Order QR

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 29-10-2026**

CORAM

**THE HON'BLE MR JUSTICE N. SATHISH KUMAR**

**AND**

**THE HON'BLE MR.JUSTICE GK.MUTHUKUMAAR**

**OSA No. 81 of 2023**
CNR:{HCMA010101922023}
**AND**
**CMP NO. 9525 OF 2023,CMP NO. 9524 OF 2023,**
**CMP NO. 19471 OF 2023**

D.S.Ramesh

..Appellant(s)

Vs

1. D.S.Manohar

2. K. Seeman Selvaraj

3. E.Marimuthu

*[RR2 and 3 impleaded as party respondents vide Court order dated 09.09.2024 made in C.M.P.No.17074 of 2024 in O.S.A.No.81 of 2023]*

..Respondent(s)

Original Side Appeal filed under Order XXXVI Rule 11 of the Original Side Rules r/w. Clause 15 of the Letters Patent to set aside the order dated 22.03.2022 passed in Application No.2576 of 2020 in C.S.No.315 of 2014.

For Appellant(s): M/s.G.Sumitra

For Respondent(s): Dr.A.Thiyagarjan
Senior Counsel
for Mr.D.Senthilkumar for R1;
Ms.B.Sharmila for R2 and R3



https://www.mhc.tn.gov.in/judis

WEB COPY

Mr.S.Arjun
Advocate Commissioner

**JUDGMENT**

**(Judgment of the Court was delivered by N.Sathish Kumar J.)**

Challenging the allotment made in the final decree passed by the learned Single Judge of this Court in A.No.2576 of 2020 in C.S.No.315 of 2014, dated 22.03.2022, the defendant in the suit has filed the present Appeal.

2.For the sake of convenience, the parties shall be referred to as per their ranking in the suit.

3.Originally, a preliminary decree had been passed in the suit in C.S.No.315 of 2014 by judgment and decree dated 20.09.2019, dividing the suit properties into two equal shares and allotting one share to the plaintiff. In the final decree proceedings in A.No.2576 of 2020 in C.S.No.315 of 2014, pursuant to the report of the Advocate Commissioner, taking note of the value of the properties, by impugned order dated 22.03.2022, the rear portion in Plot-B was allotted to the plaintiff to an extent of 1897 sq.ft. and the front portion in Plot-A abutting the T.H.Road, which appears to valuable than the rear portion, was allotted to the defendant to an extent of 1213 sq.ft.



https://www.mhc.tn.gov.in/judis

WEB COPY

4.Challenging the allotment made in the final decree pursuant to the report of the Advocate Commissioner, the present Appeal has been filed by the defendant in the suit.

5.During the pendency of this Appeal, a new Advocate Commissioner was appointed by this Court to find out the exact measurement of the area actually allotted to the parties in the final decree. Accordingly, the Advocate Commissioner has submitted his report indicating that, though the defendant was entitled to 1213 sq.ft. in the front portion in Plot-A, actually, only an area of 1049 sq.ft. is available on ground.

6.Though the preliminary decree declares right of equal share, considering the value of the properties, an extent of 1213 sq.ft. in the front portion in Plot-A has been allotted to the defendant in the final decree proceedings. However, on a perusal of the report of the Advocate Commissioner, we find that, the actual measurement on ground is only 1049 sq.ft. available to the defendant and in fact, an extent of 164 sq.ft. falls short. In these circumstances, after hearing the learned counsel on both sides for sometime, it is admitted by both sides that, if the plaintiff compensates the value for the extent which falls short, the matter can be given a quietus. However, the learned counsel for the plaintiff would contend that the value suggested by the



https://www.mhc.tn.gov.in/judis

WEB COPY

Commissioner @ Rs.14,000/- per sq.ft. is not correct.

7.In the light of the above submissions, the only point that arises for consideration in this Appeal is whether the value fixed by the Commissioner is proper.

8.On a perusal of the materials on record, there is no material to show that the Commissioner has arrived at the correct market value. The report indicates that, only on the basis of the surveyor's report, the market value has been assessed by the Advocate Commissioner. However, since the issue is only with regard to 164 sq.ft. and the appellant has not canvassed with regard to allotment of the difference in extent of land and the plaintiff is now willing to pay the value as fixed by this Court and since Plot-A abutting T.H.Road is more valuable as admitted by both sides, we are of the view that the defendant could be compensated monetarily for the lesser extent of 164 sq.ft.

9.Hence, we deem it fit to fix a sum of Rs.8,500/- per sq.ft. Accordingly, we direct the plaintiff to pay a sum of Rs.13,94,000/- (Rupees Thirteen Lakhs and Ninety Four Thousand only) (Rs.8,500/- x 164 = Rs.13,94,000/-) for the difference in extent of 164 sq.ft., to the defendant within a period of two months from the date of this judgment. It is made clear that, if the amount is not paid within the specified period, the defendant will be entitled to 164 sq.ft. from



https://www.mhc.tn.gov.in/judis

WEB COPY

Plot-B allotted to the plaintiff, abutting Plot-A.

10.With the above directions, this Original Side Appeal is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

**(N.S.K.,J.) (G.K.M.,J.)**
**29-10-2026**

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MKN



https://www.mhc.tn.gov.in/judis

WEB COPY



**N.SATHISH KUMAR J.**
**AND**
**GK.MUTHUKUMAAR J.**

**MKN**

**OSA No. 81 of 2023**

**29-10-2026**



https://www.mhc.tn.gov.in/judis