



O.S.A.No. 216 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

O.S.A.No. 216 of 2025
and
C.M.P.No.14298 of 2025

1.Sathyavathi
2.T.Krishnakumar

.. Appellants

VS

1.M/s. Subiksha Housing (P) Ltd.,
Rep. by its Managing Director Mr.K.Balaji,
D.No.3/2, Lambeth Avenue Off Bawa Road,
Abiramapuram, Chennai – 600 018.

2.T.Premkumar

3.T.Karpagam

.. Respondent

Prayer : Appeal filed under Order XXXVI Rule 1 of O.S. Rules read with
Clause 15 of Letters Patent against order dated 01.04.2025 made in
A.No. 543 of 2025 in C.S.No. 125 of 2024.

For Appellants : Mr.E.C.Ramesh

For Respondents : Mr.K.V.Babu
for R1



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O.S.A.No. 216 of 2025

JUDGMENT

(Delivered by Dr. ANITA SUMANTH.,J)

This appeal is filed as against order dated 01.04.2025 passed in A.No. 543 of 2025 in C.S.No. 125 of 2024. The prayer in that application was for a direction to the respondents in the application to deposit security amount and rents, being the share of the applicant / plaintiffs to the credit of the suit.

2. The prayer in C.S.No. 125 of 2025 is as follows:-

- (a) For passing of a preliminary decree for partition and separate possession of the suit Schedule property and allot 5/6th share over the suit Schedule property to the Plaintiffs herein;*
- (b) For appointing an Advocate Commissioner to divide the suit Schedule property by metes and bounds and allot 5/6th share over the suit Schedule property to the Plaintiff herein;*
- (c) for the cost of the suit*
- (d) for any other relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.*

3. By order dated 30.10.2024 in application i.e., A.No. 2808 of 2024, the respondents in application, i.e., appellant before us, had been directed to furnish the details of tenants, advance amounts, security deposit and the rents received from various tenants. There was no compliance and Application No. 6260 of 2024 had been filed seeking



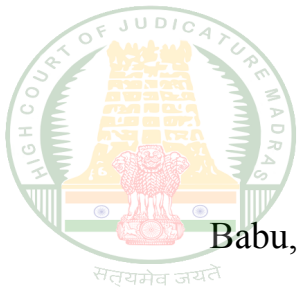
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appointment of Advocate Commissioner to ascertain the aforesaid details. That was ordered on 11.12.2024 and report of the Advocate Commissioner had been filed.

4. The Court, having regard to the total extent of property, the rents that the property are fetching and the shares of the parties has held as follows:-

9. In such view of the matter, this Court is of the view that the value fixed with respect to the first floor residential portion can be valued at the 50% of the said amount. The respondents cannot wriggle out of his liability to pay rent to the applicant, as the applicant has been declared to be the owner of the 5/6th share by way of a specific performance decree, which has also been executed by an execution of sale deed in its favour. Hence, the second respondents are directed to deposit the 5/6th share received from two tenants in respect of two portions and also deposit 5/6th value of the rents so calculated at the rate of Rs.53 per sq.ft., in respect of the portions in which they carry out a commercial venture and also to calculate the rent for the residential portion at Rs.26 per sq.ft., and pay 5/6th share on such calculated amounts as damages for use & occupation. Such payments shall be made to the credit of the Suit and the applicant would be entitled to withdraw the same after disposal of the Intra Court Appeal in O.S.A.No.94 of 2024. On receipt of the said amount, the Registrar General shall deposit the same in the Suit account as contemplated under the Original Side Rules.

5. We have heard Mr.E.C.Ramesh, for the appellants and Mr.



O.S.A.No. 216 of 2025

Babu, for R1. We had also called upon both the parties to file computation of the rentals as, in principle the parties are agreeable that there is no legal infirmity in the impugned order.

6. A memo of calculation has been filed by both parties. We find that there is consensus ad idem on the part of both the parties on the total rental amount and the quantification of 5/6th share to be deposited, at a sum of Rs. 2,08,740/-. The appellants are aggrieved by the computation of the arrears from date of filing of the application.

7. We find that from paragraph 9 that there is a finding fact that the respondent has been declared to be the owner of 5/6th of the properties by way of specific performance decree. That decree has been assailed in O.S.A.No. 94 of 2024, which is still pending consideration before the Court.

8. Hence we find nothing untoward in the computation of the arrears as well as that amount is also due to be paid. In any event, the parties have been directed to deposit the amount only to the credit of the suit, and assuming that the party is to succeed in O.S.A.No. 94 of 2024, the amount will be returned to them. In light of the aforesaid, and while confirming order dated 01.04.2025 impugned in this appeal, the following directions are issued:-



WEB COPY



O.S.A.No. 216 of 2025

(i) the arrears shall be paid within a period of six

(6) weeks from today and going forward the amount of Rs.2,08,740/- per month shall be paid regularly to the credit of the suit;

(ii) the arrears once paid shall be transferred forthwith to a interest bearing account in a Nationalized Bank and so shall each deposit of monthly rent made by the appellant.

9. This Original Side Appeal stands disposed in terms of this order. No costs. Connected miscellaneous petition is closed.

[A.S.M., J] [N.S., J]
28.08.2025

Index: Yes/No
Neutral Citation: Yes
ssm

To

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



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O.S.A.No. 216 of 2025

DR. ANITA SUMANTH, J.
and
N.SENTHILKUMAR, J.

ssm

O.S.A.No. 216 of 2025

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