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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 26TH DAY OF MARCH 2021

THE HON'BLE MR. JUSTICE P.RAJAMANICKAM

C.S.No. 600 of 2010

and

A.Nos.130, 131 and 888 of 2020

and

3509 of 2010

and

A.No. 9130 of 2019

Mrs.Azeezeh Khaleeli,
W/o Mohammed Khaleel Khaleeli.
Permanent address at
"Greems Court",
No:162, Greems Lane,
Nungambakkam, Chennai – 600 006.
now residing at 64, Poulet Gardens,
Twickenham, Middlesex,
TW14QR, United Kingdom.

: Plaintiff / Applicant
in A.No. 9130 of 2019

Vs

1.Gulam Hussain Khaleeli
S/o Late M.Kazim Khaleeli,
Permanent address at
"Greems Court",
No:162, Greems Lane,
Nungambakkam, Chennai – 600 006.
now residing at 1577,
Adamson Street,
Mississauga, Ontario,L5C 188,
Canada.

2. Fahimeh Shirazi Khaleeli
W/o Mohammed Ali Shirazi,
residing at Ground Floor,



"Greems Court", No:162, Greems Lane,
Nungambakkam, Chennai – 600 006.

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3. Razieh Khaleeli
W/o Mr.Fairborz Roustayan,
permanent address at
"Greems Court", No:162, Greems Lane,
Nungambakkam, Chennai – 600 006.
now residing at 3561, Sanderling Crescent,
Mississauga L5L 3P4,
Ontario, Canada.

4.Reza Khaleeli,
S/o Late Kazim Khaleeli,
residing at Flat No:3-E,
Third Floor, "Greems Court",
No:162, Greems Lane,
Nungambakkam, Chennai – 600 006.

5.Mohammed Taher Khaleeli (Deceased)
S/o Late M.Kazim Khaleeli,
residing at Ground Floor,
"Greems Court",
No:162, Greems Lane, Nungambakkam,
Chennai – 600 006.

6.The Manager,
The Standard Chartered Bank.
Haddows Road, Chennai – 600 001.

7.The Reserve Bank of India,
The Public Department Legal,
Chennai.

8.The Apollo Hospital,
Greems Road, Chennai – 6.

9.Bank of America,
Anna Salai, Chennai.

***10.M.Kazim Khaleeli,
Son of Late Md.Taher Khaleeli,**



**D4, Diamond Castle, Royal Castle,
Hobard Road, Lovedale Junction,
Ootacamund, Nilgiris – 643 001.**

*** (10th defendant implead as
the legal heir of the deceased 5th defendant
as per order dt 30.07.2018 made in
Appl.No.4949/18).**

**:Defendants / Respondents in
A.No. 9130 / 2019**

Civil Suit praying that this Hon'ble court be pleased to pass a judgment and decree for partition and the preliminary decree in favour of the plaintiff for:-

a) Partition and divide the 'A' schedule immovable property into three shares and allot the plaintiff 1/3rd share by metes and bounds.

b) Partition and division of the other B & D schedule properties into 6 shares and allot 1/6th share to the plaintiff.

c) The Partition and division of the movable properties which are more fully and particularly described in the C-Schedule in the plaint into 6 shares and allot 1/6th share of the plaintiff;

d) direct the 2nd defendant to pay the mesne profits of Rs.25,000/- from the 'A' Schedule property towards the plaintiff 1/3rd share past, with effect from 04/08/2008 present and future until partition and delivery of possession.

e) If the 2nd defendant fail to do so the Honourable Court itself



share and 1/3rd share respectively as prayed for above and pass a final decree in terms thereof;

f) direct the 2nd defendant to render true and proper accounts of the bank balances, fixed deposits, shares, bonds and directing the 2nd defendant to pay 1/6th share to the plaintiff therefrom;

g) for mandatory injunction directing the Apollo Hospitals Ltd, Chennai – 6 the defendant not to transfer the shares which stands in the name of Mrs.Farangise Khaleeli until partition.

h) for mandatory injunction directing the Reserve Bank of India the 7th defendant not to transfer the Investment Bonds which stands in the name of Mrs.Farangise Khaleeli in any person's name until partition.

i) for mandatory injunction directing the Bank of America, Anna Salai, Chennai the 9th defendant not to transfer the cash balance and fixed deposits in the name of Mrs.Farangise Khaleeli in any persons name until partition;

j) for mandatory injunction directing the Standard Chartered Bank, No.1, Haddows Road, Chennai – 6 the 6th defendant not to transfer the cash balance and fixed deposits & stock holding corporation of India, Mumbai in the name of Mrs.Farangise Khaleeli to any persons name until partition;

k) directing the 2nd defendant to pay the cost of the suit to the plaintiff.

