



A.S. No. 659 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 04.11.2025
PRONOUNCED ON : 15.06.2026

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

A.S. No. 659 of 2019

1. Mrs. B. Kousalya
W/o. G. Boopalan, D/o. Late Thiruveedhi, No. 18,
Old No. 47, S.S.V. Koil 2nd St, Melpattadai, Perambur,
Ch-11.

2. Mrs. Gowri
W/o. Rajkumar And D/o. Late Thiruveedhi, No. 15,
Bajanaikoil St, Royapuram, Ch-13.

..Appellant(s)

Vs.

1. T. Jayabalan
S/o Late Thiruveedhi, No. 3/9, Rohini Street, Palani Street,
Rajaji Nagar, Villivakkam, Chennai 600 049.

2. N. Lalitha
W/o Late Narayanasamy, D/o Late Thiruveedhi, No. 10/44,
Thayuma Nagar, New Street, Thathankuppam, Villivakkam,
Chennai 600 049.

3. M. Baby Kumari
W/o Mohan, D/o Late Thiruveedhi, No. 10/44, Thayuma Nagar,
New Street, Thathankuppam, Villivakkam, Chennai 600 049.

4. T. Muthuraman
S/o Late Thiruveedhi, No. 25/5, New Street, Thathankuppam,
Villivakkam, Chennai 600 049.

5. T. Rajendran
S/o Late Thiruveedhi, No. 106-b, 9th Cross Street, North
Jagannathan Nagar, Villivakkam Chennai 600 049.



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6. T.Muruganandhan

S/o Late Thiruveedhi, No.16/36, 1st Cross Street,
Sayadi Salai, Korattur, Chennai 600 080.

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..Respondent(s)

PRAYER: Appeal suit filed praying to set aside the judgment and decree dated 12-01-2018 of the Learned XVIII Additional District Judge, City Civil Court, Chennai in OS NO.7887 of 2012.

For Appellant(s): M/s.N.Ramesh
Revathy Radhakrishnan
V.Logesh
For Respondent(s): M/s.C.Shankar
P.Stalin Selvasekaran
K.Vaidhyanathan For R1 To R3 And R5
M/s.J.Franklin
S.Karthik For Rr 4 And 6, In Sr Stage

J U D G M E N T

This appeal has been filed by the plaintiffs challenging the judgment and decree dated 12.01.2018 passed by the learned XVIII Additional Judge, City Civil Court, Chennai, in O.S.No.7887 of 2012, whereby the suit filed for partition and separate possession was dismissed.

2. For convenience, the parties are referred to as they were arrayed before the trial Court.



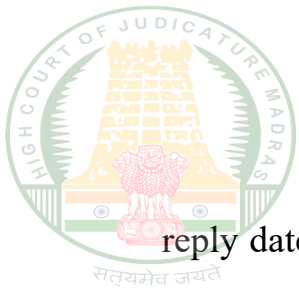
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3. The plaintiffs, are the daughters of late M.Thiruveedhi through his second wife, Annammal. According to them, Thiruveedhi had two wives, namely Kamalammal and Annammal. Defendants 1 to 3 and 5 were born through Kamalammal, while the plaintiffs and defendants 4 and 6 were born through Annammal.

4. The case of the plaintiffs is that the suit property bearing Door No.26/5, New Street, Thathankuppam, Villivakkam, Chennai, measuring about 1200 sq.ft., comprised in S.F.No.91, old S.No.249/part, Block No.91, was assigned by the Government in favour of their father, Thiruveedhi, under an assignment patta dated 01.07.1974. It is their further case that Thiruveedhi put up a residential building in the suit property and remained in possession and enjoyment of the same till his death on 04.03.2000. Since he died intestate, the plaintiffs claim that all his children are entitled to equal shares in the suit property.

