



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 24-03-2026**

CORAM

**THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN**

**AND**

**THE HON'BLE MR.JUSTICE K.RAJASEKAR**

**AS No. 228 of 2017**

**and C.M.P.Nos.9344 of 2017, 20805 of 2019 & 7912 of 2026**

M.Vahitha

..Appellant(s)

Vs

1. Shajahan

2. Jeyachandra Singh  
(R2 - given up)

..Respondent(s)

Appeal against the Judgment and Decree dated 26.10.2016 passed in O.S.98 of 2009 by the learned Additional District Judge, Chengalpattu.

For Appellant(s): Mr.S.D.S.Philip,  
assisted by Ms.R.Rashmi.

For Respondent(s): Dr.C.Ravichandran for R1  
R2 given up vide Memo, dated 08.01.2024.

### **JUDGMENT**

**(Judgment of the Court was delivered by C.V.Karthikeyan J.)**

The first defendant in O.S.No.98 of 2009 on the file of Additional District Court, Chengalpattu, aggrieved by the judgment, dated 26.10.2016, is the appellant herein.



2. The suit in O.S.No.98 of 2009 had been filed by the respondent, who is the husband of the appellant herein, seeking a preliminary decree for partition of 3/4<sup>th</sup> share in the schedule mentioned property and for consequential reliefs. The schedule mentioned property was land and building in Plot No.1419 measuring 3600 sq.ft. with a building in the Ground Floor and First Floor in Ram Nagar North Extn. II Street, Madipakkam, Chennai.

3. In the plaint, it had been contended that the plaintiff/respondent herein was the owner of the schedule mentioned property, having purchased the same jointly along with the defendant/appellant herein for valid sale consideration by a sale deed, dated 28.10.2003, registered in the office of Sub-Registrar, Velachery. He contended that subsequently he had put up construction over the said property. He also obtained loan from Corporation Bank to the tune of Rs.8.00 lakhs. He claimed that he also borrowed from private sources. He stated that after purchase of the land, a building was constructed to an area of 1600 sq.ft. in the first floor and 1500 sq.ft. in the ground floor. It was further stated that the appellant herein had contributed a sum of Rs.13.00 lakhs through cheques and that was her only contribution at the time of purchase of the land. He claimed that he had contributed substantially towards the purchase of the land and putting up construction and hence he should be declared to be entitled to 3/4<sup>th</sup> of the value of land and building. It was, under the said circumstances, that the suit was instituted.



4. The appellant herein, in her capacity as first defendant, had filed written statement. In her written statement, she denied the allegations about the contribution of respondent towards purchase of the land and also towards putting up construction. It was stated that she had married the respondent in the year 1987 and, at that time, she was employed in UTI Mutual Fund. It had also been stated that she had maintained the entire family of the respondent out of her income. She further stated that she had obtained loan from Reserve Bank Employees Co-operative Society and the said loan amount was utilised by the respondent for purchasing the property in his name. It was also stated that the respondent expressed inclination to obtain loan from Corporation Bank for construction of house and stipulated that the property was to be in his name. After obtaining loan from Corporation Bank, the respondent defaulted in the repayment of the loan. The appellant was issued with a SARFAESI notice. She took steps to repay the said loan amount. She claimed that the respondent was only a name lender for the purpose of loan and stated that he had not substantially contributed for the purchase of the property.

5. She had further stated that the respondent had disposed of the entire property at Thirunindravur (Tinnanur) without her knowledge. She, therefore, denied that the respondent was entitled to 3/4th share in the suit schedule property. She claimed that the property vested entirely with her and that the



respondent was not entitled for partition with respect to the suit schedule property, leave alone 3/4th share.

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6. A rejoinder was filed by the respondent herein. The respondent claimed that permission had been obtained from the Head Office to sell the property at Tinnanur (Thirunindravur) and the same was sanctioned by the Head Office. It was contended that only after obtaining such sanction, he sold the property for a sum of Rs.9.00 lakhs and, out of the said amount, he paid Rs.3.00 lakhs to the bank towards discharge of the existing debt for the property. The remaining amount of Rs.6.00 lakhs was used to put up construction in the schedule mentioned property. He, accordingly, claimed that he was entitled to seek partition of 3/4th share in suit schedule property.

7. On the basis of the above pleadings, the learned trial Court framed the following issues :

- (1) Whether the plaintiff is entitled to 3/4th share in the suit property ?
- (2) To what relief is the plaintiff entitled to ?