**A.No. 9130 of 2019:-**

WEB COPY Application praying that this Hon'ble Court be pleased to DISMISS

the suit C.S.No.600/2010 and order refund of half of court fee.

A.Nos.130, 131 of 2020 and 888 of 2020:-

Kazim Khaleeli,
Son of Late Md.Taher Khaleeli,
D4, Diamond Castle, Royal Castle,
Hobard Road,Lovedale Junction,
Ootacamund,
Nilgiris – 643 001. : Applicant /10th Defendant

Vs

1.Mrs.Azeezeh Khaleeli,
D/o Late Mohammed Kazim Khaleeli,
W/o Mr.M.K.Khaleeli,
Having her permanent residence at Greams Court,
No.162, Greams Lane, Nungambakkam,
Chennai – 600 006 and now residing at
No.64, Pulett Gardens,
Twickenham Middlesex, Tw-1, 4, QR England.

2.Mr.Gulam Hussain Khaleeli
S/o Late Mohammed Kazim Khaleeli,
Having his Permanent residence at
"Greams Court",
No:162, Greams Lane,
Nungambakkam, Chennai – 600 006.
and now residing at 1577,
Adamson Street,
Mississauga, Ontario,L5C 188, Canada.

3.Mrs. Fahimeh Shirazi Khaleeli
W/o Mohammed Ali Shirazi,
Ground Floor,
"Greams Court", No:162, Greams Lane,
Nungambakkam, Chennai – 600 006.



4. Mrs. Razieh Khaleeli
W/o Late Fairborz Roustayan,
Having her permanent residence at
"Greems Court", No:162, Greems Lane,
Nungambakkam, Chennai – 600 006.
now residing at 3561, Sanderling Crescent,
Mississauga Ontario, Canada.

5. Mr. Reza Khaleeli,
S/o Late Mohammed Kazim Khaleeli,
Flat No:3-E,
Third Floor, Greems Court,
No.162, Greems Lane,
Chennai – 600 006.

Mohammed Taher Khaleeli (Deceased)
S/o Late Mohammed Kazim Khaleeli,
residing at Ground Floor,
"Greems Court",
No:162, Greems Lane,
Chennai – 600 006.

6. The Manager,
The Standard Chartered Bank.
Haddows Road, Chennai – 600 001.

7. The Reserve Bank of India,
The Public Department Legal,
Chennai.

8. The Apollo Hospital,
Greems Road, Chennai – 6.

9. Bank of America,
Anna Salai, Chennai.

: Respondents/Defendants

A.No.130 of 2021:-

Application praying that this Hon'ble Court be pleased to Appoint a



respect of the Application Schedule Properties pending disposal of the suit.

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A.No.131 of 2021:-

Application praying that this Hon'ble Court be pleased to pass an order of ad-interim injunction restraining Respondent Nos.1 to 5 and/or any person claiming under or through them from parting in any way, with the possession of the Application Schedule Properties or from disposing of the same or creating any encumbrance whatsoever and/or from inducting any third party into the Application Schedule Properties pending disposal of the suit.

A.No.888 of 2020:-

Application praying that this Hon'ble Court be pleased to direct Respondent Nos.1 to 5 to account for and render a true, proper and full account of all transactions whatsoever entered into by each of them in respect of the Application Schedule Properties atleast on and from the date of demise of late Farangise Khaleeli i.e., 04/08/2008 till date; in the interests of Justice.

A.No.3509 of 2010:-

Mrs.Azeezeh Khaleeli,
W/o Mr.M.Khaleel Khaleeli.
Residing at "Greems Court",
No.162, Greems Lane,
Nungambakkam, Chennai – 600 006.



Now residing at
64, Poulet Gardens,
Twickenham, Middlesex,
TW14QR, United Kingdom.

:Applicant/ Plaintiff

Vs

***1.Gulam Hussain Khaleeli**

S/o Late M.Kazim Khaleeli,
residing at "Greems Court",
No:162, Greems Lane,
Nungambakkam, Chennai – 600 006.
now residing at 1577,
Adamson Street,
Mississauga, Ontario,L5C 188,
Canada.

