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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 19TH DAY OF AUGUST 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

A.No.566 of 2016

in

C.S.No.746 of 2012

*** 1. MS.CHANDRIKA AYYAR * (DECEASED)**

D/O.LATE O.VPARTHASARATHY,
KOMAL APARTMENTS, OLD NO.12,
NEW NO.16, JAGADEESWARAN STREET,
T.NAGAR, CHENNAI – 17.

*** 2. K.R.SUBBULAKSHMI,**

W/O. LATE C.D.AYYAR,
2F, QUANTAZEN, THOMAS ROAD 2ND STREET,
T.NAGAR, CHENNAI- 17.

*** 3. VIJAYALAKSHMI BALACHANDRAN,**

W/O. BALACHANDRAN,
3B, CORAL 8, RAGHAVIAH ROAD,
T.NAGAR, CHENNAI - 17.

*** 4. L.N.MOHAN,**

S/O.L.S.NATARAJAN,
NO.5, JAGADEESWARAN STREET,
T.NAGAR, CHENNAI – 17.

*** 5. N.VASANTHA,**

W/O. ANANTHARAMAN,
NO.5, JAGADEESWARAN STREET,
T.NAGAR, CHENNAI – 17.

..PLAINTIFFS



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-Vs-

1. MR.S.RADHAKRISHNAN
S/O.J.SUBRAMANIAN,
NO.32, NATHAMUNI STREET,
T.NAGAR, CHENNAI-600 017.

2. MRS.R.USHA,
W/O.MR.S.RADHAKRISHNAN,
NO.32, NATHAMUNI STREET,
T.NAGAR, CHENNAI - 600 017.

*** 3. NALINI,
W/O. VASUDEVAN,
PLOT NO.15, FLAT NO.18,
KAVERI SECTOR 14, VASHI,
NAVI MUMBAI, MAHARASHTRA- 400 703.**

*** 4. DR.L.N.SEKHAR,
6819, 54TH AVENUE,
SEATTLE, WASHINGTON,
USA 98115.**

..DEFENDANTS

*** (PLAINTIFFS 2 TO 5 AND DEFENDANTS
3 AND 4 ARE BROUGHT ON RECORD
AS LEGAL HEIRS OF THE DECEASED
SOLE PLAINTIFF AS PER
ORDER DATED 27.07.2021 IN A.NO.4202/2016)**

A.NO.566 OF 2916:

P. PAPPAYAMMAL
DAUGHTER OF LATE O.V.PARTHASARATHY,
NO.10/6, FIRST FLOOR,
PLAYGROUND STREET,
KILPAUK GARDEN COLONY,
KILPAUK,
CHENNAI - 600 010.

..APPLICANT/THIRD PARTY TO C.S.



-VS-

WEB COPY

1. MS.CHANDRIKA AYYAR (DECEASED)

2. MR.S.RADHAKRISHNAN
S/O.J.SUBRAMANIAN,
NO.32, NATHAMUNI STREET,
T.NAGAR, CHENNAI-600 017.

3. MRS.R.USHA,
W/O.MR.S.RADHAKRISHNAN,
NO.32, NATHAMUNI STREET,
T.NAGAR,
CHENNAI - 600 017.

..RESPONDENTS/DEFENDANTS

Application praying that this Hon'ble Court be pleased to bring on record the applicants as the lawful Class-I legal heir of the deceased Chandrika Ayyar, as the Second plaintiff in the above suit.

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

C.S.No.746 of 2012 initially filed by one Chandrika Ayyar for recovery of balance consideration arising from the alleged sale transaction with the first defendant in respect of the suit schedule property which according to her, succeeded through the registered will dated 21.05.1988 executed by her mother S.V.Lakshmiammal.



2.The specific case as found in the plaint is that, on the death of the plaintiff mother on 24.12.2005, the Will came into effect and the plaintiff was in possession of it absolutely. Being a spinster, taking advantage, a person by name Vijayabhaskar along with Pappammal (the applicant herein) tried to forcibly dispossess her from the property, hence she got the Will probated in O.P.No.734 of 2007 dated 10.12.2007 and entered into sale agreement with the first defendant. The first defendant owes a balance of Rs.1,50,00,000/- towards the sale consideration.

3.Pending suit, the plaintiff Chandrika Ayyar died. On application by the II class legal heirs, the plaintiffs 2 to 5 were brought on record vide order dated 27.07.2012 in Application No.4202 of 2016. While so, Pappammal, against whom there is specific allegation made by Chandrika Ayyar in her plaint, seeks to get impleaded as plaintiff and get into the shoes of Chandrika Ayyar as her legal heir and continue the suit.

4.In the affidavit filed in support of this application, the applicant admits that the property belongs to S.V.Lakshmiammal. It is claimed that she is the only daughter of S.V.Lakshmiammal and the deceased plaintiff Chandrika Ayyar was born to one Kamashiammal, a concubine of



C.S.No.1132 of 2009 and application to revoke the probate granted to Chandrika Ayyar.

5.However, contrary and inconsistent to the above plea, at para 7 of the same affidavit, she recognises Chandrika Ayyar as the owner of the suit property. As the legal heir of Chandrika Ayyar she is entitled to enter into the shoes of Chandrika Ayyar as 2nd plaintiff and contest the suit. Further, at paragraph 7, it is claimed that she is the step sister of the deceased Chandrika Ayyar and half blood related. Further, assuming the deceased Chandrika Ayyar was born to her parents S.V.Lakshmiammal and O.V.Parthasarathy, then she will be her full blood sister and as first class heir, the applicant is entitled to inherit the property of the deceased Chandrika Ayyar.

6.First of all, the inconsistent plea taken by the applicant is self destructive. In this suit, the applicant's relationship as well as the interest over the suit property is explicitly denied by Chandrika Ayyar in the plaint itself. Therefore, the applicant cannot be the plaintiff to pursue the suit, in which very serious allegation of land grabbing made against the applicant.

Unless the applicant admits those allegations and the right of the deceased Chandrika Ayyar over the suit property including the validity of the



registered Will of S.V.Lakshmiammal, the applicant is not entitled to enter the shoes of deceased S.V.Chandrika Ayyar as her legal representative in this suit to approbate and reprobate.

7.Hence for the inconsistent plea, the application is dismissed as devoid of merit. No order as to costs.

Sd/.G.J.J.
19.08.2021

//Certified to be a true copy//

Dated this the day of 2021.

NS/27.08.2021

COURT OFFICER(O.S.)

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