

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

TUESDAY, THE 21ST DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE N. SESHASAYEE

T.O.S.No. 46 of 2016

In the matter of the Indian Succession
Act XXXIX of 1925, and

In the matter of Last Will and
Testament of M.Perumal Naicker –
deceased.

P. Gnanasekaran,
S/o. Late. M. Perumal Naicker,
Residing at No.134, Alapakkam Main Road,
Porur, Chennai – 600 116.

... Petitioner/Plaintiff

-Vs-

1. Smt. Indrani,
W/o. Late. Perumal Naicker,
residing at No.134,
Alapakkam Main Road,
Porur, Chennai – 600 116.
2. Smt. Vasantha,
W/o. Loganathan,
residing at No.3/40, 10th Street,
Sivapuram, Kappankulam Post,
Takkolam, Sriperumbudur Taluk,
Tiruvellore District.
3. Smt. Suravalli,
W/o. R. Anandan,
residing at No.22, Mahatma Gandhi Street,
Gandhi Nagar, Alapakkam,
Porur, Chennai – 600 116.

4. Smt. Malliga,
W/o. A. Karunanidhi,
residing at No.1/50, Chinnammal Koil Street,
Kamarajar Nagar,
Avadi, Chennai – 600 071.
5. Smt. Kasthuri,
W/o. Janakiraman,
residing at Ist Street, Sivapuram,
Kappankulam Post,
Via ; Takkolam, Sriperumputhur Taluk,
Tiruvellore District.
6. Smt. S. Rajeswari,
W/o. K.S. Selvaraj,
residing at Block No.37,
Unit 12, Rani Anna Nagar,
K.K. Nagar, Chennai – 600 078.

... Respondents/Defendants

Testamentary Original Suit praying that this Hon'ble Court be pleased to that letters of administration with the Will annexed may be granted to him as the son of the deceased, having effect limited to the State of Tamil Nadu.

This Testamentary Original Suit along with these C.S.No. 899 of 2010 and Tr.C.S.No. 511 of 2006 coming on this day before this Court for hearing in the presence of Mr.PV.Ravi Kumar, Advocate for the plaintiff herein and upon reading the petition filed herein, and the learned counsel for the plaintiff having made an endorsement on the plaint/petition stating

that "in view of the compromise arrived at, I may be permitted to withdraw this petition", **it is ordered as follows :-**

That the Testamentary Original Suit No.46 of 2016, be and is hereby dismissed as settled out of Court.

2. That the original document are required to be handed over to the parties herein as per procedure.

3. That there shall be no costs of this petition.

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI, ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 21ST 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.)

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

ED
10.01.2022

T.O.S.No. 46 of 2016

ORDER

DATED : 21/12/2021

THE HON'BLE MR. JUSTICE
N. SESHASAYEE

FOR APPROVAL: 25/01/2022

APPROVED ON : 25/01/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2021

CORAM

THE HONOURABLE MR. JUSTICE N. SESHASAYEE

C.S. No. 899 of 2010, Tr.C.S. No. 511 of 2006

&

T.O.S. No. 46 of 2016

C.S. No. 899 of 2010

Mrs.S. Rajeswari

..Plaintiff

Vs.

1. Mr.P. Gnanasekaran
2. Mrs. L. Vasantha
3. Mrs. A. Suravalli
4. Mrs.K. Malliga
5. Mrs. J. Kasthuri
6. Mr.V.S. Ramanujam
7. Ms.Deepa
8. Mr. Rajkumar Sukharani
9. Mr.B. Balasubramaniam
10. Mr.S. Murugan
11. Mr.D.J. Chandramouli
12. Mr.J. Mohanakrishnan
13. Mr.S. Senthilkumar

..Defendants

Prayer: Civil Suit filed under Order VII Rule 1 CPC read with Order IV

Rule 1 O.S. Rules praying for a judgment and decree against the defendants

(i) directing partition by metes and bounds and to put the plaintiff in separate possession of her 1/3 share in the properties a) bearing Door No.49,

