



A.S.(MD)No.206 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2025

CORAM

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

A.S(MD)No.206 of 2023
and
C.M.P.(MD)No.11734 of 2023

R.Sivakumar

.... Appellant / 1st Defendant

Vs.

1.Rajendran

... 1st Respondent / Plaintiff

2.R.Jeyantheshwari

... 2nd Respondent / 2nd Defendant

Prayer : Appeal Suit filed under Section 96 of Civil Procedure Code, to set aside the Judgment and decree dated 30.11.2021 passed in O.S.No.101 of 2020 on the file of the Principal District Judge, Theni.

For Appellant : Mrs.A.Banumathy

For Respondents : Mr.M.Senthil Kumar



A.S.(MD)No.206 of 2023

JUDGEMENT

WEB COPY (Judgment of the Court was made by **G.R.SWAMINATHAN, J.**)

This appeal arises out of a suit for partition. The suit property stood in the names of Thiru.Rajendran S/o.Ramasamy and his wife Selvi. Selvi passed away in the year 2011. She died intestate. Through the wedlock between Rajendran and Selvi, two children were born. They are R.Sivakumar and R.Jeyantheeshwari. The suit property is located in three cents of land. The suit property measures 1278 square feet. It has a ground floor and a first floor. Since the relationship between Rajendran and his son came under strain, Rajendran filed O.S.No.101 of 2020 on the file of the Principle District Judge, Theni claiming his 2/3rd share in the property. Rajendran examined himself as P.W.1. Ex.A1 to Ex.A5 were marked. Sivakumar examined himself as D.W.1. One Rengaraj was examined as D.W.2. Ex.B1 to Ex.B5 were marked on the side of the defendant. Jeyantheeshwari sailed along with the plaintiff. After considering the evidence on record and hearing both sides, the learned trial Judge vide Judgment dated 30.11.2021 passed preliminary decree granting 2/3rd share in favour of the plaintiff and 1/6th share in favour of each of the defendants. Aggrieved by the same, this appeal came to be filed at the instance of son Sivakumar. Sivakumar is having a special child. We therefore requested Rajendran to consider resolving the issue amicably.



A.S.(MD)No.206 of 2023

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2. The parties are present in person before us. Thiru.Rajendran as well as Jeyantheeswari agreed that R.Sivakumar can take the entire suit schedule property in his name after paying a sum of Rs.25,00,000/- to Rajendran which will include the share payable to R.Jeyantheeswari also. Thiru.Sivakumar is also agreeable to the said proposal. Recording the compromises arrived at among the parties, this appeal is disposed of as follows:-

1. Rajendran as well as Jeyantheeswari/D2 agreed that upon payment of Rs.25,00,000/- directly to the plaintiff Rajendran, the suit property will become the absolute property of R.Sivakumar.

2. Ex.A1 dated 25.01.1996 is the title document in respect of the suit property. It was marked by the plaintiff. The plaintiff is permitted to take back the said document. Upon an application filed by the plaintiff, it shall be returned to him forthwith and without any delay by the trial Court.

3. R.Sivakumar will indicate the date and time when the plaintiff Rajendran as well as Jeyantheeswari will come to the Equitas Small Finance Bank, Theni Branch. They will deposit the document-Ex.A1 in original with the Branch so as to facilitate Mr.Sivakumar to raise the requisite funds.



A.S.(MD)No.206 of 2023

WEB COPY

4. The said Bank will credit a sum of Rs.25,00,000/- in the account of the plaintiff. Upon receipt of the sum of Rs.25,00,000/-, the plaintiff Rajendran as well as D2/Jeyantheeswari shall execute a deed of release relinquishing their shares in the suit property in favour of R.Sivakumar immediately thereafter.

5. It is stated that it is the burden of Sivakumar / D1 to vacate the tenants / otthidars from the suit property on his own. Neither plaintiff Rajendran nor D2/Jeyantheeswari will have any responsibility or any role in that regard.

3. The impugned Judgment is modified. The appeal suit is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [M.J.R., J.]
28.03.2025

Index : Yes / No
Internet : Yes/ No
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NOTE : Registry to return the original records to the court below immediately without any delay.



A.S.(MD)No.206 of 2023

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To:

1. The Principal District Judge, Theni.
2. The Branch Manager, Equitas Small Finance Bank, Theni.

Copy to:

The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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A.S.(MD)No.206 of 2023

G.R.SWAMINATHAN, J

and

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A.S(MD)No.206 of 2023

28.03.2025