



WEB COPY



A. No.1579 of 2024

in

C.S. No.57 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

A. No.1579 of 2024

in

C.S. No.57 of 2019

1. Ashok Kumar Gupta HUF
S/o. Laxmichand Gupta

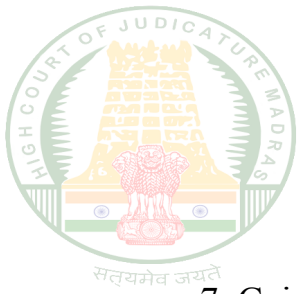
2. Bimla Gupta
W/o. Dr. Ashok Kumar Gupta

3. Navneet Gupta (HUF)
S/o. Dr. Ashok Kumar Gupta

4. Avinash Gupta (HUF)
S/o. Dr. Ashok Kumar Gupta

5. Anand Swaroop Gupta
S/o. Late Brijmohan Gupta

6. Gajanand Saraf
S/o. Late Gopiram Saraf



A. No.1579 of 2024
in
C.S. No.57 of 2019

7. Gajanand Saraf (BHUF),
S/o. Late Gopiram Saraf

8. Gajanand Saraf (SHUF)
S/o. Late Gopiram Saraf

9. Mohan Lal Fatehpuria (HUF)
S/o. Late Banwarilal Fathepuria

10. Mahinder Kumar Gupta (HUF),
S/o. Late Sri Hannumandas Gupta
[applicants 1 to 10 represented by their
Power of Attorney Mr. Rajesh Saraf]

... Applicants / Plaintiffs

Vs.

Laxmichand Gupta (since deceased)
S/o. Late Sri Sriram Gupta

1. Sulochana Aggarwal W/o. Sri Naval Kishore Agarwal

2. Ravindra Kumar Gupta S/o. Sri Padam Kumar Gupta

3. Namita P. Gupta W/o. Late Sri Padam Kumar Gupta

4. Sita Devi Gupta W/o. Sri Laxmichand Gupta

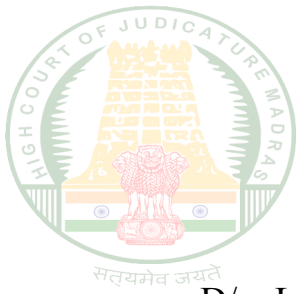
5. Sulochana Devi Fatepuria W/o. Sri Jugal Kishore Fathepuria

6. Pawan Kumar Gupta S/o. Laxmichand Gupta

7. Indian Overseas Bank
represented by its Manager

8. Sheela Jhunjhunwala

Page No.2 of 10



A. No.1579 of 2024
in
C.S. No.57 of 2019

D/o. Late Laxmichand Gupta and
W/o. Ravin Javin Jhunjhunwala

9. Kavitha Pittie D/o. Late Laxmichand Gupta
and W/o. Sri Vinod Kumar Pittie

10. Sushma Bansal D/o. Late Laxmichand Gupta
and W/o. Sri Anil Kumar Bansal ... Respondents / Defendants

PRAYER: This application has been filed under Order XIV Rule 8 read with Order XXIII Rule 11 & 12 of the Madras High Court Original Side Rules read with Order XXVI Rule 13 & 14 of the Code of Civil Procedure praying to pass a final decree in C.S. No.57 of 2019 on the file of this Court by directing division of the property more fully described in the schedule and to allot 66.20% of share in the said property to the applicants / plaintiffs.

For Applicants : Mr. G. Raj Kumar

For Respondents:

R1, R5 and R7 : Mr. R. Bharath Kumar
R2, R3, R4, R8,
R9 and R11 : No appearance.



WEB COPY



A. No.1579 of 2024

in

C.S. No.57 of 2019

R10

:

Notice served in C.S.

No appearance.

ORDER

This application has been filed by the applicant to pass a final decree based on the preliminary decree passed by this Court through an order dated 31.10.2023.

2. According to the applicants, they filed the main Suit for the relief of partition and separate possession over the Suit properties and already preliminary decree was passed by this Court to divide the Suit properties as 66.20% share to the Plaintiffs. Thereafter, they filed a petition for appointment of an Advocate Commissioner to divide the said properties and the Commissioner was also appointed and he inspected the property along with a qualified surveyor and the Commissioner has also filed his report. As per the Commissioner's report and plan, the 1st part of the property was suggested to be allotted to the applicants / plaintiffs and the 2nd part was



A. No.1579 of 2024

in

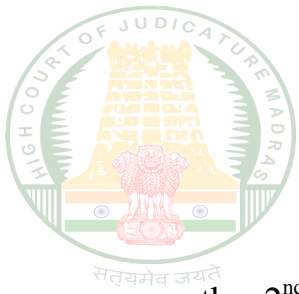
C.S. No.57 of 2019

suggested to be allotted in favour of the respondents / defendants. Thereafter,

the 7th defendant expressed his desire to sell the property to the applicant and wanted his share to be allotted on the northern side instead of southern side.

