



WEB COPY

A No. 2142 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-09-2025

CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

A No. 2142 of 2025

AND

CS NO. 46 OF 2017

1. Hema Gandhimathi and another
No.59/252, Thiruvenkatapuram Main
Road, Choolaimedu, Chennai-94 and
another

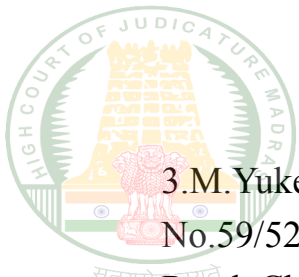
2.A.Esai Selvam
No.59/252, Thiruvenkatapuram Main
Road, Choolaimedu, Chennai-94

Applicant(s)

Vs

1. M.Devika
No.59/52, Thiruvenkatapuram Main
Road, Choolaimedu, Chennai-94

2.A.Vignesh (minor)
Rep.by his mother and natural guardian
M.Devika, No.59/52,
Thiruvenkatapuram Main Road,
Choolaimedu, Chennai-94



A No. 2142 of 2025



3.M.Yukesh Venkataramanan
No.59/52, Thiruvenkatapuram Main
Road, Choolaimedu, Chennai-94

WEB COPY

4.M.Sharmila
No.G-7, Bharath Flats, R.V.Nagar,
Anna Nagar East, Chennai-102

Respondent(s)

A No. 2142 of 2025

PRAYER: Application filed under Order XIV Rule 8 of O.S.Rules r/w. Order XXIV Rule 2(3) of C.P.C. to pass a final decree in terms of preliminary decree dated 13/11/2024 in the above suit being C.S.No.46 of 2017, dividing the suit schedule property into three equal shares and allot one such share each to the Plaintiffs 1 and 2 and the remaining 1/3rd share equally to and in favour of defendants 1 to 4.

A No. 2142 of 2025

For Applicant(s): M/s.T.K.Kulasekaran

For Respondent(s): Mr.M.Kamalakaran for D1 and
D2
Ms.K.Jamuna for D4



ORDER

WEB COPY

Objection to the Commissioner's report filed by respondents 1 and 2 / defendants 1 and 2. The objection raised by the defendants 1 and 2 is that the property is indivisible and hence it has to be sold.

2. The learned counsel for the decree holder / plaintiffs pointed out the specific observation made by this Court in its order dated 08.09.2025 which reads as under:

“ 5. As there is no other possibility except to demolish the property, the defendants 1 and 2 have to cooperate and vacate the premises at the earliest.”

3. Consequent to the above, the learned counsel for the defendants 1 and 2 now submitted that he has now got instructions from his parties that they do not want division after vacating the property, but only to sell the property and divide the sale proceeds. It should be made clear that, in any partition suit, selling the property and dividing the sale proceeds would not be the first option and the learned Advocate Commissioner appointed by this Court would workout all possibilities to effect division as per the decree.

4. The learned Advocate Commissioner who is present today has also stated that in his earlier report he has stated that the property is indivisible, if the structures exists and he has to workout the possibility of division if the property



could become vacant.

WEB COPY

5. Even before the parties vacate the property, the Commissioner needs to get a site plan of the property and suggest whether the property can be divisible in the event of the parties vacating the same.

6. Let the Advocate Commissioner file a report in the line of the above observation on or before 14.10.2025. The share of the Commissioner's fee payable by the fourth defendant shall be paid directly to the Commissioner by today itself.

7. The matter is ordered to be listed on 14.10.2025.

22-09-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

bkn



WEB COPY

A No. 2142 of 2025





WEB COPY

A No. 2142 of 2025



R.N.MANJULA J.

bkn

**A No. 2142 of 2025
AND CS NO. 46 OF
2017**

22-09-2025