: 1st respondent/1st Defendant

2. Fahimeh Shirazi Khaleeli

W/o Mr.Mohammed Ali Shirazi,
residing at Ground Floor,
"Greems Court", No:162, Greems Lane,
Nungambakkam, Chennai – 600 006. : 2nd respondent/2nd Defendant

***3. Razieh Khaleeli**

W/o Mr.Fairborz Roustayan,
residing "Greems Court", No:162,
Greems Lane, Nungambakkam,
Chennai – 600 006.
now residing at 3561, Sanderling Crescent,
Mississauga L5L 3P4,
Ontario, Canada.

: 3rd Respondent/3rd Defendant

***4.Reza Khaleeli,**

S/o Late Kazim Khaleeli,
residing at Flat No:3-E,
Third Floor, "Greems Court",
No:162, Greems Lane,
Nungambakkam, Chennai – 600 006. : 4th Respondent/4th Defendant

***5.Mohammed Taher Khaleeli**

S/o Late M.Kazim Khaleeli,
residing at Ground Floor,
"Greems Court",



No:162, Greams Lane, Nungambakkam,
Chennai – 600 006.

: 5th Respondent/5th Defendant

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***6.The Manager,**

The Standard Chartered Bank.

Haddows Road, Chennai – 600 001. : 6th Respondent/6th Defendant

***7.The Reserve Bank of India,**

The Public Department Legal,
Chennai.

7th Respondent/7th Defendant

***8.The Apollo Hospital,**

Greams Road, Chennai – 6.

: 8th Respondent/8th Defendant

***9.Bank of America,**

Anna Salai, Chennai.

: 9th Respondent/9th Defendant

*** As per order dt: 15/9/2010 in and
the endorsement made by the counsel
in Appl.No:3509/2010 in C.S.No.600/10
The respondents 1, 3 to 9 are given
up in Appl.No.3509/10.**

Application praying that this Hon'ble Court be pleased to pass an order to direct the 2nd respondent/2nd defendant to furnish the security for Rs.10,00,00,000/- and failing the same attach before Judgement specified in A-Schedule and B-Schedule in the plaint.

These applications coming on this day before this court for hearing in the presence of Mr.M.K.Hidayadullah, advocate for the plaintiff in

C.S.No.600 of 2010 and for the applicant in A.No.3509 of 2010 and



A.No.9130 of 2019 and for the 1st respondent in A.Nos.888 of 2020 and 130 & 131 of 2020 and Mr.R.Abdul Mubeen, Advocate for the 2nd defendant in C.S.No.600 of 2010 and for the 2nd respondent in A.No.3509 of 2010 and A.No.9130 of 2019 for the 3rd respondent in A.Nos.888 of 2020 and 130 & 131 of 2020 and Mr.K.F.Manavalan, Advocate for the 10th defendant in C.S.No.600 of 2010 and for the 10th respondent in A.No.3509 of 2010 and A.No.9130 of 2019 for the applicant in A.Nos.888 of 2020 and 130 and 131 of 2020 and upon reading the judge's summons and the affidavit of Azeezeh Khaleeli filed in A.No.3509 of 2010 and A.No.9130 of 2019 and the judge's summon and the affidavit of Kazim Khaleeli, filed in A.Nos.888 of 2020 and 130 and 131 of 2020 and this court having observed that the plaintiff has withdrawn the suit, the plaintiff is not entitled to refund of Court fee and the counter claim filed by the 10th defendant should be treated as a separate suit, **It is ordered as follows:-**

That the suit in C.S.No. 600 of 2010, be and is hereby dismissed as withdrawn.

2.That the Registry, be and is hereby directed to number the counter claim of the 10th defendant as suit and post the matter for further proceedings.

3. That so far as the refund of Court fee is concerned, this application in A.No. 9130 of 2019, be and is hereby dismissed.



4. That these A.No.3509 of 2010 and 130 and 131 and 888 of 2020 do stand closed.

5. That there shall be no costs of this suit.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
26th DAY OF MARCH 2021.

Sd/-
ASSISTANT REGISTRAR (O.S.I)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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11.05.2021

C.S.No. 600 of 2010
and
A.Nos.130, 131 and 888 of 2020
and
3509 of 2010
and
A.No. 9130 of 2019

ORDER

DATED : 26.03.2021

THE HON'BLE MR.JUSTICE
P.RAJAMANICKAM

FOR APPROVAL: 28.07.2021

APPROVED ON: 28.07.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2021

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

CS.No.600 of 2010 and

A.Nos.130 & 131 of 2020 and 888/2020 & 3509 of 2010

Mrs.Azeezeh Khaleeli

... Plaintiff

Vs.