5. The plaintiffs further pleaded that, after the death of Thiruveedhi, the first defendant, Jayabalan, being the eldest male member of the family, took control of the suit property, leased it out, and enjoyed the income derived therefrom without effecting partition among the legal heirs. The plaintiffs therefore issued a legal notice dated 21.06.2012 demanding partition. The first defendant sent a

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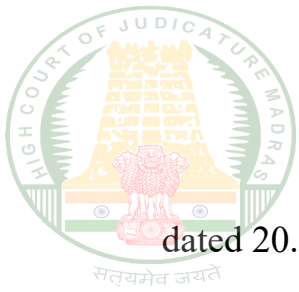
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reply dated 27.06.2012 denying their claim, which necessitated the filing of the suit for partition, separate possession and plaintiffs share in the rent and income yielded from the schedule property.

6. The first defendant filed a written statement and it was adopted by the second and third defendants by filing a memo to that effect. The first defendant denied the plaintiffs' claim that late M.Thiruveedhi was the owner of the suit schedule property bearing Door No.26/5, New Street, Thathankuppam, Villivakkam, Chennai, measuring about 1200 sq.ft., and that the said property had been assigned to him by the Government under assignment patta dated 01.07.1974. According to the first defendant, the plaintiffs have not properly described the suit property and there is ambiguity in the plaint schedule.

7. The specific case of the first defendant is that he has been in possession and enjoyment of the property from the year 1968 onwards. According to him, the land comprised in Survey No.249 of Konnur Village was originally classified as road in the survey and settlement register and, being a prolonged resident of Konnur Village, he was in possession of a portion of the land. He pleaded that he constructed a thatched house thereon and that, in the year 1976, the Special Tahsildar, Saidapet, issued an assignment patta in his favour in respect of Plot No.7-A at Thathankuppam, Konnur Village, under proceedings

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dated 20.05.1976.

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8. The first defendant further pleaded that the suit property is not joint family property and that late M.Thiruveedhi had no title or ownership over the same. It is his case that he continued to be in absolute possession and enjoyment of the property, put up a hut in the year 1975 and later constructed an R.C.C. structure in the year 1993. He claimed that he enjoyed the property as absolute owner till the year 2009 and thereafter settled the property in favour of his wife under the settlement deed dated 23.09.2009, who is presently in possession and enjoyment of the same.

9. The first defendant also contended that the suit for partition is not maintainable either in law or on facts. According to him, the plaintiffs had kept quiet for nearly 12 years after the death of their father and had filed the suit only with an intention to harass him. On the above pleadings, the first defendant prayed for dismissal of the suit with costs.

10. The trial court framed the following issues on 03.08.2013:

1. Whether the plaintiffs are entitled to get 1/8th share in the suit property?
2. Whether the plaintiffs are entitled to get share in the rent and income

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yielded from the suit property?

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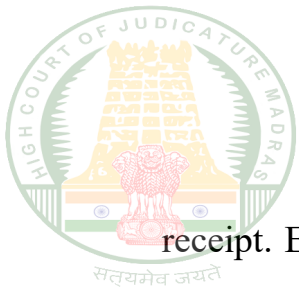
3. Whether it is true that the plaintiffs are not in joint possession of the suit property?

4. To what relief are the plaintiffs entitled for?

11. Before the trial court, on the plaintiffs' side, P.W.1 to P.W.5 were examined and Exs.A1 to A10 were marked. Ex.A1 was the settlement register extract; Ex.A2 was the FMB sketch; Ex.A3 was the death certificate of Thiruveedhi; Ex.A4 was the legal heir certificate; Ex.A5 was the encumbrance certificate; Ex.A6 and Ex.A7 were notice and reply; Ex.A8 photographs with CD; Ex.A9 police complaint; and Ex.A10 Form-I notice by the Tahsildar. Ex.C1 Town Survey register extract.

