

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 02TH DAY OF APRIL 2019

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

OA. No.598 OF 2018

in

C.S. No.359 of 2016

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1.Tmt.G.Gowri
W/o Lae K.Gajapathy,
2. Mr.G.Haribabu,
3.Mr.G.Sathyanarayanan,
S/o Late K.Gajapathy,
4.Mr.G.Sundararajan,
S/o Late K.Gajapathy

Applicants 1 to 4 rep.by their
Power of Attorney G.Purusothaman,
S/o Late K.Gajapathy,

5. G.Purushothaman,
All are residing at
No.13/7, Krishna Nagar 3rd Street,
Thiru Vi.Ka Nagar,
Chennai 600 082

... Plaintiffs

-Versus-

Mr.G.Domodaran
S/o Late K.Gajapathy,
No.26/36 Venkatesa Maistry Street,
Kondithope,
Chennai 600 079.

...Defendant

OA.No.598/2018 :-

Mr.G.Domodaran
S/o Late K.Gajapathy,
No.26/36 Venkatesa Maistry Street,
Kondithope,
Chennai 600 079.

..Applicant

.Vs.

1. Tmt. G. Gowri
W/o Lae K.Gajapathy,

2. Mr.G.Haribabu,
 3.Mr.G.Sathyanarayanan,
 S/o Late K.Gajapathy,
 4.Mr.G.Sundararajan,
 S/o Late K.Gajapathy

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 All are residing at
 No.13/7, Krishna Nagar 3rd Street,
 Thiru Vi.Ka Nagar,
 Chennai 600 082

... Respondents

Application praying that this Hon'ble Court be pleased to appoint a receiver to collect the monthly rents from the tenants in occupation of the house property described in Schedule 1 and 2 to the Written statement cum counter claim.

This application coming on this day before this court for hearing the court made the following order:

This application has been filed seeking appointment of the Receiver to collect the rental income from the suit property from item Nos.1 and 2 of the schedule mentioned properties which are made subject matter of the counter claim by the defendant.

2. This application is resisted by the plaintiffs 2 and 3 contending that the said two items of properties which have been made subject matter of this application for appointment of Receiver have been settled on them by their grandmother even in 2004 and it is their absolute property.

3. It is further the case of the defendants that there was a subsequent arrangement by which the parties had agreed to share the properties including the properties

subject matter of OA.No.598 of 2018 amongst themselves. The validity or otherwise of such an arrangement will have to be tested only at the time of trial.

4. *Prima facie* there is a registered document in favour of the plaintiffs 2 and 3 executed by the grandmother even in 2004 and there is no prayer in the counter claim to set aside the said registered settlement deed said to have been executed by the grandmother.

5. I therefore see no merits in the application for appointment of Receiver. Appointment of Receiver is an extraordinary remedy and cannot be resorted to unless there is proof of acts of waste.

6. Hence, this application is dismissed.

Sd/- R.S.M.J.
02.04.2019

//Certified to be a true copy//

Dated this the day of 2019.

GJM-11.4.2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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