



A.S.(MD)No.191 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.04.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**A.S.(MD)No.191 of 2024
and
C.M.P.(MD)No.9469 of 2024
and
C.M.P.(MD)No.3866 of 2025**

Shajahan

... Appellant

Vs.

Shahul Hameed

... Respondent

Prayer : Appeal Suit filed under Section 96 of Civil Procedure Code, to set aside the judgment and decree dated 05.03.2024 made in O.S.No.121 of 2022 on the file of the Additional District Court (FTC), Tenkasi.

For Appellant : Mr.G.Sridharan

For Respondent : Mr.A.Haja Mohideen



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JUDGMENT

Heard both sides.

2.The appellant and the respondent are brothers. The respondent herein filed O.S.No.121 of 2022 on the file of the Additional District Court, Tenkasi seeking his half share in the suit schedule properties. The suit schedules are three in number. The first schedule comprises one item. The second schedule comprises 11 items. The third schedule comprises one item. All the three schedules are covered by the title documents ie., Exs.A1 to A7. It is not in dispute that the title documents stand in the name of the plaintiff as well as the defendant. When the plaintiff issued the legal notice / Ex.A8 dated 05.10.2021 claiming his share in the property, the defendant vide Ex.A9 / reply notice dated 18.10.2021 virtually conceded the case of the plaintiff. Since he did not come forward to effect partition amicably, O.S.No.121 of 2022 came to be instituted.



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3.The plaintiff examined himself as P.W.1 and marked the title documents as Exs.A1 to A7, the legal notice and the reply notice as Exs.A8 and A9. The defendant examined himself as D.W.1 and Exs.B1 and B2 were marked.

4.The Court below after careful consideration of the evidence on record granted half share in favour of the plaintiff. The same is put to challenge in this appeal.

5.The learned counsel for the appellant made a valiant attempt to call upon us to dislodge the impugned judgment and decree, we are not swayed by the said submissions.

6.The suit schedule properties belonged to the plaintiff and the defendant. Therefore, the plaintiff was justified in seeking his half share in the suit schedule properties. As already noted, in the reply notice also, the defendant had conceded the plaintiff's claim. The Court below was justified in passing preliminary decree as prayed by the plaintiff. Interference with the judgment and decree is not warranted. This appeal



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is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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(G.R.S. J.) & (M.J.R. J.)
02.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:

The Additional District Court (FTC),
Tenkasi.

Copy to:

The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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and
M.JOTHIRAMAN, J.

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