12. On the side of the defendants, the first defendant, T.Jayabalan, was examined as D.W.1 and Exs.B1 to B13 were marked. Ex.B1 is the marriage invitation dated 07.11.2003. Exs.B2 and B3 are the assignment pattas dated 20.05.1976 issued in the name of T.Jayabalan by the Special Tahsildar, and Ex.B4 is also an assignment patta issued in his favour by the Special Tahsildar. Exs.B5 and B6 are the true copies of the settlement deeds. Ex.B7 is the copy of the property tax assessment card, Ex.B8 is the Chennai Metropolitan Water Supply and Sewerage Board tax receipt, and Ex.B9 is the Electricity Board

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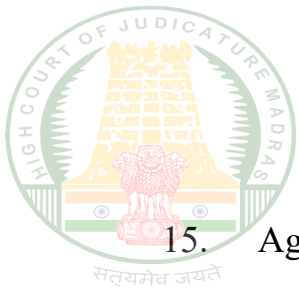


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receipt. Ex.B10 is the encumbrance certificate dated 01.03.2010. Ex.B11 is the certified true copy of the settlement deed dated 25.08.2004, Ex.B12 is the certified true copy of the sale deed dated 14.09.2004, and Ex.B13 is the copy of Transfer O.P. Petition No.14 of 2016 dated 15.10.2015.

13. On appreciation of the oral and documentary evidence adduced on either side, the Trial Court held that the plaintiffs had failed to prove that the suit property was assigned in favour of late M.Thiruveedhi. The Trial Court found that Ex.A1 contained corrections and overwriting and that the description of the property in the plaint schedule did not tally with Exs.A1, A2 and A10. It further held that the plaintiffs had not properly described the suit property by giving boundaries and had also failed to amend the plaint schedule despite the discrepancy being pointed out by the defendants.

14. The Trial Court, relying upon Exs.B2 to B9, held that the first defendant had established his possession and enjoyment over the suit property. The allegation that Exs.B2 to B4 were forged was rejected on the ground that the plaintiffs had not discharged the burden of proving the said allegation. Accordingly, the Trial dismissed the suit without costs.



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15. Aggrieved by the Judgment and decree, the plaintiffs have preferred the

present appeal contending that the trial court erred in rejecting the certified copy of the assignment patta and revenue records standing in the name of Thiruveedhi. They contend that revenue officials confirmed the assignment in favour of Thiruveedhi and that the Form-I notice also stood in his name. They further contend that the first defendant's pattas were forged, unsupported by revenue records, and could not have been issued in his favour when he was a young unmarried son. They also contend that the trial court wrongly relied upon tax receipts and possession documents in the first defendant's name, though he was only the eldest male member managing family property. The appellants also submit that after the death of Thiruveedhi on 04.03.2000, all his children became entitled to 1/8th share each under Hindu succession law, and that the trial court failed to appreciate this legal consequence.

16. The learned counsel for the appellants/plaintiffs would submit that the Trial Court erred in dismissing the suit for partition, despite the plaintiffs having established that the suit property originally belonged to their father, late M.Thiruveedhi. It is submitted that the suit property bearing Door No.26/5, New Street, Thathankuppam, Villivakkam, Chennai, comprised in S.F.No.91, old S.No.249/part, was assigned by the Government in favour of M.Thiruveedhi under assignment patta dated 01.07.1974. Since Thiruveedhi died intestate on

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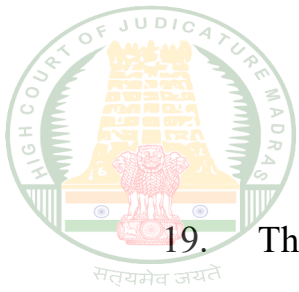
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04.03.2000, the plaintiffs and defendants, being his legal heirs, are each entitled

to 1/8th share in the suit property.

17. The learned counsel would further submit that the Trial Court wrongly discarded Ex.A1 Settlement Register, Ex.A10 Form-I notice and Ex.C1 revenue record merely on the ground of corrections, overwriting and discrepancy in the block number. According to the learned counsel, the discrepancy between Block No.91 mentioned in the plaint schedule and Block No.31 found in the revenue records is only a clerical or survey discrepancy and does not affect the identity of the property, which is otherwise identifiable by door number, survey number, extent and location.

