

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-04-2026

CORAM

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THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

AS No.700 of 2023

Sampath

..Appellant(s)

Vs

1. Rathinamala

2. Arimuthu

3. Thavayi

4. Logalakshmi

5. Samundeeswaran

..Respondent(s)

Appeal against the judgment and decree passed in O.S.No.33/2015 dated 30/10/2018 on the file of Additional District Judge,(FTC) Vellore.

For Appellant(s):

Ms.R.T.Sundari

For Respondent(s):

Mrs.Vasudha Thiagarajan
for RR.1,3 & 4.

R-2 died

R-5 Not Ready in Notice



JUDGMENT

WEB COPY (Judgment of the Court was delivered by K.Rajasekar J.)

This Appeal Suit has been filed by the plaintiff in the suit in O.S.No.33 of 2015, challenging the condition imposed on him of depositing a sum of Rs.1,33,000/- for getting his one-third share in the suit property.

2. The case of the plaintiff -appellant was that he was one of the sharers in the suit property and the other defendants were having two-third share. The one-third share belonged to him, as he inherited the same following the death of his mother – Saradhammal. Since the defendants refused him to enjoy the property, he filed the suit for partition and permanent injunction. The plaintiff also marked a Sale Deed, standing in the name of her mother. The defendants admitted the relationship, however, the first defendant had contended that she renovated and developed the building in the suit property, for which she incurred a sum of Rs.4.00 lakhs. Hence, she claimed that she was entitled to more share in the suit property. Accordingly, she opposed the suit.

3. The Trial Court had framed an issue relating to entitlement of plaintiff's one-third share and consequential relief of decree for permanent injunction. The Trial Court decreed the suit to the extent that the plaintiff was entitled to one-third share in the suit property. The Trial Court also accepted the case of the first defendant that she had incurred a sum of Rs.4.00 lakhs for constructing the building in the suit property, and thereby the plaintiff has to



pay sum of Rs.1,33,000/- to the first defendant to get his share Accordingly, the decree was passed.

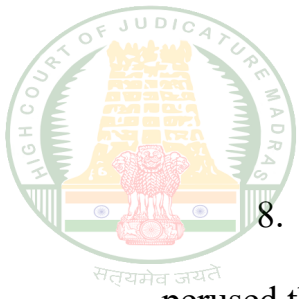
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4. Aggrieved over the said direction for payment of Rs.1,33,000/-, the plaintiff has approached this Court with this appeal.

5. The point that arises for consideration before this Court is, whether the trial Court's direction to the plaintiff to pay a sum of Rs.1,33,000/- to first defendant was valid and sustainable ?

6. Learned counsel for the appellant submitted that the plaintiff also contributed some amounts for renovating the house, as also the other sharers, and, without proper enquiry, giving a direction to the plaintiff to pay a sum of Rs.1,33,000/- to the first defendant was based on no evidence and the same was not necessary. Accordingly, she prayed to set aside the judgment and decree passed by the trial Court.

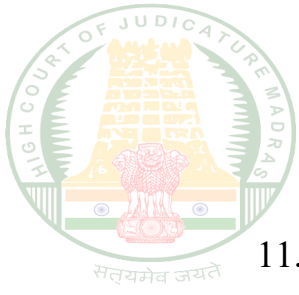
7. Learned counsel for the respondents would submit that the defendants had exhibited documents to show that they incurred expenses for renovating and constructing the building in the suit property and, after considering the same, the trial Court had decreed the suit, directing the plaintiff to pay a sum of Rs.1,33,000/- to the first defendant. However, she fairly submitted that regarding the payment and the expenses incurred for construction of the house, separate enquiry may be made by the trial Court in the final decree proceedings, as the final decree application is pending before the trial Court.



8. We have considered the submissions made on both sides and also perused the material available on record.

9. Though before the trial Court two exhibits were marked on behalf of the defendants, such as Salary Certificate of the plaintiff and Detailed Estimate for renovating the building and also a Diary to show the details of the expenses met by the first defendant, we are of the view that no proper enquiry was conducted by the trial Court regarding their validity and the manner in which all the expenses were incurred by the first defendant. We are also of the view that a separate enquiry in this regard has to be conducted. Therefore, the order passed by the trial Court directing the plaintiff to pay a sum of Rs.1,33,000/- to the first defendant would be considered only during the final decree proceedings and for the purpose of determining the payments if any to be made by the plaintiff, an enquiry of this nature at the preliminary decree stage was unwarranted.

10. Accordingly, the judgment and the decree impugned herein are set aside. The trial Court is directed to proceed with the final decree proceedings and, during the said proceedings, Court shall conduct a separate enquiry with regard to the expenses met by the parties for development of the property. Considering the age of the parties and the period of litigation, the trial Court shall complete the final decree proceedings at the earliest, preferably within six months.



11. With the above observation and direction, this Appeal Suit is disposed of. No costs. Consequently, the connected C.M.P.No.24582 of 2023 is closed.

(C.V.K.,J.) (K.R.S.,J.)
20-04-2026

Index: Yes
Speaking/Non-speaking order
Neutral Citation: Yes

DIXIT

To

1.Additional District Judge (FTC),
Vellore.

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



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

DIXIT

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