



OSA No. 212 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-08-2025

CORAM

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
AND
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

OSA No. 212 of 2025

and

CMP No. 13678 of 2025

1. S.N. Thiyagarajan
S/o.Nataraja Boopathy,

2. T.Manivannan
S/o.N.Thiyagarajan,

3. T.Ravindran
S/o.S.N.Thiyagarajan,

4. T.Rajkumar
S/o.S.N.Thiyagarajan,
All are residing at No.25 Second Lane,
Madhavaram High Road, Perambur,
Chennai - 600 011.

Appellant(s)

Vs

1. S. Rathinammal
W/o.Late S.Shanmugam,
No.29, Lakshmiamm Koil Street,
Perambur, Chennai - 600 011.



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2.S.Kumaravelu

S/o.Late S.Shanmugam,
No.29 Lakshmiamman Koil Street,
Perambur, Chennai - 600 011.

3.S.Saravanakumar

S/o.Late S.Shanmugam,
No.29 Lakshmiamman Koil Street,
Perambur, Chennai - 600 011.

C.Chamundeeswari (deceased).

4.S.Dhanalakshmi

D/o. Late S.Chandrasekaran,
No.202 Paper Mills Road,
Perambur, Chennai - 600 011.

5.C.Sivasubramaniam

S/o. Late S.Chandrasekaran,
No.202 Paper Mills Road,
Perambur, Chennai - 600 011.

6.C.Balasubramaniam

S/o. Late S.Chandrasekaran,
No.202 Paper Mills Road, Perambur,
Chennai - 600 011.

7.S.Arumugam

S/o.Late M.P.Subramania Mudaliar,
No.202 Paper Mills Road, Perambur,
Chennai - 600 011.



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8.S.Dhakshinamoorthy

S/o.Late M.P.Subrmania Mudaliar,
No.202 Paper Mills Road, Perambur,
Chennai - 600 011.

9.S.Vedachalam

S/o.G.Shanmugam,
No.202 Paper Mills Road, Perambur,
Chennai - 600 011.

10.S.Geethypriyan

S/o.G.Shanmugam,
No.202 Paper Mills Road, Perambur,
Chennai - 600 011.

11.Minor S.Nava Vignesh

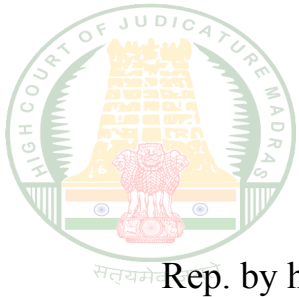
S/o.C.Sivasubramaniam,
Rep. by his father and natural Guardian,
C.Sivasubramaniam,
No.202 Paper Mills Road, Perambur,
Chennai - 600 011.

12.Minor S.Narayanamoorthi

S/o.C.Sivasubramaniam,
Rep. by his father and natural Guardian,
C.Sivasubramaniam,
No.202 Paper Mills Road, Perambur,
Chennai - 600 011.

13.Minor B.Sakthivel

S/o.C.Sivasubramaniam,



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Rep. by his father and natural Guardian,
C.Sivasubramaniam,
No.202 Paper Mills Road, Perambur,
Chennai - 600 011.

14.Minor Thirumoorthy
S/o.C.Sivasubramaniam,
Rep. by his father and natural Guardian,
C.Sivasubramaniam,
No.202 Paper Mills Road, Perambur,
Chennai - 600 011.

Respondent(s)

PRAYER

Appeal filed under Order XXXVI Rule 1 of O.S.Rules to set aside the fair and Decretal order dated 12-07-2024 passed in Application No.4156 of 2018 in C.S.No.610 of 2013 and confirm that the Respondents 1 to 3 herein are entitled to receive the sum of Rs.53,22,000/-, deposited before the City Civil Court at Chennai towards their value of 1/4th share of them in respect of item No.2 of suit schedule property.

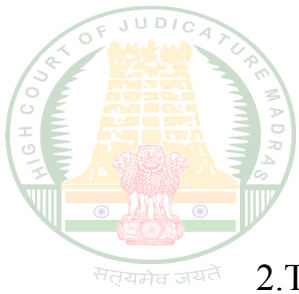
For Appellant(s): Mr.D.Mohanaselvan
for Mr.C.Sankar

For Respondent(s): Mr.K.V.Babu (for R1 to R3)

ORDER

(Order of the Court was made by N.Senthilkumar J.)

Challenging the order dated 12.07.2024 passed in Application No.4156 of 2018 in C.S.No.610 of 2013, the present Appeal has been filed.



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2.The appellants are the defendants in the Suit more specifically defendants 13 to 16. The respondents 1 to 3 are the plaintiffs in the Suit and the respondents 4 to 14 are the defendants 2 to 12 in the Suit.

