

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMENTARY AND INTESTINE JURISDICTION)

THURSDAY, THE 23RD DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE N. SESHASAYEE

T.O.S.No.36 of 2009
and A.No.6266 of 2019

In the matter of the Indian Succession
Act XXXIX of 1925 and
In the matter of Last Will and
Testament of K.Ramamoorthy Iyer-
Deceased.

R.Sankaran, S/o. Late K.Ramamoorthy Iyer
Represented by his wife and power of Attorney Mrs.S.Jayaree,
Old No. 40, New No. 134, Pilliar Koil Street,
Vadapalani, Chennai 26

....Plaintiff

-Vs.-

1.R.Srinivasan, S/o.Late K.Ramamoorthy Iyer,
New No. 15, II Street, TNGO Colony
Adambakkam, Chennai – 600 088.

2.S.Kamakshi
W/o. R.S. Swaminathan
No. 48/F2 , New Colony, Adambakkam
Chennai – 600 088.

3.R.Viswanathan, S/o.Late K.Ramamoorthy Iyer,
Old No. 6, New No. 13B, Postal Colony III rd Street,
West Mambalam, Chennai 600 033.

4.V.Uma W/o. Vedaraman,
75 Jeevan Nagar Ist Street
Adambakkam, Chennai 600 088.

5.R.Gowri
W/o. Rajagopalan
New No. 87, Old No. 42, Ellaianman Colony
Vellala Teynampet, Chennai 600 018.

... Defendants

T.O.S.No.36 of 2009

Testamentary Original Suit praying that this Hon'ble Court be pleased to grant of Letters of Administration with the Will annexed to S.Jayasree, the Power Agent of R.Sankaran, one of the sons / legatee named under the Will of the said deceased having effect limited to the State of Tamil Nadu for the use and benefit of her Principal limited until he shall obtain Letters of Administration granted to himself.

A.No.6266 of 2019

R.Sankaran,
Represented by his wife and power of Attorney Mrs.S.Jayaree,
Old No. 40, New No. 134, Pilliar Koil Street,
Vadapalani, Chennai 26

....Applicant

-Vs.-

1.R.Srinivasan,
New No. 15, II Street, TNGO Colony
Adambakkam, Chennai – 600 088.

2.S.Kamakshi
No. 48/F2 , New Colony, Adambakkam
Chennai – 600 088.

3.R.Viswanathan,
Old No. 6, New No. 13B, Postal Colony III rd Street,
West Mambalam, Chennai 600 033.

4.V.Uma,
75 Jeevan Nagar Ist Street
Adambakkam, Chennai 600 088.

5.R.Gowri
New No. 87, Old No. 42, Ellaiamman Colony
Vellala Teynampet, Chennai 600 018.

6. Mrs. Lakshmi

7. Mr. Ramakrishnan,

Respondents 6 & 7 are residing at
11/2. CPWD Quarters,
Besant Nagar, Chennai.

...Respondents.

... Defendants

Application praying that this Hon'ble Court be pleased to permit
the applicant herein to bring on record respondents 6 and 7 as Defendants 6
& 7 in the above T.O.S.

This Testamentary Original Suit and the application along with
C.S.No. 1156 of 2009 having been heard on 02/11/2021 in the presence of
Mr.P.B. Balaji, advocate for the plaintiff in T.O.S.No. 36 of 2009 and for
the applicant in A.No. 6266 of 2019 and Mr.S.S.Raghavan, advocate for the
defendants in T.O.S.No. 36 of 2009 and for the respondents in A.No. 6266
of 2019 and upon reading the petition filed in T.O.S.No. 36 of 2009 and
the Judge's summons and the affidavit of R.Sankaran Filed in A.No. 6266
of 2019 and having considered the judgment delivered on the same day and
coming on this day before this court 'for being mentioned' in the presence

of the said advocates for the parties hereto and T.O.S.No. 36 of 2009 is allowed to be withdrawn as per clause No.6 of the Joint Memorandum of Compromise dated 29.10.2021, **it is ordered as follow:-**

That the T.O.S.No. 36 of 2009, be and is hereby dismissed as withdrawn.

2) That the A.No. 6266 of 2019 do stand closed.

3) That there shall be no costs of this suit.