8. During trial, the respondent examined himself as P.W.1 and the appellant examined herself as D.W.1.

9. The respondent marked Exs.A-1 to A-24. Ex.A-1 was the copy of sale deed, dated 28.10.2003, in the name of the first respondent. The documents relating to Tinnanur property were marked as Exs.A-5 to A-11. The document relating to the agreement of sale entered into with respect to the suit schedule property, dated 03.09.2003, was marked as Ex.A-12. The documents relating to



payment of loan obtained from Corporation Bank were marked as Exs.A-13 to A-16. The Bank statements were marked as Exs.A-18 to A-20. The Statements of Account of Corporation Bank were marked as Exs.A-22 to A-24.

10. The appellant herein marked Exs.B-1 to B-7. Ex.B-2 was the letter, dated 22.12.2007, issued to Chief Manager, Corporation Bank, relating to the loan obtained by the first respondent. Ex.B-3 (series) was the Certificate issued relating to the said account. The Statement of Account of Corporation Bank was marked as Ex.B-5 and the Statement showing the transactions in shares and debentures was marked as Ex.B-6.

11. On the basis of the above documents, the trial Court observed the stand of the respondent that out of the total value of Rs.35.00 lakhs of the suit property, the appellant had contributed only a sum of Rs.13.00 lakhs and the remaining amount was spent by the respondent, by selling the property at Tinnanur and by raising a loan. The other argument advanced on behalf of the appellant that the land had been purchased for a sum of Rs.13.00 lakhs and that she also spent Rs.6.00 lakhs during the course of construction was noted. It was also noted that for the loan obtained from the Corporation Bank, the said Bank had initiated SARFAESI proceedings. It was further observed that the appellant herein had settled the loan. The admission of P.W.1 that bank loans were paid only by the appellant herein was also noted by the learned trial Judge. Finally, holding that since there had been contributions by both the appellant and the respondent towards the purchase of land and construction of building, the suit



was decreed in part, by modifying the ratio into 50 : 50, and granting 1/2 share to each of the two parties. Challenging that particular judgment, the defendant has filed the present appeal.

12. Pending appeal, the respondent herein had filed C.M.P.No.7912 of 2026 under Order 41 Rule 27 CPC, seeking to produce additional documents with respect to encashment of a cheque, dated 11.10.2003, and closure of loan account, and the No Due Certificate of the loan account and the EMI payments made by him by way of deduction from his salary.

13. The first document, now sought to be introduced, is dated 18.10.2006. The second document sought to be introduced is dated 06.03.2012, and the third document sought to be introduced is dated 02.03.2020. The first document was available with the respondent even prior to institution of the suit. The second and third documents relate to transactions subsequent to institution of the suit. The judgment in the suit was delivered on 26.10.2016. All these documents now sought to be introduced relate to the loan account of Rs.8.00 lakhs, borrowed by the first respondent from Corporation Bank.

14. During the pendency of the suit, it had been the contention of the appellant herein that Corporation Bank had issued SARFAESI notice, necessitating her to effect the payments of the outstanding amount. In this connection, the appellant had placed reliance on the documents filed by the respondent.



15. Learned counsel for the respondent contended that subsequently the respondent had discharged the loan and that the respondent had utilised the entire loan amount towards purchase of land and construction of building.

16. We have heard the learned counsel for the parties at length.

17. With respect to C.M.P.No.7912 of 2026, the petition filed under Order 41 Rule 27 CPC, we are of the opinion that by introducing new documents, no additional advantage would accrue to the respondent. It was the case of the respondent that he had obtained loan of Rs.8.00 lakhs from Corporation Bank and contributed it towards purchase of land and construction of building. Even if he had repaid the loan amount by his own efforts and produced documents to substantiate the same, it was only his liability that he had discharged. His contribution towards purchase of land or construction of building was limited only to Rs.8.00 lakhs. The amount he repaid would have been much more with interest and could have multiplied only owing to the initial default in repayment of loan, but the contribution as such would only be the loan amount of Rs.8.00 lakhs and nothing more and nothing less. Thereafter, it was a contract between the first respondent and the Corporation Bank relating to repayment of loan amount. The contention that the documents now sought to be introduced would reflect that substantial further amounts had been paid towards the loan repayment would not give any advantage to the case of the respondent.



18. As a matter of fact, it is the case of the appellant that a SARFAESI notice was issued by Corporation Bank and steps were taken against the property, necessitating her to repay the loan amount. In this connection, the appellant placed reliance on Exs.A-14, A-18 and A-19, wherein certain entries show that there was flow of money from her account. It was claimed that the arrangement between the parties was that she would forward amounts from her account to the account of the respondent and, thereafter, the respondent would repay the loan. It was contended that, in this manner, she forwarded a sum of Rs.4,73,470/- towards repayment of loan. Thereafter, the respondent also had taken up the burden of repayment of loan but a limiting factor is that the loan obtained, namely, Rs.8.00 lakhs was the amount contributed by the respondent towards purchase of land or construction of building. He cannot claim a larger share and has to limit his share proportionate to Rs.8.00 lakhs as against the total cost of land and building. In view of this particular reasoning, we hold that the documents, now sought to be introduced, are not required to come to a just conclusion in the appeal. There is no reason adduced as to why the documents were not introduced earlier, particularly the first document, which was much prior to institution of the suit. Therefore, we dismiss C.M.P.No.7912 of 2026 and proceed on the basis of the documents already available and marked during the course of trial.

