shares held by the plaintiff and defendant, i.e., 84% and 16% respectively by metes and bounds with reference to good and bad soil and allot 84% share to the plaintiff;
- b) Costs of the above suit.

For Plaintiff : Mr.Arun C.Mohan
For Defendant : Ms.Vanathi Pannerselvam



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COMMON JUDGMENT

This Civil Suit has been laid for dividing the immovable properties

described in schedule A as per the shares held by the plaintiff and defendant, i.e., 84% and 16% respectively by metes and bounds with reference to good and bad soil and allot 84% share to the plaintiff.

2. The application in A.No.6855 of 2023, has been filed to set aside the ex parte order dated 06.10.2023 against the defendant and take the written statement on file.

3. The plaintiff is the sister of the defendant, as the defendant set exparte, the plaintiff side evidence has been recorded and closed. At this stage, the above application has been filed against the ex parte order.

4. Now, both the parties are willing to divide the properties as per their entitlement. The memo is also filed on the side of the defendant along with the application to set aside the exparte order agreeing for partition. Such view of the matter, in order to give quietus to the matter, the application in A.No.6855 of 2023 is ordered and the exparte order passed



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against the defendant dated 06.10.2023 is set aside.

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5. The plaintiff seeks a preliminary decree for partition of the suit property at the ratio of 84:16. According to the plaintiff, she is entitled to 84% in the suit properties, whereas, the defendant is entitled to 16%. The defendant has not disputed his entitlement and the memo filed by him also confirms the same. Overall extent, the defendant is entitled to 710.4 sq.ft., out of the total area of 4437.50 sq.ft.,

6. The memo filed on behalf of the defendant is taken on record. The defendant is also present through the video conferencing and he has also admitted for partition of the property and filed Court Fee for allotment of the shares. Both sides are agreeable for passing a final decree in the light of the plan prepared by them. The plan is also signed by learned counsel appearing for both sides. The portion delineated in yellow is allotted to the defendant and the portion shown in white colour is allotted to the plaintiff. The plan shall form part of the decree and judgement. It is also agreed between the parties that the plaintiff will dig a new bore well at their own cost in the place allotted to the defendant at the request of the defendant. It is also



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agreed, in the event, the bore well is not feasible in the place allotted to the defendant, the plaintiff will give access to the existing bore well which is situated in the place allotted to the plaintiff for the purpose of drawing the water in the bore well by the defendant. It is also agreed by the defendant that in the event of sale of properties allotted to him, the plaintiff shall have the preferential right with the purchaser property.

7. Accordingly, the final decree is passed for division of properties. The sketch shall be attached with the decree, since the Court Fee is already paid by the defendant. Such view of the matter, the portion shown in the yellow to around 710 sq.ft., allotted to the defendant and portion shown in the white to around 3727.50 sq.ft., is allotted to the plaintiff. Considering the nature of dispute and relationship between parties, no costs. Consequently, connected application is closed. One month time is granted to the parties to deposit the non judicial stamp papers for engrossing the final decree.

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List of Witnesses examined on the side of the Plaintiff :



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1. P.W.1

Ms.Aishwarya Ramji

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List of Exhibits marked on the side of the Plaintiff :

<i>Sl. Nos.</i>	<i>Exhibits</i>	<i>Description of documents</i>	<i>Date</i>
1	Ex.P1	Original parent sale deed registered as Document No.1917 of 2014 at the SRO, Saidapet	21.02.1974
2	Ex.P2	Original Sale Deed registered as Document No.1547 of 2000 at the SRO, Adyar	17.08.2000
3	Ex.P3	Original judgement and decree in C.S.No.412 of 2008 along with memorandum of settlement 17.03.2018	30.08.2019
4	Ex.P4	Original deed of settlement executed by N.Ramji in favour of Mrs.Sharmila Ramji.	06.02.2018
5	Ex.P5	Original deed of settlement executed by N.Ramji and Mrs.Sharmila in favour of plaintiff	11.02.2023

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Internet : Yes

Index : Yes / No

Speaking order / Non Speaking order

N. SATHISH KUMAR, J.



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To

The Sub-Assistant Registrar,
Original Side,
High Court, Madras.

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