

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 8TH DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE N. SESHASAYEE

A.Nos. 3825 to 3827 of 2021

in

C.S. No.233 of 2009

C.S. No.233 of 2009

S.Bhanumathi Bai,  
W/o. Subramnaina Rao,  
No. 3/2, Raja Hanumantha Lane,  
Triplicane, Chennai – 600 005.

... Plaintiff

/versus/

1. Kamala,  
W/o. Krishnamoorthy  
Nos. 17 and 18, Tiruvallur Street,  
Anbalagan Nagar,  
Perambur, TVK Nagar, Sembium,  
Chennai – 600 011.

2. Ramesh,  
S/o. Late Bappanna Rao,  
Nos. 17 and 18, Tiruvallur Street,  
Anbalagan Nagar,  
Perambur, TVK Nagar, Sembium,  
Chennai – 600 011.

3. Rajtilak,  
S/o. Ramesh,  
Nos. 17 and 18, Tiruvallur Street,  
Anbalagan Nagar,  
Perambur, TVK Nagar, Sembium,  
Chennai – 600 011.

4. P.K.Iswarya  
D/o. Krishnamoorthy Rao,  
Nos. 17 and 18, Tiruvallur Street,  
Anbalagan Nagar,  
Perambur, TVK Nagar, Sembium,  
Chennai – 600 011.

5. R.Kiran Kumar  
**\* The 5<sup>th</sup> defendant herein  
declared as Major and  
2<sup>nd</sup> defendant discharged from  
Guardianship as per order  
dt:1/8/14 in Appln.No.3479/14.**

6. P.L.Krishnamoorthy Rao,  
S/o. Lakshmana Rao,  
Nos. 17 and 18, Tiruvallur Street,  
Anbalagan Nagar,  
Perambur, TVK Nagar, Sembium,  
Chennai – 600 011.

...Defendants

A.Nos. 3825 & 3827 of 2021

1.Kamala,  
No. 17 & 18, Thiruvalluvar Street,  
Anbazhagan Nagar, Perumbur. T.V.K. Nagar, Sembium,  
Chennai – 600 011.

2. Ramesh,

3.Rajtilak,

4.P.K.Iswarya

5.R.Kiran Kumar

6. P.L.Krishnamoorthy Rao

2 to 6 are residing at No. 17 & 18,  
Thiruvalluvar Street, Anbazhagan Nagar,  
Perumbur. T.V.K. Nagar, Sembium,  
Chennai – 600 011.

...Defendants / Applicants  
(in all the Applications)

-Vs-

S.Bhanumathi Bai,

No.3/2, Raja Hanumantha Lane,  
Triplicane, Chennai 600 005.

...Plaintiff / Respondent  
(in all the Applications)

**A.No. 3825 of 2021**

Application praying that this Hon'ble Court be pleased to reopen the  
defendants' side evidence.

**A.No. 3826 of 2021**

Application praying that this Hon'ble Court be pleased to recall DW 1.

**A.No. 3827 of 2021**

Application praying that this Hon'ble Court be pleased to receive the  
following additional documents namely

i) Discharge Summary of B. Ramesh

- Xerox Copy

- ii) Letter written by the Respondent/Plaintiff  
with its' enclosure and the Postal Cover  
addressed to B. Ramesh - Xerox Copy
- iii) Relieving Order dated 29.10.2009,  
passed by the Assistant Commissioner  
(Commercial Tax) - Xerox Copy
- iv) Medical Certificate of B. Ramesh dated 02.02.2019 - Copy
- v) Life Certificate of B. Ramesh dated 08.12.2020 - Copy
- vi) Medical Certificate of B. Ramesh dated 25.09.2021 - Copy

and to mark them as Exhibits through DW1

These Applications coming on this day before this court for hearing, the

Court made the following order:-

These applications were taken out by the defendants in the middle of arguments. The core issue that came up before this Court at the relevant time was whether the 2<sup>nd</sup> defendant can take care of his interest in the case. This Court was informed that 2<sup>nd</sup> defendant had suffered a certain injury to his brain owing to a road accident sometime in 2003. In these circumstances, the plaintiff has taken out an application in Application No. 3824 of 2021 for appointing a guardian under Order XXXII Rule 15 CPC. Even before the filing of his application, this Court required a Medical Board to examine the mental condition of the 2<sup>nd</sup> defendant and the Medical Board, vide its report dated 17.11.2021 has informed this Court that the 2<sup>nd</sup> defendant

can take care of his affairs. Acting on the same, this Court closed Application No. 3824 of 2021 on 30.11.2021.

2. Now, these applications are taken out by defendants when the Court was in the process of evaluating the mental capacity of the 2<sup>nd</sup> defendant to take care of his affairs and when these applications have been posted before this Court, it is stated that there is a strong change of circumstance. This is because all documents that are sought to be produced are essentially to establish that the 2<sup>nd</sup> defendant can take care of his interest in defending the suit.

3. As already stated, inasmuch as this Court has taken a view not to appoint any guardian for the 2<sup>nd</sup> defendant under Order XXXII Rule 15 CPC, these documents may not be relevant as they are neither connected to the fact in issue nor relevant facts relevant to the facts in issue.

4. On perusing the list of documents, this Court finds a discharge summary dated 02.07.2003 as the first of the documents sought to be introduced in evidence. This is the original of Ex.P19. So far as marking this document is concerned, the plaintiff consented. Hence, this document, i.e, the discharge summary of the 2<sup>nd</sup> defendant dated 02.07.2003 is marked as Ex.D4. So far as other three documents are concerned, they are not relevant currently. ***Application No. 3827 of 2021 is partially***

*allowed.*

5. In view of the above order, *there may not be any need to pass orders in Application Nos. 3845 & 3846 of 2021 and they are closed.*

6. Post the suit on 04.01.2022.

Sd/-NSSJ  
08.12.2021

//Certified to be true copy//

Dated at Madras this the                      day of                      2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.  
PS 22/12/2021