- 1.Gulam Hussain Khaleeli
2. Fahimeh Shirazi Khaleeli
3. Razieh Khaleeli
- 4.Reza Khaleeli
- 5.Mohammed Taher Khaleeli (deceased)

- 6.The Manager,
Standard Chartered Bank,
Haddows Road, Chennai -600 001.

- 7.The Reserve Bank of India,
The Public Department Legal,
Chennai.

8. The Apollo Hospital
Greaves Road,
Chennai – 6.

- 9.Bank of America
Anna Salai,
Chennai

10. Kazim Khaleeli

... Defendants

(10th defendant impleaded as L.Rs of deceased
5th defendant as per Order dated 30.07.2018
in A.No.4949 of 2018)



PRAYER:

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Civil Suit filed under Order VII Rule 1 of CPC r/w Order IV Rule 1 of the Original Side Rules for

- a) Partition and divide the 'A' schedule immovable property into three Shares and allot the plaintiff 1/3rd share by metes and bounds;
- b) Partition and division of the other B & D Schedule properties into 6 shares and allot 1/6th share to the plaintiff;
- c) The Partition and division of the movable properties which are morefully and particularly described in the C-Schedule in the plaint into 6 shares and allot 1/6th share to the plaintiff;
- d) direct the 2nd defendant to pay the mesne profits of Rs.25,000/- from the 'A' Schedule property towards the plaintiff 1/3rd share past, with effect from 04/08/2008 present and future until partition and delivery of possession;
- e) If the 2nd defendant fail to do so the Hon'ble Court itself appoint an Advocate Commissioner to divide them and allot the plaintiff 1/6th share and 1/3rd share respectively as prayed for above and pass a final decree in terms thereof;
- f) direct the 2nd defendant to render true and proper accounts of the bank balances, fixed deposits, shares, bonds and directing the 2nd defendant to pay 1/6th share to the plaintiff therefrom;



g) for mandatory injunction directing the Apollo Hospitals Ltd., Chennai -6 the defendant not to transfer the shares which stands in the name of Mrs.Farangise Khaleeli until partition;

h) for mandatory injunction directing the Reserve Bank of India the 7th defendant not to transfer the Investment Bonds which stands in the name of Mrs.Farangise Khaleeli in any person's name until partition;

i) for mandatory injunction directing the Bank of America, Anna Salai, Chennai the 9th defendant not to transfer the cash balance and fixed deposits in the name of Mrs.Farangise Khaleeli in any persons name until partition;

j) for mandatory injunction directing the Standard Chartered Bank, No.1, Haddows Road, Chennai-6, the 6th defendant not to transfer the cash balance and fixed deposits & stock holding corporation of India, Mumbai in the name of Mrs.Farangise Khaleeli to any persons name until partition and

k) directing the 2nd defendant to pay the cost of the suit to the plaintiff.

For Plaintiff : Mr.M.K.Hidayadullah
for plaintiff

For Defendants : Mr.R. Abdul Mubeen
for 2nd defendant
Mr.K.P.Manavalan for D10

**ORDER**

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In view of the Order passed in A.No.9130 of 2019, this suit is dismissed as withdrawn. No costs.

2. Since the 10th defendant has filed a counter claim, in view of the decision in the *M.S.Miganed Jaffar Vs. M.S.Mohamed Yahya & Another*, 1988-2.L.W 36, the counter claim filed by the 10th defendant should be treated as a separate suit.

3. The Registry is directed to number the counter claim of the 10th defendant as suit and post the matter for further proceedings. The other applications are closed.

Sd./-P.R.M.J.
26.03.2021

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Dated at Madras this the day of 2021.

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 26TH DAY OF MARCH 2021

THE HON'BLE MR. JUSTICE P.RAJAMANICKAM

C.S.No.600 of 2010

and

A.No.9130 of 2019

Mrs.Azeezeh Khaleeli,
W/o Mohammed Khaleel Khaleeli.
Permanent address at
"Greams Court",
No:162, Greams Lane,
Nungambakkam, Chennai – 600 006.
now residing at 64, Poulet Gardens,
Twickenham, Middlesex,
TW14QR, United Kingdom.

