



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY AND INTESTATE JURISDICTION)

THURSDAY, THE 07TH DAY OF APRIL 2022

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

TOS No. 17 of 2010
(O.P.No.306 of 2009)

In the matter of the Indian
Succession Act XXXIX of 1925;
and
In the matter of the Last Will and
Testament of Neelavathi Bai -
Deceased.

M.B.Ravishankar
S/o.Late.Babu Rao,
Plot No.148, D.No.1,
5th Main Road,
Thiruvallurvar Nagar,
Chennai 600 118.

...Petitioner/Plaintiff

Vs.

1.M.B.Ganesh Rao

(*) 2.Maheswari

(*) 3.Nithyalakshmi

(*) 4.Padma Priyah

(*) 5.Anitha Priyah

(*) 2 to 5 all are residing at

No.11 Bharathiyar Street,

Vivekandar Nagar,

Chennai 600 118.

(*) 2 to 5 defendants are impleaded as legal

heirs of M.B.Ananda Rao as per order dated



31.10.2019 in Application No.6939 of 2019)

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...Caveators/Defendants

Testamentary Original Suit praying that this Hon'ble Court be pleased to that Letter of Administration with the will annexed be granted to Petitioner as one of the son's/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 M/s.N.Beulah John Selvaraj, Advocate for the plaintiffs herein and Mr.N.Senthilkumar, Advocate for the 1st defendant herein and Mr.T.L.Thirumalaisamy, Advocate for the defendants 2,3 & 5 herein and upon reading the petition and the will dated 23.11.2006 filed herein and the Mediation Report and the Memorandum of Compromise signed by the plaintiff and the defendants with their respective advcoates and the said advocates for the parties hereto praying this Court to pass a decree in terms of Memorandum of Compromise morefully setout in the schedule hereunder, **it is interms thereof ordered and decreed as follows:-**

That the Neelavathi Bai was entitled to $\frac{1}{4}$ share of the Babu Rao's property morefully setout in the schedule hereunder, hereinafter referred as "Neelavathi Bai Property".

<https://hcservices.ecourts.gov.in> 2. That the Neelavathi Bai property shall now be equally divided as



follows:

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- i) The Plaintiff (M.B.Ravishankar) shall be entitled to 1/3 share of Neelavathi Bai property.
 - ii) The 1st Defendant, M.B.Ganesh Rao shall be entitled to 1/3 share of Neelavathi property.
 - iii) The Legal heirs of M.B.Anand Rao i.e.Defendants No.2 to 5 are jointly entitled to 1/3 share of Neelavathi Bai property.
 - iv) The Plaintiff, the 1st Defendant and the Legal Heirs of M.B.Anand Rao are already entitled to $\frac{1}{4}$ share each after the demise of their father Babu Rao.
 - v) Accordingly, now the Plaintiff and the 1st Defendant are each entitled to 1/3 share of the entire property that belongs to Babu Rao and the Legal Heirs of M.B.Anand Rao namely the Defendants 2 to 5 are jointly entitled to 1/3 share of the entire property that belongs to Babu Rao.
- 3) That Plaintiff and Defendants herein be and are hereby agree to sell the said property wholly and thereafter equally divide the sale proceeds between i.e. Plaintiff, 1st Defendant and the Legal Heirs of Late M.B.Anand Rao, the defendants 2 to 5 herein.



4) That the Plaintiff and Defendants herein shall look for a prospective buyer either individually or jointly in order to get the best marketable price for the entire property at the earliest, after mutual consultation and understanding as the case may be.

5) That the plaintiff and the Defendants herein shall appear and represent the Sale Deed for execution and registration of Sale Deed before the concerned Sub-Registrar's Office.

6) That in case, any of the parties are unable to be physically present for completion of the Sale transaction in full, due to health reason or on account residing abroad, then the Sale Deed shall be registered on the strength of duly executed Power of Attorney by the party concerned.

7) That upon receiving their share of Sale proceeds by the Legal Heirs of deceased M.B.Anand Rao i.e., Defendants No.2 to 5 herein, at the time of completion of the Sale transaction, they shall pay Rs.1,00,000/- (Rupees One Lakh only) to the Plaintiff namely M.B.Ravishankar on the same day or on which the amount is released in the Bank, by way of cheque.