Saidapet Road, (100 feet Road), Vadapalani, Chennai – 26, b) Door No.50, Saidapet Road, (100 feet Road), Vadapalani, Chennai -26 and c) No.134, new No. 16A, Main Road, Alapakkam, Chennai – 116, d) Door No.137, New No.16A, Alapakkam Main Road, Alapakkam, Chennai – 116, e) Door No.10, Govindappa Naicken 2nd Cross Street, Alapakkam, Chennai – 116 and of her 8/28 share in Plot Nos. 481 and Part of 480, 14th Street, Ashtalakshmi Nagar, Valasarawalkam, Chennai – 87 more fully described in the schedule hereunder as item Nos. 1 to 6 (ii) directing the 1st defendant to pay the plaintiff towards past mesne profits, a sum of Rs.36,000/- being the 1/3rd share of the rental income for the period from January, 2010 to March, 2010 (iii) directing the 1st defendant to pay the plaintiff's 1/3rd share in the future rental income from April, 2010 till actual delivery of possession of her share; (iv) declaring that the sale deeds executed on the strength of the Power of Attorney dated 20.05.1994 in respect of the property bearing Plot Nos. 481 and 480 Part, 14th Street, Asthalakshmi Nagar, Valasarawalkam, Chennai – 87 morefully described as item 6 are not binding upon the plaintiff and non-est as against the share of the plaintiff and late M. Perumal Naicker and (v) directing the defendants to pay the plaintiff her costs of this suit.

For Plaintiff

:: Ms.C. Uma

For Defendants ::

Mr. P.V. Ravikumar for D1

Tr.C.S. No. 511 of 2006

Vasantha

..Plaintiff

Vs.

1. P. Gnanasekaran

2. Indrani

3. Suravalli

4. Malliga

5. Kasthuri

6. S. Rajeswari

..Defendants

Prayer: Original Suit filed under Order VII Rule 1 CPC and Section 2 of Partition Act in O.S. No. 12059 of 2010 on the file of V Additional Judge, City Civil Court, Chennai praying for a preliminary decree for partition and separate possession of the 1/7th share of the plaintiff in the properties, bearing Municipal Door Nos. (i) Door No.49, Saidapet Road, Vadapalani, Chennai – 600 026 (ii) Door No.50, Saidapet Road, Vadapalani, Chennai – 600 026, morefully described in two schedule hereunder as 'A' and 'B' respectively; (b) directing the first defendant to pay a sum of Rs.3000/- being the mesne profits for the period from 01.03.2003 to 31.08.2003 (six months); (c) directing the first defendant to pay the future mesne profits at the rate of Rs.500/- per month from the date of plaint to the date of separate possession of 1/7th share of the plaintiff and (d) directing the defendants to pay the cost of the suit has been transferred to the file of this Court by order

dated 23.04.2012 in Disc.No. 4225/2012/Stat and renumbered as Tr.C.S.
No. 511 of 2006.

For Plaintiff	::	Mr.P. Seetharaman
For Defendants	::	Mr.P.V. Ravikumar for D1

T.O.S. No. 46 of 2016

P. Gnanasekaran ..Plaintiff

Vs.

1. Smt.Indrani	
2. Smt. Vasantha	
3. Smt. Suravalli	
4. Smt. Malliga	
5. Smt.Kasthuri	
6. Smt. S. Rajeswari	...Defendants

Prayer: Petition filed under Sections 232 and 276 of the Indian Succession Act, XXXIX of 1925, for the grant of Letters of Administration. As per order of this Court dated 9th day of June, 2015 in O.P. NO. 147 of 2005, the Original Petition was directed to be converted into Testamentary Original Suit.

For Plaintiff	::	Mr.P.V. Ravikumar in all suits
---------------	----	--------------------------------

For Defendants	::	No Appearance
----------------	----	---------------

JUDGMENT

All the three suits namely C.S. No. 899 of 2010, Tr.CS. No. 511 of 2006 and T.O.S. No. 46 of 2016 have been compromised by the parties outside the Court. They have filed a compromise memo and the same is taken on record.

2. Earlier, a memo was filed in C.S. No.899 of 2010 wherein the plaintiff had sought permission of the Court not to press the suit as against defendants 5 to 13. Learned counsel for the plaintiff submitted that defendants 2 to 4 have relinquished their right since filing compromise memo and submitted that in view of the compromise memo, now filed and the release deed executed in favour of the 1st defendant, the earlier memo is permitted to be withdrawn. The joint memo of compromise filed now in C.S. No. 899 of 2010 is taken on record.

3. In Tr.C.S. No. 511 of 2006, the plaintiff has filed a memo for withdrawing the suit.

4. Learned counsel for the plaintiff in Tr.C.S. No. 511 of 2006, C.S. No. 899 of 2010 and T.O.S. No. 46 of 2016 make separate but identical

statements that they would be withdrawing their respective suits without any need for reserving their right to file a fresh suit on the same cause of action. Leave granted. All the three suits are permitted to be withdrawn.

5. Accordingly, C.S. No. 899 of 2010, Tr.C.S. No. 511 of 2006 and T.O.S. No. 46 of 2016 are dismissed as settled out of court.

6. Registry is required to refund the court-fee in each of the above stated three suits as per law and the original documents are required to be handed over to the parties as per procedure. No costs.

Sd./- N.S.S.J.
21.12.2021

//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.