: Plaintiff/Applicant
in A.No.9130 of 2019

Vs

1.Gulam Hussain Khaleeli
S/o Late M.Kazim Khaleeli,
Permanent address at
"Greams Court",
No:162, Greams Lane,
Nungambakkam, Chennai – 600 006.
now residing at 1577,
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2. Fahimeh Shirazi Khaleeli
W/o Mohammed Ali Shirazi,
residing at Ground Floor,
"Greams Court", No:162, Greams Lane,
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3. Razieh Khaleeli

W/o Mr.Fairborz Roustayan,
permanent address at
"Greems Court", No:162, Greams Lane,
Nungambakkam, Chennai – 600 006.
now residing at 3561, Sanderling Crescent,
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S/o Late Kazim Khaleeli,
residing at Flat No:3-E,
Third Floor, "Greams Court",
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5.Mohammed Taher Khaleeli (Deceased)
S/o Late M.Kazim Khaleeli,
residing at Ground Floor,
"Greams Court",
No:162, Greams Lane, Nungambakkam,
Chennai – 600 006.

6.The Manager,
The Standard Chartered Bank.
Haddows Road, Chennai – 600 001.

7.The Reserve Bank of India,
The Public Department Legal,
Chennai.

8.The Apollo Hospital,
Greams Road, Chennai – 6.

9.Bank of America,
Anna Salai, Chennai.

***10.M.Kazim Khaleeli,**
Son of Late Md.Taher Khaleeli,
D4, Diamond Castle, Royal Castle,



**Hobard Road, Lovedale Junction,
Oatacamund, Nilgiris – 643 001.**

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*** (10th defendant implead as
the legal heir of the deceased 5th defendant
as per order dt 30.07.2018 made in
Appl.No.4949/18).**

:Defendants/Respondents
in A.No.9130 of 2019

C.S.No.600 of 2010:-

Civil Suit praying that this Hon'ble court be pleased to pass a judgment and decree for partition and the preliminary decree in favour of the plaintiff for:-

a) Partition and divide the 'A' schedule immovable property into three shares and allot the plaintiff 1/3rd share by metes and bounds.

b) Partition and division of the other B & D schedule properties into 6 shares and allot 1/6th share to the plaintiff.

c) The Partition and division of the movable properties which are morefully and particularly described in the C-Schedule in the plaint into 6 shares and allot 1/6th share of the plaintiff;

d) direct the 2nd defendant to pay the mesne profits of Rs.25,000/- from the 'A' Schedule property towards the plaintiff 1/3rd share past, with effect from 04/08/2008 present and future until partition and delivery of possession.

e) If the 2nd defendant fail to do so the Honourable Court itself appoint an advocate commissioner to divide them and allot the plaintiff 1/6th share and 1/3rd share respectively as prayed for above and pass a final decree



in terms thereof;

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f) direct the 2nd defendant to render true and proper accounts of the bank balances, fixed deposits, shares, bonds and directing the 2nd defendant to pay 1/6th share to the plaintiff therefrom;

g) for mandatory injunction directing the Apollo Hospitals Ltd, Chennai – 6 the defendant not to transfer the shares which stands in the name of Mrs.Farangise Khaleeli until partition.

h) for mandatory injunction directing the Reserve Bank of India the 7th defendant not to transfer the Investment Bonds which stands in the name of Mrs.Farangise Khaleeli in any person's name until partition.

i) for mandatory injunction directing the Bank of America, Anna Salai, Chennai the 9th defendant not to transfer the cash balance and fixed deposits in the name of Mrs.Farangise Khaleeli in any persons name until partition;

j) for mandatory injunction directing the Standard Chartered Bank, No.1, Haddows Road, Chennai – 6 the 6th defendant not to transfer the cash balance and fixed deposits & stock holding corporation of India, Mumbai in the name of Mrs.Farangise Khaleeli to any persons name until partition;

k) directing the 2nd defendant to pay the cost of the suit to the plaintiff.

**A.No.9130 of 2019:-**

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Application praying that this Hon'ble Court be pleased to DISMISS the suit C.S.No.600/2010 and order refund of half of court fee.

This Civil Suit along with the Application coming on this day before this court for hearing **the court made the following order:-**

A.No.9130 of 2019 has been filed by the plaintiff requesting the court to dismiss the suit as withdrawn and order for refund of Court Fee.

2. If the suit is dismissed on the ground that the suit is settled out of the Court, then only refund of Court Fee can be ordered. Whereas in this suit, the plaintiff has withdrawn the suit. Hence, the plaintiff is not entitled to refund of the Court Fee.

3. The application is allowed for withdrawing the suit alone. So far as the refund of Court Fee is concerned, this application is dismissed.

Sd./-P.R.M.J.
26.03.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

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