19. With respect to the cost of land and construction, it is to be noted that neither the appellant nor the respondent had examined either the contractor or



the builder of the building to show the total cost of construction to fortify their argument.

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20. It is the contention of the respondent that the total cost of the building was Rs.36.00 lakhs, whereas, according to the appellant, it was only Rs.26.00 lakhs. Since there is no evidence to show that the total cost was Rs.36.00 lakhs, we have to believe only on the statement made by the appellant that the total cost was Rs.26.00 lakhs, as evidenced from Ex.A-23. Ex.A-23 is a letter issued by Corporation Bank to the respondent, wherein a representation given by the appellant was forwarded to him, seeking his remarks. In the letter of the appellant, she had very clearly stated that the total cost of the land and building came to Rs.26.00 lakhs and that she had paid a sum of Rs.15,27,000/- in the years 2003-2005, out of which Rs.13.00 lakhs was paid by a cheque drawn on UTI Bank, Mumbai, and the remaining amount by cash. It had been contended that she paid more than 50% towards the cost of purchase of land and construction of building. There being no other evidence regarding the value of land and building, we restrict the total cost of land and building to Rs.26.00 lakhs. Admittedly, a sum of Rs.13.00 lakhs was paid by the appellant by way of a cheque. As per the entries in Exs.A-14, 18 and 19, the appellant had also paid a sum of Rs.4,73,470/-. At that particular point of time, the loan obtained by the respondent was Rs.8.00 lakhs. This he defaulted in repayment. This would indicate that there was direct evidence to show that the appellant had contributed Rs.13.00 lakhs by a cheque and the respondent contributed Rs.8.00



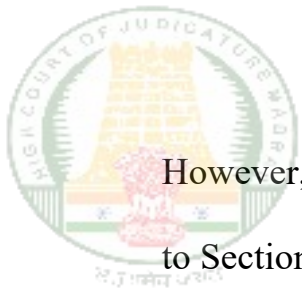
lakhs towards the purchase of land and putting up construction, by obtaining a loan.

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21. The specific case of the appellant is that under Exs.A-14, 18 and 19, she had repaid the loan amount of Rs.4,73,470/-. This has to be included as her contribution towards purchase of land and construction of building. Once the contribution of the respondent is limited to Rs.8.00 lakhs out of Rs.26.00 lakhs, we would have to necessarily divide the property in that particular ratio and give a small leverage for other miscellaneous amounts contributed by either side.

22. We, therefore, partly allow the appeal, by interfering with the decision given by the trial Court and grant 33-1/3% (1/3 share) to respondent -plaintiff and 66-2/3% (2/3 share) to the appellant-defendant. We would again reiterate that we have limited the total cost of land and building to Rs.26.00 lakhs, as we have direct evidence under Ex.A-23 for the estimate of Rs.26.00 lakhs, of which a sum of Rs.8.00 lakhs had been contributed by the respondent and a sum of Rs.13.00 lakhs and 4,73,470, totalling to Rs.17,73,470/-, had been contributed by the appellant.

23. The learned counsel for the respondent placed reliance on the decision of a Division Bench of this Court in *P.Marimuthu v. A.Paramasivam*, 2024 (6) CTC 257, wherein, with respect to Section 45 of the Transfer of Property Act, it had been held that if there is no evidence, it should be deemed that there had been equal contribution towards purchase of a property.



However, there is evidence in the instant case and, therefore, we need not refer to Section 45 of the said Act.

24. Appeal Suit stands partly allowed, granting a preliminary decree of 33-1/3% (1/3 share) to the respondent -plaintiff and 66-2/3% (2/3 share) to the appellant-defendant in the suit schedule property. No costs. Consequently, the connected C.M.Ps. are closed.

**(C.V.K.,J.) (K.R.S.,J.)**  
**24-03-2026**

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

DIXIT

To  
1.Additional District Judge,  
Chengalpattu.

2.Section Officer,  
V.R.Section,  
High Court,  
Madras.



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**C.V.KARTHIKEYAN, J.  
AND  
K.RAJASEKAR, J.**

**DIXIT**

**AS No. 228 of 2017**

**24-03-2026**