18. It is further submitted that official revenue records maintained in the regular course of official duty carry a presumption of correctness under the Indian Evidence Act, and such presumption cannot be displaced by minor clerical discrepancies. In support of this submission, the learned counsel relied upon *Balwant Singh v. Daulat Singh*, (1997) 7 SCC 137, *Union of India v. Pramod Gupta*, (1997) 9 SCC 78, *State of A.P. v. Star Bone Mill and Fertilizer Co.*, (2013) 9 SCC 319, and *Partap Singh v. Shiv Ram*, AIR 2020 SC 1382.



19. The learned counsel would also submit that the Trial Court wrongly relied

upon Exs.B2 and B3, the alleged assignment pattas produced by the first defendant. It is contended that the said documents were not proved in the manner known to law and their genuineness could not be verified by the Tahsildar, who was examined as P.W.5. According to the learned counsel, the first defendant produced those documents belatedly and failed to establish that they related to the suit property. It is further submitted that Exs.B2 and B3 relate to different plots in S.F.No.249 and not to the suit property in S.F.No.91.

20. The learned counsel further contended that the Trial Court failed to properly appreciate the admissions made by the first defendant as D.W.1. According to the learned counsel, D.W.1 admitted the relationship between the parties, the death of Thiruveedhi, and the fact that the plaintiffs are also legal heirs of Thiruveedhi. It is therefore submitted that, once the relationship and common source of title are admitted, the plaintiffs, being daughters of Thiruveedhi, are entitled to equal shares along with the other legal heirs.

21. The learned counsel would submit that the finding of the Trial Court regarding improper description of the property is erroneous. The suit property has been sufficiently described by door number, street, village, survey number,



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old survey number, extent and nature of property. Minor omission or discrepancy in the description cannot defeat a suit for partition when the property is otherwise identifiable from the pleadings and evidence. In this regard, reliance was placed upon *Karam Chand v. Board of Revenue, Rajasthan*, AIR 2005 Raj 284, *Abdul Hamid v. Nur Mohd.*, AIR 1976 Del 328, and *Nagindas Ramdas v. Dalpatram Iccharam*, AIR 1974 SC 471.

22. The learned counsel would also submit that the Trial Court failed to protect the statutory rights of the plaintiffs, who are daughters of late M. Thiruveedhi. It is submitted that, under the Hindu Succession Act, sons and daughters are Class-I heirs and are entitled to equal shares in the property of a male Hindu dying intestate. Reliance was placed upon *Vineeta Sharma v. Rakesh Sharma*, AIR 2020 SC 3717, *Danamma v. Amar*, (2018) 3 SCC 343, and *E. Parashuraman v. V. Doraiswamy*, (2006) 1 SCC 658.

23. The learned counsel further relied upon *Lachman Singh v. Kirpa Singh*, (1987) 2 SCC 547, and *Prem Singh v. Birbal*, (2006) 5 SCC 353, to contend that partition is a matter of right among co-sharers and that such right cannot be defeated on technical objections or by one co-sharer setting up exclusive title on the basis of doubtful documents.



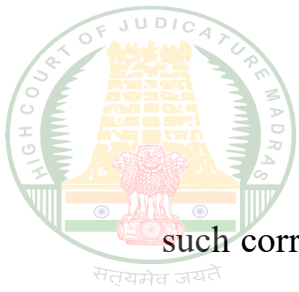
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WEB COPY (24.) On the above submissions, the learned counsel prayed that the judgment and decree of the Trial Court be set aside and a preliminary decree be passed for partition of the suit property into eight equal shares, allotting 1/8th share each to the plaintiffs and other legal heirs of late M.Thiruveedhi, together with consequential reliefs.

25. The learned counsel for the respondents/defendants would submit that the suit for partition itself is not maintainable as framed. According to him, the plaintiffs have not established that the suit property belonged to late M.Thiruveedhi. It is submitted that when the first defendant is in possession of the property in his own right and when he disputes the very title of Thiruveedhi, the plaintiffs ought to have filed a suit for declaration of title and recovery of possession, and not a bare suit for partition.

