

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 8TH DAY OF SEPTEMBER 2020

THE HON'BLE MS. JUSTICE P.T.ASHA

A.No.8243 of 2019
in
C.S.No.673 of 2017

Chandrakala
W/o.Gurumurthi
Hindu, aged about 45 years
3,Durairaj Street,
Pazhavan Thangal, Chennai 600 114.

...Applicant/Plaintiff

Versus

K.Hariprasad
S/o.B.Krishnamurthi
15/8, Kamatchi Colony
GST Road, Tambaram Sanatorium
Chitlapakkam, Chennai 600 047.

..Respondent/Defendant

Application praying that this Hon'ble Court be pleased to allow the

Application and direct the respondent to produce the following original
parent documents pertaining to suit schedule properties:

1.Sale Deed executed in the name and favour of K.V.Bakthavatchalu
Reddiar dated 12.04.1962 bearing document No.898 of 1962 registered in
the file of Sub-Registrar, North Madras.

dated 04.03.1976 bearing document No.318 of 1976 registered in the file of Sub-Registrar, North Madras.

3.Settlement Deed executed in favour of Sumathi dated 10.08.1983 bearing document No.863 of 1983 registered in the file of Sub-Registrar, Periamet, North Madras.

4.Relinquishment Deed executed in favour of Sumathi dated 07.05.2008 bearing document No.959 of 2008 registered in the file of Sub-Registrar, Periamet, North Madras.

5.Sale Deed executed in favour of B.Krishnamurthy dated 05.08.1972 bearing document No.2788 of 1972 registered in the file of Sub-Registrar, Sembiam, Madras.

6.Partition Deed executed in between B.Krishnamurthy and B.V.Krishniah dated 04.03.1976 bearing document No.680 of 1976 registered in the file of Sub-Registrar, Sembiam, Madras.

7.Settlement Deed executed in favour of Sumathi dated 26.06.1978 bearing document No.1359 of 1976 registered in the file of Sub-Registrar, Sembiam, Madras.

8.Sale Deed executed in favour of Sumathi dated 09.09.1981 bearing Document No.5479 of 1981 registered in the file of Sub-Registrar, Tambaram, Madras.

Document No.2270 of 1991 registered in the file of Sub-Registrar, Tambaram, Madras.

10.Sale Deed executed by B.Krishnamurthy dated 18.04.1983 bearing Document No.1727 of 1983 registered in the file of Sub-Registrar, Pallavaram, South Madras.

11.Release Deed executed in favour of Sumathi dated 08.05.2008 bearing Document No.1820 of 2008 registered in the file of Sub-Registrar Pammal, South Madras.

12.Sale Deed executed in favour of Sumathi dated 17.01.2013 bearing Document No.241 of 2013 registered in the file of Sub-Registrar-2, Chengalpattu.

13.Sale Deed executed in favour of Sumathi dated 09.12.2010 bearing Document No.6831 of 2010 registered in the file of Sub Registrar, Acharapakkam, Kancheepuram District.

This Application coming on this day before this Court for hearing, the Court made the following order:-

The above application is filed for a direction to the respondent / defendant to produce the documents set out in the Judges summons. The applicant / plaintiff who is the sister of the respondent has filed the suit C.S.No.673 of

2. It is the case of the applicant / plaintiff in the suit that the suit properties belonged to her father and mother and that on their demise she is entitled to a half share in the said properties. Pending the suit, the applicant had originally filed the application in A.No.6083 of 2019 for a direction to the respondent to produce certified documents. Though, the said application was served on the respondent ultimately the application was closed as not pressed on 21.11.2019.

3. After getting the said application closed as not pressed the present application has been filed by the applicant. In the present application, the applicant has not only sought for the production of the documents covered under the earlier application but also the other documents. The applicant, in the application filed in support of the said application would contend that she has obtained the certified copies of all the documents to the schedule to the Judges summons. Therefore, she requires direction to the

respondent to deposit the documents failing which she would suffer serious prejudice.

4. A counter has been filed by the respondent inter alia contending that the applicant is conducting a roving enquiry regarding properties that belonged to their parents. That apart, the applicant has not made any mention about the earlier application namely, A.No.6083 of 2019, and the same being withdrawn as closed and the applicant would put forward a case of constructive *res judicata*.

5. That apart, the respondent would submit that the present application is not maintainable for the simple reason that the applicant who comes to the Court should win her case on the strength of her case and not on the weakness of the respondent. He would further contend that the applicant cannot attempt to file a suit and thereafter engage upon a roving enquiry. The present application has been filed after the suit has been posted before the Additional

and motivated.

6. The learned counsels on either sides more or less put forward the contentions in their respective pleadings.

7. Heard the learned counsels and perused the records.

8. It is seen that the applicant had earlier moved a similar application but has sought to withdraw the same and as such this application is hit by constructive *res judicata*. That apart, the applicant in clear and categorical terms would state that she has obtained the certified copies of each of the documents listed in the Judges summons and that the reason for seeking to have them deposited into the Court is that she would suffer prejudice. The application has not dilated upon how she would be prejudiced.

9. The suit is one for partition and the deposit of documents is not required more particularly when the applicant is already in possession of the certified copies of

all the documents. I do not find any merits in the application and the application appeared to be ruse to protract the proceedings.

10. In these circumstances, the application is dismissed parties are directed to have trial before the learned Master on 09.11.2020.

Sd/-P.T.A.J
08/09/2020

// Certified to be true copy//
Dated at Madras this day of 2020.

Court Officer(O.S.)

From 25th day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

jj

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