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C.R.P. (PD) No.1009 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition (PD) No.1009 of 2024
and C.M.P.No.5205 of 2024

G.Jothi

.. Petitioner

Versus

G.Nagalingam (died)

1.N.Renuka Devi

2.Sophana

3.N.Jayakumar

(Cause title accepted vide order
of this court dated 26.02.2024
made in C.M.P.No.4076 of 2024
in C.R.P.Sr.No.17471 of 2024)

.. Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 10.11.2023 in I.A.No.4 of 2021 in O.S.No.1499 of 2020 on the file of the VII Additional Judge, City Civil Court, Chennai.

For the Petitioner : Mr.Gnanasekar
for Mr.K.Shyam Sundar

For the Respondents : Mr.A.Balasingh Ramanujam for RR1 & 2
for R3 – served – No appearance



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ORDER

This Civil Revision Petition arises against the order passed by the VII Additional Judge, City Civil Court, Chennai in I.A.No.4 of 2021 in O.S.No.1499 of 2020 dated 10.11.2023.

2. The Civil Revision Petitioner is the plaintiff in the suit. The respondents are the legal heirs of the plaintiff's elder brother. The suit sought for a decree of partition and separate possession of half share of the plaintiff's right in the property. The property was purchased by the plaintiff and defendant's grand father, one V.P.Natesa Mudaliar. The said Natesa Mudhaliar settled the property in favour of N.Gangadharan, the father of the plaintiff and defendant. The said Gangadharan died intestate, leaving the plaintiff and the defendant to succeed to the property in equal shares. As the demand of the plaintiff was not met with, he came forth with the suit for partition.

3. A detailed written statement was presented by the defendant. The parties went for trial and the learned VII Additional Judge, City Civil Court, decreed the suit as prayed for on 01.07.2021. Thereafter, the plaintiff took out



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an application for passing of final decree in I.A.No.4 of 2021. The learned Trial Judge appointed an Advocate Commissioner to visit the suit property and submit a report on the mode of division. The Advocate Commissioner also submitted a report on 04.07.2022. He pointed out that the building is about 37 years old and has developed huge cracks making the property literally worthless.

4. Taking the report into consideration and since the parties were not amenable for settlement, the learned Judge allowed the application with a direction to demolish the superstructure and to divide the land into two equal parts with the help of the Surveyor and with a common pathway for both of them. Aggrieved by the same, the plaintiff is on revision.

