



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

MONDAY, THE 28TH DAY OF FEBRUARY 2022

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

T.O.S.No.10 of 2011

In the matter of the Indian Succession
Act XXXIX of 1925, and
In the matter of Last Will and
Testament of A.S.Senthamarai
Kannan - deceased.

A.S.Manikannan
S/o. late A.Sivagnana Mudaliar,
residing at No.1, Venkier Street,
Kondithope, Sowcarpet,
Chennai - 600 079.

...Petitioner/Plaintiff

versus

1. **G.Jayakumar *****
S/o. late Gopala Krishnan,
residing at No.1, Venkier Street,
Kondithope, Sowcarpet,
Chennai - 600 079.

2. **G.Dilipkumar (Deceased)**
S/o. late Gopala Krishnan,
residing at Door No.22/11,
Telegraph Abbai Street, Kondithope,
Sowcarpet, Chennai - 600 079.

3. **G.Senthilkumar (Deceased)****



S/o. late Gopala Krishnan,
residing at Door No.22/29, Venkier Street,
Kondithope, Sowcarpet,
Chennai - 600 079.

****(Deceased of 3rd Defendant Recorded as per
Memo Sr.No.27392/18 dt 4/7/18, as per order
dated 5/7/18 in TOS. 10/2011)**

4. A.Bhuvaneswari
S/o late Gopala Krishnan,
residing at No.24/14,
Melapalayam, Sengam,
Thiruvannamalai District.

5. G.D.Karunambigai, *
W/o. Late G.Dilipkumar ***

***(residing at No 1, Venkier St, Kondithope,
Chennai - 600 079,
5th Defendant brought on record as L.R's of the
Deceased 2nd Defendant as per order Dt 5.6.2014 in
Appln.Nos.524 to 526 of 2014 in TOS. No.10 of 2011)**

***** (D1 & D5 Defendant are Amended as
per Order passed in Appln.2169/2021
in TOS. 10/2011 dated 25.6.2021)**

...Caveators/Defendants

Testamentary Original Suit praying that this Hon'ble Court be pleased
to grant Letters of Administration with the Will annexed in favour of the
Petitioner as the eldest brother/legatee under the Will of the said deceased
A.S.Senthamarai Kannan, having effect limited to the State of Tamil Nadu.



WEB COPY This Testamentary Original Suit coming on this day before this court for hearing in the presence of Mr. M.A.Srinivasan, advocate for the defendants 1, 4 & 5 herein and the plaintiff herein not appearing in person or by advocate and upon reading the petition and joint compromise memo filed herein and the said joint compromise memo signed by the plaintiff and the defendants 1, 4 & 5 herein and their respective advocates and the said advocates for the parties hereto praying this Court to pass a decree in terms of joint compromise memo morefully setout in the schedule 'B' hereunder and **it is ordered and decreed as follows:-**

That the suit property morefully setout in the schedult 'A' hereunder shall be divided into two half shares (i.e.) viz., one half share (50%) shall be allotted to the plaintiff, A.S.Manikannan and the other half share (50%) shall be allotted to 1) G.Jayakumar, 2) A.Bhuvaneswari and 3) G.D.Karunambigai, the defendants 1,4 & 5 herein jointly.

2) That the plaintiff and defendants 1, 4 & 5 herein agreed that they shall not have any claim against each other.



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3) That there shall be no order as to costs.

SCHEDULE 'A'

SCHEDULE OF PROPERTY

All that House and Ground bearing Door No.1 (Old No.2/21 and then 21) Venkier Street, Peddunaicken Street, Sowcarpet, Chennai / 600079 and comprised in O.S.No.5926, R.S.No.408/2 Certificate No.822 dated 20.10.1925 and No.80 dated 20.7.1930 and measuring 1024 sq.ft. and bounded on the North by Chellammal's property, South by Peddu Naicken Street on the East by Venkier Street and West by Murugesu Mudaliar Property and situate within the registration district of North Chennai and Registration sub-district of Sowcarpet.

SCHEDULE 'B'

JOINT COMPROMISE MEMO



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30.03.2022

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T.O.S.No.10 of 2011

DECREE

DATED : 28.02.2022

THE HON'BLE MRS.JUSTICE
V.BHAVANI SUBBAROYAN

FOR APPROVAL : 31.03.2022

APPROVED ON : 31.03.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TOS.No.10 of 2011

A.S.Mani Kannan

...Plaintiff

Vs.

