



SA(MD). No.185 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 23/06/2026

CORAM

THE HONOURABLE MR. JUSTICE P.B. BALAJI

SA(MD). No.185 of 2021 and
CMP(MD).No.2748 of 2021

N.Nallathambi

... Appellant

Vs

M. Ranjitham

... Respondent

PRAYER :- Second Appeal filed under section 100 of civil procedure code to set aside the judgment and decree dated 06.12.2019 made in A.S.No.28 of 2015 on the file of the additional District and Sessions Judge, Sivagangai confirming the Judgment and decree dated 07.08.2015 made in O.S.No.,27 of 2008 on the file of the Sub Court, Sivagangagi.

For Appellant : Mr.V. Meenakshi Sundaram
for Mr.M. Murugesan

For respondent : Mr. P. Arumugarajan

JUDGMENT

Heard Mr. V. Meenakshi Sundaram, learned counsel for the appellant and Mr. P. Arumuga Rajan, learned counsel for the respondent.



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2. Pursuant to the order passed in CMP(MD).No.7079 of 2026, the plaintiff was permitted to amend the plaint. In fact, it was an application taken out by the appellant / defendant in the original suit proceedings in O.S.No.27 of 2008 on the file of the Sub Court, Sivagangai. The suit was filed by the respondent/plaintiff for partition and separate possession of $\frac{1}{2}$ share. An objection was taken by the appellant / defendant that the suit is bad for partial partition and that without including all the properties, there could not be a valid preliminary decree passed by the courts below. It is the contention of the learned counsel for the appellant that all other properties which are also available for partition should be included, and after hearing the counsel for the plaintiff as well, the amendment application in CMP(MD).No.7079 of 2026 was allowed on 15.06.2026. Pursuant to the same, the counsel for the respondent herein / plaintiff has also carried out necessary amendments, and a clean copy of the plaint has also been filed before this Court.

3. The relationship between the parties is admitted. It is also not in dispute that the plaintiff and the defendant are entitled to $\frac{1}{2}$ share in all these items of the suit properties.



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4. In the light of the above, I do not see any impediment in declaring $\frac{1}{2}$ share of the appellant as well as the respondent in all these suit properties in terms of the amended plaint and the suit properties as set out in the amended plaint. The preliminary decree shall be drawn up subject to payment of applicable court fee by the appellant / defendant and the respondent / plaintiff, if not already paid, declaring their respective shares. It shall be open to the parties to work out their rights in equity by taking out appropriate final decree proceedings before the trial court.

5. Accordingly, this Second Appeal is disposed of granting a preliminary decree as indicated above. No costs. Consequently, the connected Miscellaneous Petition is closed.

23.06.2026

TRP

Index : yes / no

Internet: yes /no

To

1. The additional District and Sessions Judge, Sivagangai

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2. The Sub Court, Sivagangagi

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P.B. BALAJI, J.

trp

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