

IN THE HIGH COURT OF JUDICATURE AT MADRAS

C O R A M

DATED: 9/11/2020

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.393 of 2015

1. K. Vijayalakshmi
2. K. Visveswara Gupta
3. K. Ramalakshmi
4. K. Rangaraju Gupta
5. G. Uma Devi
6. C.H.Bharathi Devi

Plaintiffs

Vs

Usha Rani

Defendant

Prayer: Civil Suit filed under Order II Rule 1 of Original Side Rules
read with Order VII Rule 1 of CPC.

For applicant

...

Mr.S. Ambigapathi

For defendant

...

Mr.P.B. Balaji

J U D G M E N T

Civil Suit has been filed to pass a preliminary decree directing
division of suit Schedule property by metes and bounds and allocation

of 1/5th share together to the plaintiffs 1 to 3 and 1/5th share each to the plaintiffs 4 to 6 and deliver possession thereof and to appoint an Advocate Commissioner to effect division of suit Schedule property by metes and bounds and allot the shares to the parties thereon according to their right and title.

2. In the written statement, defendant has claimed a share about 6/25th share and also claimed damages Rs.25 lakhs. However, the matter is mediated between the parties, on 14/8/2019. Joint memo of compromise was entered into between the plaintiffs and defendant. Before the Mediation, the following settlement has been arrived at between the parties.

(i). Plaintiffs shall be jointly entitled to 76% and defendant shall be entitled to 24% of the sale proceeds

(ii). Towards the damages, plaintiffs have agreed to pay Rs.9 lakhs in full and final settlement of the counter claim.

(iii). Property shall be sold within ninety days from the date of the said agreement.

3. Today, when the matter is taken up for hearing, difficulty has been expressed by both the counsel that sale could not be completed as agreed within a stipulated period. However, both sides have no objection for passing a preliminary decree in pursuant to the agreement entered into between the shares and the counter claim.

4. In such a view of the matter, instant **Civil Suit is disposed of** and preliminary decree can be passed in pursuant to the agreed share between the parties. Accordingly, a preliminary decree is passed for allotting 76% of the property to the plaintiffs and 24% to the defendant. Apart from that, defendant is also entitled to Rs.9 lakhs as agreed between the parties in full and final settlement of the counter claim. It is well open to the parties to file a petition for passing final decree of partition of the properties by appointing an Commissioner. **No costs.**

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mvs.

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N.SATHISH KUMAR,J

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