8) That upon receiving his share of sale proceeds by 1st Defendant namely M.B.Ganesh Rao, he shall pay Rs.1,00,000/- (Rupees One Lakh only) to the Plaintiff namely M.B.Ravishankar on the same day or on which the amount is released in the Bank, by way of cheque.



9) That Plaintiff herein agrees to cancel the Settlement Deed dated 19.01.2011 registered as Doc.No.321/2011 in favour of his wife namely R.Kamachi Bai and Will dated 23.11.2006 said to be executed by Neelavathi Bai shall not be given effect.

10. That the connected applications are closed if any

11. That there shall be no order as to costs of this Suit.

Schedule

Memorandum of Compromise



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04.05.2022

T.O.S No. 17 of 2010
(O.P.No. 306 of 2009)

DECREE:

DATED : 07.04.2022

THE HON'BLE MRS. JUSTICE
V.BHAVANI SUBBAROYAN

FOR APPROVAL: 4.5.2022

APPROVED ON : 4.5.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.04.2022

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**T.O.S.No.17 of 2010**

M.B.Ravishankar

...Plaintiff

Vs.

1.M.B.Ganesh Rao

2.Maheswari

3.Nithyalakshmi

4.Padma Priyah

5.Anitha Priyah

*(2 to 5 defendants are impleaded as legal
heirs of M.B.Ananda Rao as per order dated
31.10.2019 in Application No.6939 of 2019)*

...Defendants

Prayer: This petition filed under Sections 232 and 276 of the Indian Succession Act XXXIX of 1925 for the grant of Letters of Administration. Against this petition a Caveat was filed on the 8th day of July 2009 by the July 2009. As per order of Court dated 26.02.2010 in O.P.No.306 of 2009 the Original Petition is directed to be converted into Testamentary Original Suit.



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For Defendants : Mr.N.Senthilkumar for D1
Mr.T.L.Thirumalaisamy for D2, D3 & D5

J U D G M E N T

This petition filed under Sections 232 and 276 of the Indian Succession Act XXXIX of 1925 for the grant of Letters of Administration. Against this petition a Caveat was filed on the 8th day of July 2009 by the July 2009. As per order of Court dated 26.02.2010 in O.P.No.306 of 2009 the Original Petition is directed to be converted into Testamentary Original Suit.

2.The Original Petition in O.P.No.306 of 2009 was filed by M.B.Ravishankar, the petitioner therein for grant of Letters of Administration for the Will dated 23.11.2006 claimed to be executed by his mother Mrs.Neelavathi. The respondent therein, viz., Ganesh Rao filed a caveat opposing the said Will and grant of Letters of Administration to M.B.Ravishankar/plaintiff. Thereafter, the Original Petition converted into Testamentary Original Suit in T.O.S.No.17 of 2010. During pendency of the suit, the brother of the plaintiff and the first defendant viz., M.B.Anand Rao, expired and his legal heirs viz., A.Maheswari, A.Nithyalakshmi, A.Padma Priyah and A.Anitha Priyah were brought on record as defendant Nos.2 to 5.

3.The lis between the plaintiff and the defendants pertains to 1/4th

undivided share of the property owned by the mother Mrs.Neelavathi Bai.



Originally the property was purchased by Babu Rao, who is the father of the plaintiff and the first defendant and late M.B.Ananda Rao. The said Babu Rao died intestate on 10.04.1987 leaving behind 4 legal heirs viz., B.Neelavathi, M.B.Ananda Rao, M.B.Ravishankar and M.B.Ganesh Rao and they were each entitled to 1/4 share in the property.