26. The learned counsel would further submit that the plaintiffs have not proved that the suit property was assigned in favour of late M.Thiruveedhi. Except Ex.A1 Settlement Register, no independent or reliable document has been produced to establish title in favour of Thiruveedhi. It is contended that Ex.A1 contains corrections and overwriting with regard to the plot number, extent and block number, and no initials or authentication are found against

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such corrections. It is further submitted that Ex.A1 was obtained only under the

Right to Information Act and that the competent authority who issued or maintained the original assignment records was not examined. Though the plaintiffs examined revenue officials, the Special Tahsildar, who is said to have issued the assignment patta, was not examined.

27. It is further contended that the suit property was originally Government land and that, on the basis of long possession, patta was issued in favour of the first defendant. The first defendant has produced Exs.B2 to B4 assignment pattas and other revenue and tax records to show that he has been in possession and enjoyment of the property from the year 1976. According to the learned counsel, such possession remained undisputed for several years and the plaintiffs did not challenge the patta or the possession of the first defendant during the lifetime of Thiruveedhi or immediately after his death.

28. The learned counsel would also submit that the plaintiffs have not specifically pleaded that Exs.B2 to B4 were obtained by fraud or fabrication. In the absence of specific pleadings containing particulars of fraud, as required under Order VI Rule 4 of the Code of Civil Procedure, the plaintiffs cannot be permitted to contend that the assignment pattas produced by the first defendant are fraudulent or forged. It is submitted that vague allegations are not sufficient



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to dislodge documents produced by the first defendant.

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29. The learned counsel would further contend that the plaintiffs have not challenged the pattas issued in favour of the first defendant. The first defendant had also executed a settlement deed in favour of his wife, Ramani Jayabalan, in the year 2009, and even the said settlement deed has not been challenged in the suit. Therefore, without seeking declaration of title and without challenging the documents relied upon by the first defendant, the plaintiffs are not entitled to seek partition.

30. It is also submitted that the plaintiffs have failed to establish either title or joint possession. They have not proved that the suit property was the self-acquired property of late M. Thiruveedhi or that it was available for partition among his legal heirs. On the other hand, the documents produced by the first defendant establish that he has been in continuous possession and enjoyment of the property in his own right.

31. In support of his submissions, the learned counsel relied upon *Lachman Singh v. Kirpa Singh and others*, AIR 1987 SC 1616, *Rangammal v. Kuppaswami and another*, (2011) 12 SCC 220, *State of Andhra Pradesh and others v. Star Bone Mill and Fertilizer Company*, (2013) 9 SCC 319, and



Jagdish Prasad Patel (Dead) through LRs. v. Shivnath and others, (2019) 6 SCC

WEB 82. Relying upon the above decisions, the learned counsel prayed that the findings of the Trial Court be confirmed and the appeal be dismissed.

Points for Consideration:

32. The following points arise for consideration in this appeal:

1. Whether the suit schedule property belonged to late Thiruveedhi?
2. Whether the suit schedule property is available for partition among the legal heirs of late Thiruveedhi?
3. Whether the judgment and decree of the Trial Court are liable to be set aside?

Point Nos. 1 and 2:

33. The plaintiff instituted the suit for partition on the footing that the suit schedule property was originally assigned in the name of her father, late Thiruveedhi. According to the plaintiff, late Thiruveedhi thereafter put up a house in the said property, possessed and enjoyed it as its absolute owner, and died intestate leaving behind the plaintiffs and defendants as his legal heirs. The relationship between the parties is not in dispute. It is admitted that the plaintiffs and defendants are the legal heirs of late Thiruveedhi.