3.The brief facts of the case are as follows:

3.1.A.No.4156 of 2018, was taken out by the plaintiffs, seeking a direction to defendants 2 to 4 and 7 to 12 in the Suit to jointly pay the amount fixed by this Court, being the value of 1/4th share over Item I of the suit schedule property from and out of the Court deposit in HMGOP No.11 of 2011 on the file of the City Civil Court, Chennai.

3.2.The learned single Judge has taken note that the Suit is one for a declaration of partition deed dated 27.02.2002, Settlement Deed dated 09.07.2008 and Sale Deed dated 29.08.2011 as null and void and also for partition and separate possession of two Items of property, viz., Item No. I, Door No. 202, Paper Mills Road, Perambur, Chennai – 600 011 and Item No. II, Old Door No.94, New Door No.104, Madhavaram High Road, Perambur, Chennai 600 011. The first item is a residential property comprising 1 ground 294 sq.ft. whereas the second item is a property measuring an extent of 3990 sq.ft. as per document and 4222 sq.ft. as per physical measurement together with superstructure.

3.3.As per Judgment dated 30.01.2018, this Court had granted preliminary decree holding that the partition deed dated 27.02.2002, settlement



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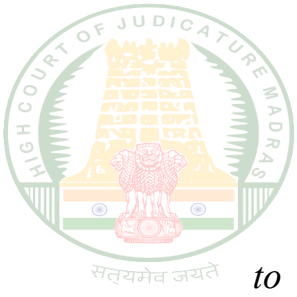
deed dated 09.07.2008 and sale deed dated 29.08.2011 will not be binding on the plaintiffs in respect of the 1/4th share of the deceased Shanmugam in the suit properties and granted a preliminary decree for 1/4th share in favour of the plaintiffs in the Suit.

3.4. Based on the learned Advocate Commissioner's report regarding Item II, the value of the property was fixed at Rs.5,86,32,000/-. The plaintiffs are entitled for 1/4th share being the legal representatives of one late Mr.S.Shanmugam and 1/4th share of the amount payable in respect of said Item II property is Rs.1,46,58,000/-. A sum of Rs.53,22,000/- is available in Court deposit and even if the entire sum of Rs.53,22,000/- is paid out plaintiffs, still there is a balance of Rs.93,35,800/- which would be payable to the plaintiffs.

3.5. The learned single Judge has granted liberty to the defendants 13 to 16, who own the remaining 3/4th share to approach this Court for suitable direction if they are interested in buying the 1/4th share of the plaintiffs, provided they are ready and willing to pay the balance of Rs.93,35,800/- to the plaintiffs, in such event the plaintiffs are entitled to payment out of Rs.53,22,000/-.

3.6. In the order dated 12.07.2024 passed in Application No.4156 of 2018 in C.S.No.610 of 2013, the learned single Judge has observed as follows:

“9. After pronouncing orders, the learned counsel for the applicant submits that some time frame may be fixed for the respondents 13



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4.As against the above said order, the present Appeal has been filed by the Appellants herein.

5.By order dated 26.06.2025, this Court has directed the appellants to comply with the directions of the learned single Judge more specifically in paragraph 9 of the order dated 12.07.2024 passed in A.No.4156 of 2018 in C.S.No.610 of 2013, which is extracted supra, prior to the next date of hearing, and directed the case to be listed on 24.07.2025 under the caption 'for hearing' and status quo was also granted.

6.On 24.07.2025, since there was no representation on behalf of the appellants and as there was no memo of compliance filed before this Court, the matter was adjourned to 25.07.2025 to be listed under the caption “for dismissal”.

7.On 25.07.2025, the learned counsel for the appellants informed that an SLP has been filed as against the order dated 26.06.2025 and sought for short adjournment. At his request, the matter was adjourned to 01.08.2025, reiterating the directions under order dated 26.06.2025 subject to any order that may be passed by the Hon'ble Supreme Court in the meantime.

8.When the matter is taken up for hearing today, the learned counsel for the appellants contended that SLP has been filed before the Hon'ble Apex Court



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and he has not complied with the directions under order dated 26.06.2025.

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9.The learned counsel for the appellants has not produced any semblance of material to show that the matter is pending before the Hon'ble Apex Court, whereas, he had only sought time by saying that the order of this Court dated 26.06.2025 in the present Appeal is under challenge. Hence, we feel that the appellants are not inclined to comply the conditions imposed by this Court under the order dated 26.06.2025. In view of the same, this Appeal is dismissed for non compliance of the conditional order of this Court. No costs. Consequently, connected miscellaneous petition is closed.

(A.S.M., J)

(N.S.,J)

21-08-2025

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

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