1.G.Jayakumar

2.G.Dilip Kumar (Since Deceased)

3.G.Senthil Kumar (Since Deceased)

*(Deceased of 3rd Defendant recorded as per
Memo Sr.No.27392 of 2018 dated 04.07.2018
as per Order dated 05.07.2018 in TOS.No.10 of 2011)*

4.A.Bhuvaneswari

5.G.D.Karunambigai

*(5th Defendant brought on record as Legal
representative of the Deceased 2nd plaintiff as per
Order dated 05.06.2014 in Application Nos.524 to
526 of 2014 in TOS.No.10 of 2011)*

*(D1 & D5 Defendants are amended as per order passed
in Appln. No.2169/2021 in TOS.No.10/2011 dated 25.6.2021)*

...Defendants



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Prayer: Petition filed for Letters of Administration under Order XXV Rule 5 of O.S.Rules and under Sections 232 and 276 of the Indian Succession Act, 1925, to grant Letters of Administration with the Will annexed in favour of the petitioner as the eldest brother/legatee under the Will of the said deceased A.S.Senthamarai Kannan, having effect limited to the State of Tamil Nadu.

For Plaintiff : No appearance

For Defendants : Mr.M.A.Srinivasan for D1 to D4

J U D G M E N T

The Original Petition has been filed for grant of Letters of Administration with the Will annexed which has been converted as a Testamentary Original Suit.

2.It is seen that the plaintiff and the defendants 1, 4 and 5 jointly entered into a Compromise Memo dated 28.02.2022, which reads as follows:

JOINT COMPROMISE MEMO FILED BY THE

PLAINTIFF AND DEFENDANTS 1, 4 and 5



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2010 for Grant of Letters of Administration of the Last Will and Testament of A.S.Senthamarai Kannan, executed on 24th July, 2006 and the said Will was registered as Document No.22 of 2006 in the office of the Sub-Registrar of Sowcarpet, Chennai and upon entering Caveat by the Defendants 1 to 4 the same was converted into Testamentary Original Suit viz., TOS.No.10 of 2011 and the same is pending consideration before this Hon'ble Court.

2.It is submitted pending suit 2nd defendant G.Dilip Kumar died on 20.07.2013 leaving behind his wife G.D.Karunambigai and they have no issues and the wife has been impleaded as 5th defendant in the above TOS.

3.It is submitted pending suit 3rd Defendant G.Senthil Kumar Died on 15.07.2016, he was bachelor, his parents pre-deceased him and as such there are no legal heirs for him and the same was recorded by this Hon'ble Court as per Memo Sr.No.27392 of 2018 dated 04.07.2018 Order dated 05.07.2018.



4. The Plaintiff and the Defendants 1, 4 and 5 had arrived a Compromise and the terms of the compromise are as follows:-

a. *The Suit Schedule property will be divided into Two Half Shares. One Half Share (50%) will be allotted to the Plaintiff A.S.Manikannan and the Other Half Share (50%) will be allotted to the Defendants 1, 4 and 5 jointly.*

5. The Plaintiff and Defendants 1, 4 and 5 agreed that they will not have any claim against each other.

6. It is mutually agreed that the parties hereto without any compulsion coercion and undue influence in executing this **JOINT MEMORANDUM OF COMPROMISE.**

7. It is therefore, prayed that this Hon'ble Court be pleased to Record this **JOINT COMPROMISE MEMO AS PART AND PARCEL OF THE DECREE** in the above suit and pass such further or other Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.



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Dated at Chennai on this 28th day of February, 2022.

COUNSEL FOR PLAINTIFF

(A.S.Manikannan)

PLAINTIFF

G.Jayakumar.....

Mrs.A.Bhuvaneswari....

Mrs.D.Karunambigai....

COUNSEL FOR DEFENDANTS

DEFENDANTS

1, 4 and 5

1, 4 AND 5

3.In view of the above, the Testamentary Original Suit is disposed of in terms of the joint compromise memo. There shall be no order as to costs.

Sd/-V.B.S.J.

28.02.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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