Therefore, another sketch was drawn by the Advocate Commissioner as per the direction of this Court. The sketch filed along with the memo shows that the defendants' share of 26.8% on the northern side as Part-I and demarcated as A, B, C and D as per the sketch filed along with the memo. The Plaintiffs' share along with that of the 2nd defendant's share aggregating to 73.2% is shown as Part-II and demarcated as C, D, E and F and therefore, said portion is to be allotted to the Plaintiffs. Already these applicants have filed their objections for the Commissioner's report and therefore, considering the objections raised by the applicants, the property has to be divided and final decree may be passed to that effect.

3. According to the respondents, the Advocate Commissioner was appointed and he drew sketch and suggested the 1st part to the Plaintiffs and



A. No.1579 of 2024

in

C.S. No.57 of 2019

the 2nd part to the defendants. In the meanwhile, one of the defendants

decided to sell the property to the Plaintiff and wanted northern side property

to be allotted to the Plaintiffs. The 2nd Sketch drawn by the Advocate

Commissioner for the 73.20% portion to the Plaintiffs and 26.80% to the

defendants is not convenient to the enjoyment of the respondents / defendants.

Therefore, the Sketch drawn by the Commissioner as per the preliminary

decree by allotting the part-I area of 66.20% to the Plaintiffs and part-II area

of 33.80% to the defendants is more convenient. Since this Court passed the

preliminary decree by dividing the properties to the Plaintiffs for 66.2% and

to the defendants for 33.8%, the respondents / defendants are ready to pay

court fee for their share by accepting the commissioner report and the plan

furnished by the Commissioner for allotting 66.2% to the applicants /

Plaintiffs.

4. This Court heard both sides and perused the records.

Page No.6 of 10

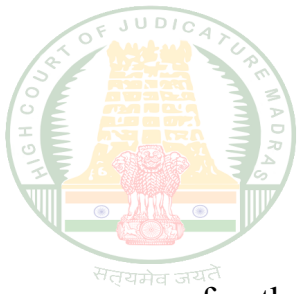


A. No.1579 of 2024
in
C.S. No.57 of 2019

WEB COPY

5. Already this Court passed a preliminary decree by declaring the Plaintiffs' share as 66.20% and no appeal is filed as against the preliminary decree. Thereafter, the Plaintiffs filed an application for appointment of an Advocate Commissioner to divide the property and the Commissioner was appointed by this Court. The Advocate Commissioner, as per the preliminary decree divided the properties and had drawn sketch with the help of surveyor. As per Sketch, I Part 66.20% was suggested to be allotted to the Plaintiffs. In the meantime, one of the defendants was willing to sell his share to the Plaintiffs, therefore, the Plaintiffs wanted to allot the share of the defendant adjacent to 66.20% share property. This Court also directed the Commissioner to draw another sketch for 73.20% to the Plaintiffs and 26.80% to other defendants and sketch was also drawn. The defendants objected for the allotment of share to the Plaintiffs as 73.20% as it is not convenient enjoyment to them. After elaborate arguments, the learned counsel appearing

Page No.7 of 10



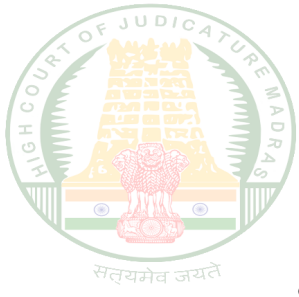
A. No.1579 of 2024
in
C.S. No.57 of 2019

WEB COPY

for the applicants / plaintiffs also agreed to allot share to the Plaintiffs as ordered in the preliminary decree.

6. Therefore, this Court is of the opinion that as suggested by the Advocate Commissioner by allotting part-I 66.20% to the Plaintiffs is more convenient and therefore, this Court accepted the suggestion of the Commissioner by allotting Part-I having 66.2% i.e., 18.146 grounds to the applicants / Plaintiffs and the remaining Part-II of 33.80% having 9.265 grounds to the respondents / defendants.

7. With the above said allotments of shares, final decree is passed and the respondents / defendants are directed to pay appropriate Court fee as per the rules.



A. No.1579 of 2024
in
C.S. No.57 of 2019

WEB COPY

8. Accordingly, this application is **allowed and final decree is passed**
and the Advocate Commissioner's report and plan shall form part of the
final decree. Consequently, the civil suit is closed.

18.09.2025

mjs

P.DHANABAL.,J

mjs

A. No.1579 of 2024
in



WEB COPY



A. No.1579 of 2024

in

C.S. No.57 of 2019

C.S. No.57 of 2019

18.09.2025