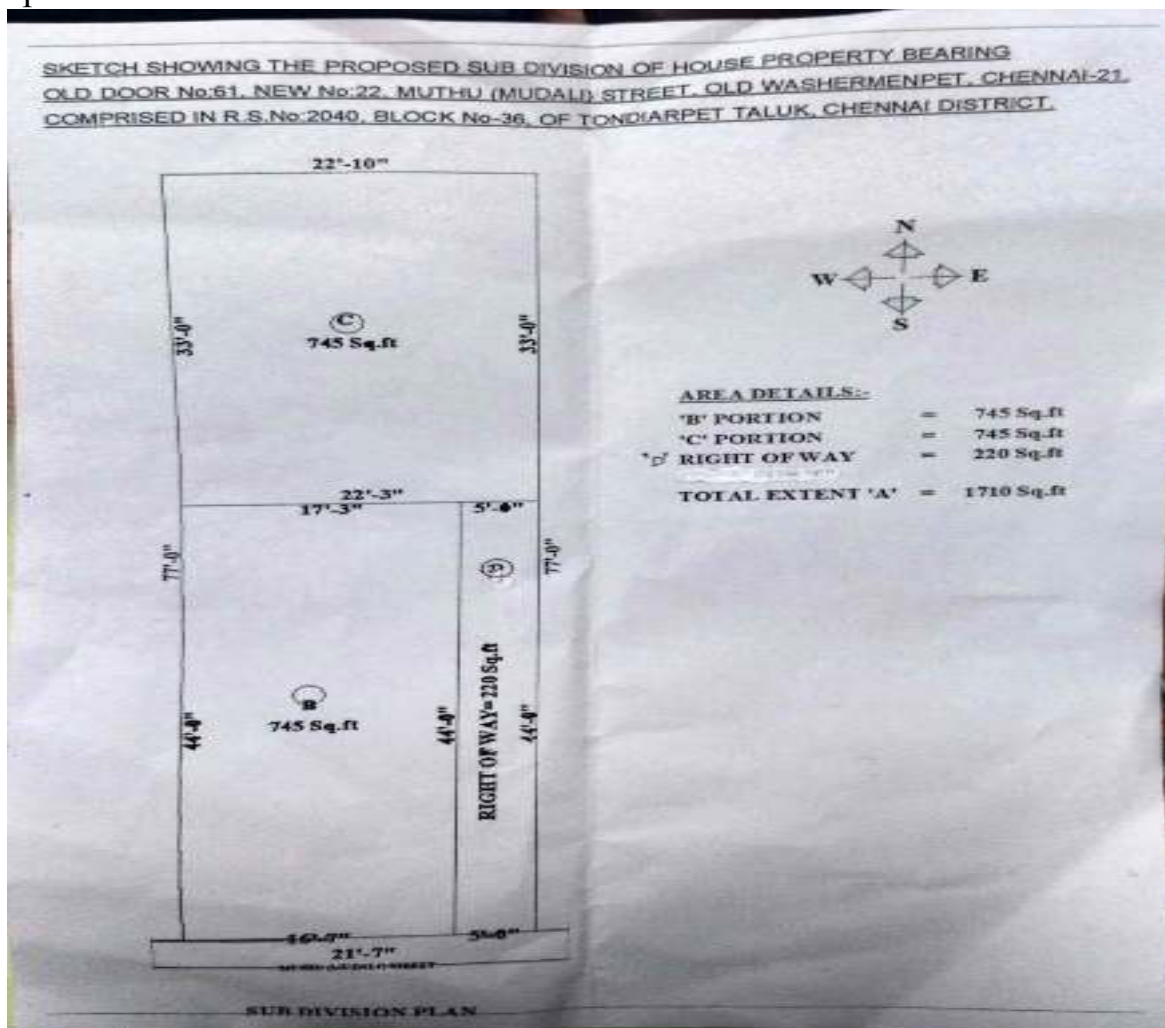
5. Notice was ordered in this revision on 19.03.2024. Mr.Balasingh Ramanujam has entered appearance for the respondents 1 and 2.

6. On the request of Mr.Gnanasekar, who represents the Civil Revision Petitioner, I referred the matter to mediation. Despite the best efforts



of the Mediator, it could not fructify into an agreement. Hence the matter is listed before me for arguments and orders.

7. Mr.Gnanasekar circulated a plan together with sub-divisions and details, which is agreeable by Mr.A.Balasingh Ramanujam. The said plan is reproduced below:-





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8. Considering the circumstances and the close relationship between the parties, I am inclined to pass the following order:-

(i)The plan which has been extracted above shall be the basis for the division of the property;

(ii)The Trial Court shall draw lots to determine which portion of the property should be allotted to the parties;

(iii)The pathway shown as 'D' to an extent of 5 feet by 44 feet running North-South commencing from Muthu Mudali Street shall be maintained in common for the convenient enjoyment of both the parties;

(iv)The portion marked as 'D' shall have to bear the burden of the utility lines for both the portions marked as 'B' and 'C'. To make it abundantly clear, the person, who obtains the possession of the portion marked as 'B' will be entitled to use the area marked 'D' without any interference of the person who gets the allotment of portion marked as 'C';

(v)The person who gets allotted with the portion marked as 'C' is entitled to place a gate at the northernmost corner of the passage i.e., at the beginning of the portion marked as 'C';

(vi)The exercise for drawing of lots for allotment of the property



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shall be completed by the learned Judge, within a period of eight weeks from the date of receipt of a copy of this order.

(vii)With the above modifications regarding the plan suggested by Mr.Gnanasekar, this Civil Revision Petition stands disposed of.

(viii)No costs. Consequently, the connected miscellaneous petition is closed.

18.10.2024

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Index : Yes / No

Internet: Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

The VII Additional Judge, City Civil Court, Chennai.



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V.LAKSHMINARAYANAN, J.,

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