



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMETARY AND INTESTATE JURISDICTION)

FRIDAY, THE 17TH DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE N.SESHASAYEE

T.O.S.No.15 of 2010

In the matter of the Indian
Succession Act XXXIX of
1925, and
In the matter of Last Will
and Testament of T.Kannammal
deceased.

T. Subramaniam
S/o.Late T.L.Thiagarajan
New No.14, Old No.16,
Govindarajulu Naidu Street,
Agaram, Perambur,
Chennai 600 082.

...Petitioner/Plaintiff

Vs.

1.Mr.T. Sivaprakasam
S/o.Late T.L.Thiagarajan
Door No.12, Plot No.154,
7th Main Road,
Thanikachalam Nagar,
Ponnammanmedu,
Chennai 600 110.

2.Mr.T. Viswesiah
S/o.Late T.L.Thiagarajan
Plot No.7, Old No.4, New No.7,
Soliappan Street,
Ullagaram, Chennai 600 091.

.. Caveators/Respondents



Testamentary original suit praying that this Hon'ble Court be pleased to grant of Letters of Administration to the petitioner as the son legatee under the Will of the said deceased having effect limited to the State of Tamil Nadu.

This Testamentary Original Suit coming on this day before this Court for hearing, in the presence of Mr.V.Baskaran, advocate for the plaintiff herein and Mr.Kishore Kumar, Advocate for the 1st defendant herein and upon reading the petition filed herein, and

It is ordered as follows:

That the T.O.S.No.15 of 2010 be and is hereby dismissed.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 17TH DAY OF DECEMBER 2021.

Sd./-

JOINT REGISTRAR(O.S)i/c

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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05.01.2022

T.O.S. No.15 of 2010

ORDER

DATED 17.12.2021

THE HON'BLE MR.JUSTICE
N.SESHASAYEE

FOR APPROVAL: 7.1.2022

APPROVED ON : 7.1.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2021

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THE HONOURABLE MR. JUSTICE N. SESHASAYEE

T.O.S. No. 15 of 2010

&

Tr.C.S. No. 138 of 2013

T.O.S. No. 15 of 2010

T. Subramaniam

..Plaintiff

Vs.

1. Mr.T. Sivaprakasam
2. Mr.T. Viswesiah

..Defendants

Prayer: Petition filed under Sections 232 and 276 of Indian Succession Act XXXIX of 1925, for the grant of Letters of Administration. On Caveat being filed by the defendants, the same was converted into T.O.S. No. 15 of 2020.

For Plaintiff :: Mr.V. Baskaran

For Defendants :: Mr.Kishore Kumar for
1st defendant.

Tr.C.S. No. 138 of 2013

T. Visvesiah

..Plaintiff

Vs.



T. Subramaniam

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..Defendant

Prayer: Original Suit filed under Order VII Rule 1 & 2 CPC before the City Civil Court in O.S. No. 3806 of 2012 praying for a judgment and decree against the defendant to (i) pass an order of permanent injunction restraining the defendant, his men, servants, agents or anyone acting on his behalf or authorized on behalf of the Tukaram Neuro Diagnostic Centre, Eye Testing Services, in any way interfering with the peaceful possession and enjoyment of the front portion 1/3rd constructed and possessed by the Plaintiff (suit property) in the House Door No.14, Govindarajulu Naidu Street, Agaram, Chennai – 600 082 (ii) pass order to grant the costs of the suit has been transferred to the file of this Court as Tr.C.S. No. 138 of 2013 as per order made in A.No. 4900 of 2012.

For Plaintiff :: Mr.A.P. Balasubramani

For Defendant :: Mr.V. Baskaran

COMMON ORDER

There are three brothers, who litigate over properties which has now bred three different litigations. A certain T. Subramaniam claiming himself to be a legatee of the holder of the estate has laid T.O.S. No. 15 of 2010, for obtaining Letters of Administration. He is stated to have died leaving no lineal descendants. In law, his heirs are his collaterals, who are



his brothers and party defendants in T.O.S. No. 15 of 2010.

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2. One of the brothers, namely, T. Viswesiah has laid a suit against T. Subramaniam for bare injunction in Tr.C.S.No. 138 of 2013. Given the fact Viswesiah himself has become a half share holder of the share of T. Subramanian and given the fact that the relief sought is decree *in personam*, this suit also loses its purpose.

3. In view of the same, T.O.S. No. 15 of 2010 is dismissed. So far as Tr.C.S. No. 138 of 2013 is concerned, it is also dismissed.

Sd./-N.S.S.J

17.12.2021

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