34. It is also not in dispute that, on the date of filing of the suit, the suit property was in the actual physical possession of the first defendant, who, being the eldest member of the family, was managing the property. However, the first defendant specifically contends that his possession is not as one of the legal heirs of late Thiruveedhi, but in his own independent right. According to him, the assignment was made in his favour; he put up the construction in the property; and he has been in continuous possession and enjoyment of the same as its absolute owner for more than three decades.

35. The core issue, therefore, is whether the suit property belonged to late Thiruveedhi, as claimed by the plaintiffs, or whether it independently belongs to the first defendant. Since the plaintiffs claim title to the suit property only through late Thiruveedhi, the burden squarely rests upon them to establish that late Thiruveedhi had title to the property.

36. To prove the title of late Thiruveedhi, the plaintiffs mainly rely upon Exs.A1, A2 and A10. Ex.A1 is the SLR extract. The Trial Court noticed certain discrepancies and overwriting in the said document and, for that reason, declined to place reliance upon it. The principal reason given by the Trial Court was that the property mentioned in Ex.A1 is situated in Block No.31, whereas,



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even according to the plaintiffs, the suit property is situated in Block No.91.

Ex.A2, the Field Measurement Book, also relates to Block No.31. Similarly, Ex.A10, Form No.1 issued under the Natham Scheme enquiry, stands in the name of Thiruveedhi, but it too pertains to the property situated in Block No.31.

37. The plaintiffs have not established that Exs.A1, A2 and A10 relate to the suit schedule property. They have also not explained how documents pertaining to Block No.31 can be connected to the suit property, which, as per the plaint schedule, is situated in Block No.91.

38. Further, the plaintiffs have not produced any independent document to show that late Thiruveedhi was in possession and enjoyment of the suit property. No house tax receipt, water tax receipt, electricity service record, or other revenue or municipal record has been produced in support of their claim.

39. In these circumstances, this Court finds no infirmity in the conclusion of the Trial Court that the plaintiffs have failed to establish that late Thiruveedhi owned the suit property.



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40. On the other hand, the first defendant, in support of his claim that the property was originally assigned in his favour, relies upon Exs.B2 to B4, namely, the assignment orders standing in his name. He has also produced Exs.B7 to B9, namely, the Corporation tax demand card, Metro Water tax records, and electricity bills, all standing in his name for a considerable period.

41. These documents lend probability to the case of the first defendant that he has been in possession and enjoyment of the suit property in his own right, while paying public taxes and statutory charges in respect of the same.

42. Though the plaintiffs have disputed the genuineness of the documents produced by the defendants and alleged that they are forged and created for the purpose of the case, the plaintiffs cannot succeed merely on the weakness of the defence. It is well settled that a plaintiff must establish her own case independently, on the strength of her own pleadings and evidence.

43. In the present case, as already discussed, the plaintiffs have failed to establish that late Thiruveedhi had title to the suit property.



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44. In the absence of proof that the suit property belonged to late Thiruvedhi, the question of treating it as partible property among his legal heirs does not arise. Consequently, the suit property cannot be subjected to partition. Accordingly, Point Nos. 1 and 2 are answered against the plaintiffs.

Point No. 3:

45. In view of the findings rendered on Point Nos. 1 and 2, this Court finds no valid ground to interfere with the judgment and decree passed by the Trial Court. The judgment and decree under appeal do not suffer from any illegality, perversity, or infirmity warranting interference by this Court and the judgment and decree of the Trial Court are liable to be confirmed. Accordingly, Point No 3 is answered against the plaintiffs.

46. In the result, the appeal is dismissed and the judgment and decree of the Trial Court are confirmed. Having regard to the relationship between the parties, there shall be no order as to costs. Consequently, connected miscellaneous petition(s), if any, shall stand closed.

15.06.2026

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Index: Yes/No

Speaking Order /Non-speaking order

Neutral citation: Yes/No



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DR. A.D. MARIA CLETE, J

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To

1. The XVIII Additional Judge, City Civil Court, Chennai
2. The Section Officer,
V.R.Records,
Madras High Court.

PRE DELIVERY JUDGMENT
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