4.The mother Neelavathi Bai, who became entitled to 1/4 share in the property executed a Settlement Deed dated 08.02.2006 registered as Document No.914 of 2006 before Sembiam Sub-Registrar Office in terms of which she settled her 1/4 undivided share of the property, equally in favour of her 3 sons viz., M.B.Anand Rao, M.B.Ravishankar/plaintiff and M.B.Ganesh Rao/1st defendant. However, the said Settlement Deed was unilaterally cancelled on 11.05.2006 by Neelavathi Bai vide Document No.3812 of 2006, registered before Sembiam Sub-Registrar Office, without the knowledge and consent of the settlees viz., M.B.Anand Rao and M.B.Ganesh Rao. Subsequently, Neelavathi Bai executed a Will dated 23.11.2006 bequeathing her 1/4 undivided share of the property to M.B.Ravishankar, the plaintiff herein alone, excluding other defendants. The first defendant has disputed the Will as well as the alleged cancellation of Settlement Deed. Hence the present litigation.

5.Heard Mr.Beulah John Selvaraj, learned counsel appearing for

the plaintiff, Mr.N.Senthilkumar, learned counsel appearing for the first



defendant, Mr.T.L.Thirumalaisamy, learned counsel appearing for the defendants 2, 3 and 5.

6.After negotiation, the parties have entered into a Memorandum of Compromise, which reads as follows:

a)The Neelavathi Bai was entitled to $\frac{1}{4}$ share of the Babu Rao's property, hereinafter referred as “Neelavathi Bai Property”.

b)That Neelavathi Bai property shall now be equally divided as follows:

i)The Plaintiff (M.B.Ravishankar) shall be entitled to $\frac{1}{3}$ share of Neelavathi Bai property.

ii)The 1st Defendant, M.B.Ganesh Rao shall be entitled to $\frac{1}{3}$ share of Neelavathi property.

iii)The Legal heirs of M.B.Anand Rao i.e.Defendants No.2 to 5 are jointly entitled to $\frac{1}{3}$ share of Neelavathi Bai property.

iv)The Plaintiff, the 1st Defendant and the Legal Heirs of M.B.Anand Rao are already entitled to $\frac{1}{4}$ share each after the demise of their father Babu Rao.

v)Accordingly, now the Plaintiff and the 1st Defendant are each entitled to $\frac{1}{3}$ share of the entire property that belongs to Babu Rao and the Legal Heirs of M.B.Anand Rao namely the Defendants 2 to 5 are



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jointly entitled to 1/3 share of the entire property that belongs to Babu Rao.

c)That Plaintiff and Defendants hereby agree to sell the property wholly and thereafter equally divide the sale proceeds between i.e. Plaintiff, 1st Defendant and the Legal Heirs of Late M.B.Anand Rao, the defendants 2 to 5.

d)The Plaintiff and Defendants shall look for a prospective buyer either individually or jointly in order to get the best marketable price for the entire property at the earliest, after mutual consultation and understanding as the case may be.

e)The plaintiff and the Defendants shall appear and represent the Sale Deed for execution and registration of Sale Deed before the concerned Sub-Registrar's Office. In case, any of the parties are unable to be physically present for completion of the Sale transaction in full, due to health reason or on account residing abroad, then the Sale Deed shall be registered on the strength of duly executed Power of Attorney by the party concerned.

f)That upon receiving their share of Sale proceeds by the Legal Heirs of deceased M.B.Anand Rao i.e., Defendants No.2 to 5, at the time of completion of the Sale transaction, they shall pay Rs.1,00,000/- to the Plaintiff namely M.B.Ravishankar on the same day or on which the amount is released in the Bank, by way of cheque.



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g) That upon receiving his share of sale proceeds by 1st Defendant namely M.B.Ganesh Rao, he shall pay Rs.1,00,000/- to the Plaintiff namely M.B.Ravishankar on the same day or on which the amount is released in the Bank, by way of cheque.

h) That Plaintiff agrees to cancel the Settlement Deed dated 19.01.2011 registered as Doc.No.321/2011 in favour of his wife namely R.Kamachi Bai and Will dated 23.11.2006 said to be executed by Neelavathi Bai shall not be given effect.

7. In view of the same, the Memorandum of Compromise is recorded and accordingly, final decree is passed in terms of the Compromise. The Memorandum of Compromise shall form part of the decree. There shall be no order as to costs. Consequently, connected applications are closed if any.

Sd./-V.B.S.J.,
07.04.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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