

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2015

C O R A M

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

CRP PD Nos.1144 to 1146 of 2006

and M.P.Nos.1 & 1 of 2006

1.K.R.Venkobarao

2.K.R.Subramania Rao

... Petitioners in CRP PD Nos.1144 to 1146  
of 2006 / Plaintiff & 3rd Defendant)

Vs.

1.K.R.Sathyanarayana Rao

2.Shyamala Bai

... Respondents 1 & 2 in all CRPs /  
2nd & 8th Defendants

3.K.R.Prema Bai

4.Vimala Bai

5.Hemavathy

6.Amarjothi

... Respondents 3 to 6 in CRP PD Nos.1144 & 1145  
of 2006/ Defendants 4 to 7

(Respondents 3 to 6 are given up)

COMMON PRAYER : Revision Petitions filed under Article 227 of  
Constitution of India against the fair and decretal order in  
I.A.Nos.8781 & 8782 of 2004 dated 28.07.2005 in O.S.No.5149 of 1983  
and I.A.No.3428 of 2006 in I.A.No.8781 of 2004 in O.S.No.5149 of 1983  
dt.09.06.2006 respectively, passed by the XII Asst. City Civil Judge,  
Chennai.

For Petitioners : Mr.S.Parthasarathy

For Respondents : Mr.Ajay Kumar Gnanam  
for R1 & R2  
RR 3 to 6 given up in  
CRP 1144 & 1145/06

O R D E R

These revision petitions are directed against the orders  
passed by the XII Asst. Judge, City Civil Court, Chennai in  
I.A.No.8781 and 8782 of 2004 in O.S.No.5149 of 1983 and I.A.No.3428  
of 2006 in I.A.No.8781 of 2004 in O.S.No.5149 of 1983.

2. The first petitioner filed the suit for declaration declaring that the immovable properties mentioned in Schedules A to D as joint family properties of the plaintiff and defendants 1 to 7; to declare that the Schedule E to H mentioned businesses are joint family businesses of the plaintiff and defendants 1 to 7; for partition and separate possession of 1/8<sup>th</sup> share of the plaintiff in respect of immovable properties mentioned in Schedules A to D; to appoint commissioner to divide the immovable properties mentioned in Schedules A to D by metes and bounds and to put the plaintiff in possession of his 1/8<sup>th</sup> share; for rendition of accounts in respect of businesses mentioned in Schedules A to H and for other reliefs.

3. After contest, the trial court decreed the suit allotting 1/7<sup>th</sup> share in A and E Schedule properties, in favour of the plaintiff. The decree of the trial court was modified by the III Additional Judge, City Civil Court, Chennai in A.S. No.117 of 1991 granting 1/7<sup>th</sup> share in Schedule A, B, C, E and F properties and directed the second defendant to furnish accounts from 23.08.1971 in respect of E and F schedule business while rejecting the claim in respect of Schedule D, G and H properties. The judgment of the first Appellate Court was further modified by this Court in S.A.No.593 of 1993 to the effect that shares in B and C schedule properties were rejected upholding the decree passed in respect of 'F' Schedule property. Eventually, plaintiff is entitled for 1/7<sup>th</sup> share in A, E and F Schedule properties. Thereupon, the second defendant filed I.A.No.8781 of 2004 for appointing an Advocate Commissioner to partition 'A' Schedule property and I.A.No.8782 of 2004 for partition in respect of E and F Schedule properties by taking inventory and verifying the account books from January 1982 .

4. The plaintiff filed I.A.No.3428 of 2006 in I.A.No.8781 of 2004 to verify the accounts from 23.08.1971. The Executing Court appointed Mr.S.Senthil Kumaran as Advocate Commissioner and directed him to prepare the plan and report, in both the applications in accordance with the preliminary decree and also by taking into careful consideration, the modifications made in the appeal judgments.

5. Mr.S.Parthasarathy, learned counsel for the petitioner submitted that as per the decree passed in A.S.No.117 of 1991, the second defendant has to give accounts in respect of E and F Schedule property from 23.08.1971 till 01.11.1982. The learned counsel further submitted that the plaintiffs have no objection for passing final decree in I.A.No.8781 of 2004.

6. Per contra, learned counsel for the respondent submitted that as per the decree passed in A.S.No.117 of 1991, the second defendant has to furnish accounts from 23.08.1971 to 01.11.1982 and for the subsequent period, the plaintiff has to furnish accounts.

7. In view of the submissions of the learned counsel, this court directs the Advocate Commissioner to verify the accounts in respect of E and F Schedule properties from 23.08.1971. The second defendant is directed to furnish accounts from 23.08.1971 to 01.11.1982. The plaintiff is directed to furnish accounts from 01.11.1982 till date.

8. With the above directions, the Civil Revision Petitions are disposed of. The Advocate Commissioner shall complete the process within a period of three months from the date of receipt of a copy of this order.

Sd/-  
Assistant Registrar

True Copy

Sub Assistant Registrar

To

The XII Asst. Judge,  
City Civil Court,  
Chennai.

+3 cc's to Mr.Ajoy KUmAr, Advocate, SR.13381, 82, 83

+1 cc to Mr.s.Parthasarathy, Advocate, SR.13223.

rsy(co)  
krd 13/4

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