



WEB COPY

A No. 5659 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-11-2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

**A No. 5659 of 2025
in CS NO. 202 OF 2020**

1. Mr.B.Ganapathy
No.21, Kalavai Chetty St.(Second
Floor), Chintadripet, Ch - 2.

Applicant(s)

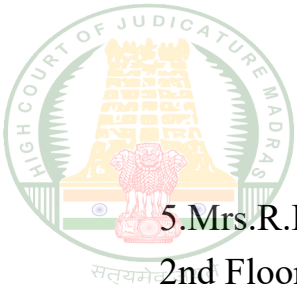
Vs

1. Mrs.A.Gajaharini and 13 others
No.14/11, Rathinammal Second St.,
Asath Nagar, Aminjikai, Ch - 29.

2.Mr.Lakshmanan
Rajalakshmi Sore, No.57, Arunachala
Naicken St., Chintadripet, Ch - 2.

3.The Manager
Hi - Tech Diagonistics Centre,
Rajalakshmi Store, No.57, Arunachala
Naicken St., Chintadripet, Ch - 2.

4.Mrs.Raheela
2nd Floor, No.57, Arunachala Naicken
St., Chintadripet, Ch – 2.



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5.Mrs.R.Lakshmi

2nd Floor, No.57, Arunachala Naicken

St., Chintadripet, Ch - 2.

6.Mr.Suresh

2nd Floor, No.57, Arunachala Naicken

St., Chintadripet, Ch - 2.

7.Mrs.Cindrella

2nd Floor, No.57, Arunachala Naicken

St., Chintadripet, Ch - 2.

8.Mr.Dhanasekar V.R.

3rd Floor, No.57, Arunachala Naicken

St., Chintadripet, Ch - 2.

9.Mr.E.Parasuram

3rd Floor, No.57, Arunachala Naicken

St., Chintadripet, Ch - 2.

10.Mr.Kirankumar

Ground Floor, No.21/43, Kalavai

Chetty St., Chintadripet, Ch - 2.

11.Mr.Suresh

Ground Floor, No.21/43, Kalavai

Chetty St., Chintadripet, Ch - 2.

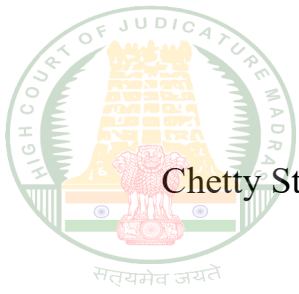
12.Mr.Thirumal

First Floor, No.21/43, Kalavai Chetty

St., Chintadripet, Ch - 2.

13.Mrs.Bhanu

Ground Floor, No.22/45, Kalavai



Chetty St., Chintadripet, Ch - 2.

WEB 14.Mr.Karthik

First Floor, No.22/45, Kalavai Chetty
St., Chintadripet, Ch - 2.

Respondent(s)

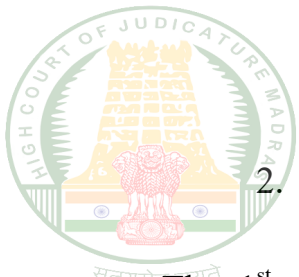
PRAYER: This application has been filed under Order XIV Rule 8 of the Madras High Court Original Side Rules read with Order IX Rule 13 and Section 151 of the Code of Civil Procedure praying to set aside the exparte decree order dated 17/07/2025 in C.S. No.202 of 2020 and permit me to contest the above suit on merits.

For Applicant(s): M/s M Sridhar
K.Pradeep
S.V.Badriah

For Respondent: Mr. M. Radhakrishnan [for R1]

ORDER

This application has been filed by the applicant to set aside the exparte order passed against him dated 17.07.2025 in the final decree proceedings in C.S. No.202 of 2020.



2. According to the applicant, he is the 1st defendant in the main Suit.

The 1st respondent / Plaintiff has filed the Suit for partition and already a preliminary decree was passed. The applicant had engaged the services of the present counsels and obtained change of Vakalat from the earlier counsels and when the Suit was listed in the month of July 2025, there was no representation on the side of the applicant and this Court directed the Registry to verify if any change of Vakalat had been filed. Based on the said report, the name of the applicant was printed in the cause list on 17.07.2025 and he was unable to present either through his counsel or in person and he was set exparte. Since the name of the counsel was not printed in the cause list, they missed to represent on that date of hearing. Therefore, he was set exparte and he may be given a chance to defend his case, thereby he filed this application.

3. The 1st respondent has filed a counter stating that already this Court passed a judgment dated 25.11.2022 in the main Suit in C.S. No.202 of 2020 and a preliminary decree was passed. The preliminary decree was challenged through an appeal in O.S.A. No.34 of 2023 and the same was dismissed on



19.10.2024. The final decree application cannot at all be contested by the applicant and the application was made by the applicant only to pass a final decree in terms of the preliminary decree. Due to non-appearance of the parties on 17.07.2025, this Court set exparte. Already the Advocate Commissioner inspected the property on 09.05.2025 along with both sides' counsels and no objections were raised against the report of the Advocate Commissioner. This Court also in terms of the Advocate Commissioner's report, passed a final decree. Therefore, the decree cannot be termed as exparte decree and the averments made in the application affidavit are false and there are no reasons to allow this application. The application is not maintainable and deserves to be dismissed.

4. The learned counsel appearing for the applicant would submit that in respect of the allotment of shares, he has some grievances, thereby, in order to putforth his objections and to remove the inconvenience in enjoying the property, one more chance is to be given to him. Therefore, prayed to allow this application.



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5. The learned counsel appearing for the respondents would submit that already preliminary decree was passed and the same was challenged by the applicant through O.S.A. No.34 of 2023 and the same was dismissed. Thereafter, for final decree proceedings, an Advocate Commissioner was appointed and the Commissioner was also inspected the property in the presence of both sides' counsels and the same counsel has now filed this application and therefore, there is no merits in this application and only to drag on the proceedings, they have filed this application. Therefore, they prayed to dismiss the application.

6. Heard both sides and perused the entire materials available on record.

7. Considering the above said submissions made by either side counsel and the Court passed the final decree after accepting the suggestions and Commissioner report and the applicant also remained absent on that date i.e., on 17.07.2025, and in order to give a fair chance to the applicant and also to ensure the natural justice, it is appropriate to give one more chance to the applicant



and since it is the final decree proceedings, the convenience of the parties is very much essential and therefore, after hearing the applicant, the Court can pass orders and therefore, this Court is inclined to allow this application.

8. Accordingly, this application is *allowed*.

26-11-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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P.DHANABAL J.

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