



A.No.4123 of 2023
in CS.D.No.No.12743 of 2023

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R.N.MANJULA, J.,

This application has been filed seeking leave to sue to the applicant/plaintiff to institute the above suit against the respondents 1 & 2/ defendants 1 & 2.

2. The applicant, the plaintiff, who is the adopted son of the late M.Vijayasarathi has filed the suit seeking the following reliefs:

- (a) for a declaration that the plaintiff is the adopted son of the late M.Vijayasarathi
- (b) for a declaration that the plaintiff is entitled to succeed to the suit schedule-mentioned properties as mentioned in Schedule II, Item 6, as the adopted son of the late M.Vijayasarathi and for a consequential injunction.
- (c) for the recovery of the suit schedule-mentioned properties. He has filed the suit for recovery of suit schedule properties as described in suit schedule II items 1 to 5
- (d) for a permanent injunction restraining the defendant, her men, agents, servants, officers, or anyone claiming under or through her, or authorised or assigned by her, from in any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule mentioned in



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property schedule II item No.1 to VI.

(e) for a permanent injunction restraining the 1st defendant or any one authorised by her from in any manner encumbering, alienating, or dealing with the suit schedule-mentioned properties either by way of sale, mortgage, lease, joint development, or otherwise, except in accordance with law more fully described in Schedule II items No.I to VI and the costs of the suit.

3.The learned counsel for the applicant/plaintiff submitted that the cause of action for filing the suit arose within the jurisdiction of this Court, where the late M. Vijayasarithi possessed immovable properties as described in the plaint schedule at the time of his demise. Since some of the suit schedule-mentioned properties (viz., Schedule II items I to V) are situated outside the jurisdiction of this court, viz., at the Nilgiris, Sathyavedu, Chittoor (Andra Pradesh), Thenapalli Road, Tirupathi Bye-pass Road, Tirupathi, Maheswaram Renga Reddy and Telengana District, some properties are within the jurisdiction of this court. The applicant / plaintiff is entitled to join the cause of action against defendants 1 and 2, wherein the 1st defendant is residing within the jurisdiction of this Court while the 2nd defendant, who is the plaintiff's uncle, is residing in Haryana State outside the jurisdiction of this court



for the properties inherited from his late father, M. Vijayasarathi.

4. The plaintiff has filed the suit for partition. The court which shall have the jurisdiction to entertain the suits of this nature will be the courts in whose jurisdiction the properties are situated. The applicant/plaintiff has filed the application seeking leave to sue as against the properties which are situated outside the jurisdiction of this court also in this suit.

5. Considering the submission made by the learned counsel for the applicant/ plaintiff and also by making reference to the order passed by this Court in **A.Nos.4846 & 4847 of 2021 in CS.No.496 of 2017 dated 29.08.2023**, on similar facts and by placing reliance on the judgments of the Hon'ble Division Bench of this Court in ***Bank of Madurai Ltd. Vs. Balaramadass & Brothers (AIR 1985 Mad 1)*** and ***A.Giridhar & Another Vs. A. Suresh & Others (1988 2 L.W. 308)***, leave is granted.

6. Accordingly this application is **allowed**.

29.08.2023

jrs



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