WITNESS, THE HON'BLE MR.JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT OF MADRAS AFORESAID, THIS THE
23RD DAY OF DECEMBER 2021

sd/-
JOINT REGISTRAR (OS)

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)
From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

NS
22.11.2021

T.O.S.No.36 of 2009
and A.No.6266 of 2019

ORDER
DATED 23/12/2021
02/11/2021

THE HON'BLE MR.JUSTICE
N.SESHASAYEE

FOR APPROVAL: 01/04/2022

APPROVED ON: 05/04/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM

THE HONOURABLE **MR.JUSTICE N.SESHASAYEE**

C.S.No.1156 of 2009
and T.O.S.No.36 of 2009
and A.No.6266 of 2019

1.R.Srinivasan
2.S.Kamakshi
3.K.R.Gopalan
4.R.Viswanathan
5.V.Uma
6.R.Gowri
7.V.Sumathi

... Plaintiffs in C.S.1156 / 2009

Vs.

1.R.Ramanathan
2.R.Sankaran
3.R.Swaminathan
4.Bagyalakshmi
5.Lakshmi
6.Ramakrishnan
7.Parvathy
8.Balasubramanian
9.Suseela

10.District Revenue Officer/
Project Implementation Officer
Chennai Metro Rail Ltd
116, Seethammal Road, Alwarpet,
Chennai.

... Defendants in C.S.1156/2009

Prayer: The Civil Suit has been filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of C.P.C. 1908, praying to pass a decree and judgment in favour of the plaintiffs, declaring that the plaintiffs are entitled to 7/12th share and divide the property by metes and bounds and for costs.

For Plaintiffs : Mr.S.S.Raghavan

For Defendants : Mr.P.B.Balaji

R.Sankaran

...Petitioner in T.O.S.36 of 2009

Vs.

1.R.Krishnaswamy

2.R.Srinivasan

3.S.Bhagyalakshmi

4.R.Ramanathan

5.S.Kamakshi

6.K.R.Gopalan

7.R.Viswanathan

8.R.Swaminathan

9.V.Uma

10.R.Gowri

11.V.Sumathi

...Respondents in T.O.S.36 of 2009

Prayer: The petition has been filed for grant of Letters of Administration with the Will annexed to S.Jayasree, the Power Agent of R.Sankaran, one of the sons / legatee named under the Will of the said deceased having effect limited to the State of Tamil Nadu for the use and benefit of her Principal limited until he shall obtain Letters of Administration granted to himself.

For Petitioner : Mr.P.B.Balaji

For Respondents : Mr.S.S.Raghavan

JUDGMENT

(This case has been heard through video conferencing)

The suit is filed for partition. All the parties appeared through Virtual Court. The 6th plaintiff represented for herself and also represented for the 7th plaintiff. The defendants 1, 5, 6, 8 and 9 are represented by their Power of Attorney Mr.Krishnan. All the parties have agreed for the compromise arrived between them.

2.Even though, the District Revenue Officer, Chennai has arrayed as the 10th defendant, no relief has sought against the 10th defendant.

3.This Court is satisfied with the legality of the compromise. The Joint Memorandum of Compromise dated 29.10.2021 is accordingly recorded and taken on file. A decree is directed to be drafted in terms of the compromise.

4.T.O.S.No.36 of 2009 is allowed to be withdrawn as per Clause No.6 of the Joint Memorandum of Compromise dated 29.10.2021.

5.The suit in C.S.No.1156 of 2009 is decreed in terms of the Joint Memorandum of Compromise entered into between the parties on

29.10.2021. T.O.S.No.36 of 2009 stands dismissed as withdrawn. No costs. Consequently, the connected application is closed.

Sd/ N.S.S.J.
02/11/2021

//Certified to be true copy//
Dated at Madras this the day of 2022.

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C.S.No.1156 of 2009
&
T.O.S.No.36 of 2009
&
Application No.6266 of 2019

N.SESHASAYEE,J.

The matter has been listed under the caption “For Being Mentioned”.

2. A compromise decree has been passed in terms of the compromise memo earlier filed. Now, both sides have filed a memo to bring greater clarity to the compromise memo earlier filed. Learned counsel on either side made a joint statement that this has become necessary to avoid difficulty for the Registry while drafting the decree. The said memo is also recorded as part of the compromise earlier recorded and both the compromise memos, the earlier one filed before Court on 29.10.2021 (which was recorded on 02.11.2021) and the memo filed today are to be part of the compromise.

3. Both the parties made a joint statement that all the parties are senior citizens and hence, requested that the decree may be drafted at the earliest.

4. Registry is now required to draft the decree before January, 2022.

Sd/ N.S.S.J.
23/12/2021

//Certified to be true copy//
Dated at Madras this the day of 2022.

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