



AS(MD). No.249 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 24.11.2025

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE Mr.JUSTICE R.VIJAYAKUMAR

AS. (MD). No.249 of 2025
and CMP(MD) No.9536 of 2025

Christopher

... Petitioner

Vs

Meena,
W/o.Sundar,
Flat No.3, Block A,
F-2, Asiana Apartment,
Vetri Nagar 3rd Street,
Mudichoor Main Road,
West Tambaram,
Chennai..

... Respondent

PRAYER :-Appeal suits filed under Section 96 of Civil Procedure Code, to set aside the final decree dated 30.04.2024 passed in I.A.No.02 of 2020 in O.S.No.5 of 2019 on the file of Additional District Fast Track Court Tenkasi District and allow appeal.

For Appellant : Mr.T.S.Mohammed Mohideen
For Respondent : Mr.M.P.Senthil



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JUDGMENT

(Judgment of the Court was delivered by R.VIJAYAKUMAR, J.)

The defendant in OS No.5/2019 has filed the present first appeal challenging the final decree passed by the said Court in IA No.2/2020 on 30.04.2024.

2. When the appeal was taken up for hearing, at the request of both the parties, we referred the matter for mediation. In the mediation, both the parties have agreed for reappointment of the same Advocate Commissioner to survey the property with regard to the second schedule in the final decree. During mediation, the parties have agreed that they will not question the allotment as far as the first schedule in the final decree is concerned.

3. Pursuant to the said agreement reached between the parties, by way of order dated 07.11.2025, we have directed the final decree Court to appoint the same Advocate Commissioner to resurvey the second schedule. Accordingly, the Advocate Commissioner was appointed and



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he had submitted a report and a plan on 17.11.2025. The report and sketch had been forwarded by the final decree Court to this Court. The appellant/defendant has filed an objection to the said Commissioner's report challenging certain measurements.

4. The learned counsel for the appellant, in his objections, has pointed out that though 616 sq. mtrs were allotted to him, there is a deficit of 16 sq. mtrs as per the Commissioner's report. However, the learned counsel for the respondent/plaintiff submitted that the measurement had been taken by the Commissioner with the help of the Surveyor and therefore, there is no error in it.

5. After going through the Commissioner's report and the plan submitted by him, we do not find that the objections raised by the appellant are sustainable.

6. In view of the aforesaid deliberations, we are inclined to modify the final decree passed by the trial Court in IA No.2/2020 as follows:



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(a) the final decree passed by the trial Court is partly set aside;

(b) The blue and yellow marked portion in the advocate Commissioner's report are allotted to the share of the appellant/defendant. Green marked portion is allotted to the share of the respondent/plaintiff. The colour sketch filed by the Advocate Commissioner shall form part of the decree;

(c) As far as the first schedule is concerned, the final decree of the trial Court is confirmed.

(d) EP No.32/2025, insofar as the second item is concerned, shall stand closed. However, the trial Court may proceed with the execution proceedings with regard to the first item.

7. The appeal suit is partly allowed to the extent as indicated above. No costs. Consequently connected Miscellaneous Petition is closed.

[C.V.K,J]

[R.V,J]

24.11.2025

NCC : Yes

Index : Yes

RR



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To

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1.The of Additional District Fast Track Court Tenkasi District

2.VR Section

Madurai Bench of Madras High Court,Madurai.



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C.V.KARTHIKEYAN J.
AND
R.VIJAYAKUMAR, J.

RR

judgment made in
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Date : 24.11.2025