



A.No.5312 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2025

CORAM : JUSTICE A.A.NAKKIRAN

A.No.5312 of 2023

in

C.S.No.824 of 2017

1.Jeeva
2.Lakshmi

... Applicants/Plaintiffs

Vs.

1.T.R.Rajagopal
2.R.Poorni @ Annapoorni

...Respondents/Defendants

Prayer: Application under Order XIV Rule 8 of O.S Rules r/w Order XXIV Rule 12 of O.S Rules r/w Order 20 Rule 18 of CPC, praying to pass a final decree in pursuance of the preliminary decree dated 03.08.2021, thereby putting the applicants/plaintiffs in separate possession of their 50% share in the schedule mentioned properties Item No.2 to 5.

For Applicants/Plaintiffs : Mr. P.B.Ramanujam

For Respondents/Defendants : Set Exparte

Advocate Commissioner : Mr.R.Abdur Rahman



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ORDER

This application has been filed by the applicants/plaintiffs to pass a final decree in pursuance of the preliminary decree dated 03.08.2021 thereby putting the plaintiffs in separate possession of their 50 per cent share in the schedule mentioned properties 2 to 5.

2.Pursuant to the preliminary decree passed by this Court dated 03.08.2021, A.No.5313 of 2023 has been filed by the plaintiffs to appoint an advocate commissioner to inspect the suit schedule properties and file a report as to the feasibility of dividing the suit schedule properties in Item No.2 to 5 by metes and bounds. After hearing both sides, this Court, by an order dated 12.10.2023, appointed one Mr.R.Abdur Ramhan, Advocate, as Advocate Commissioner to inspect the suit schedule properties Item 2 to 5. In pursuance of the warrant issued by this Court, the Commissioner has also inspected the suit schedule property with the help of Taluk Surveyor and measured the same. The Commissioner has filed his report along with a sketch on 16.11.2023 stating that the schedule of properties in Item No.3, 4 and 5 are divisible and had also



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provided the division of the suit schedule property by metes and bounds.

3. The plaintiffs 1 and 2 are physically present and they are represented by their counsel. The defendants are called absent and set exparte on 04.02.2025.

4. The learned counsel for the plaintiffs submitted that the suit schedule Item Nos. 3, 4 and 5 bearing Plot Nos.248, 249 and 250 are divisible even as per the Commissioner's report. Hence, the plaintiffs' share having half of all the three schedule of properties put together may be allotted to them.

5. In lieu of her submissions, Plot No.250 is completely allotted to the plaintiffs and 50% of Plot No.249 (next to Plot No.250) is also allotted to the plaintiffs. The plaintiffs together are allotted 3600 sq.ft. which is entire Plot No.250 and 50% of Plot No.249 having north to south 60 sq.ft. and east to west 20 sq.ft., The plaintiffs are awarded their share on payment of stamp duty.



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6. Further, this Court directs the plaintiffs together to pay NJS for the properties allotted to them, and the Registry is directed to draw up a final decree only for the properties allotted to the plaintiffs. If there are any plan or plans attached to any such final decree, then such plan only needs to highlight the property or properties allotted to them without indicating to whom the other plots are allotted.

7. As far as the Item No.2 of suit schedule property is concerned, liberty is granted to the plaintiffs to file a fresh final decree application as and when the patta is obtained by them.

8. With the above terms, a final decree is passed. The Commissioner's report and sketch shall form part of the final decree.

9. Accordingly, this application is partly allowed. No costs.

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Index: Yes/No
Speaking/Non-speaking Order
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(1/2)



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