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*C.M.P. Nos.168 and 169 of 2014 and 3 of 2011
in Rev. A. No.104 of 2003 in O.S.A. No.261 of 1995*

**C.M.P. Nos. 168 and 169 of 2014 and 3 of 2011
in
Rev. A. No.104 of 2003 in O.S.A. No.261 of 1995**

**M.SUNDAR,J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

(Order of the Court was made by M.SUNDAR, J.)

This common order will govern the captioned three 'Civil Miscellaneous Petitions' ('CMPs' in plural and 'CMP' in singular for the sake of brevity).

2. This common order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 18.07.2024, which reads as follows:

**'Rev. A. No.104 of 2003
in O.S.A. No.261 of 1995
and
C.M.P. Nos.3 of 2011, 168 and 169 of 2014**

**M.SUNDAR,J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

(Order of the Court was made by
M.SUNDAR, J.)

*Main matter is Review Application No.104 of
2003. If the review application is vintage, suit from*



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which OSAs arise [review application is qua common order dated 13.11.2002 in O.S.A. Nos.261 of 1995, 237 of 1996 and 284 of 1996 (three OSAs)] is ancient as the OSAs arise out of two suits of the year 1972 and 1983 i.e., C.S.Nos.188 of 1972 and 442 of 1983.

2. Ms.Ramya, learned counsel on record for three review applicants submits that C.S.No.188 of 1972 is a partition suit filed by one S.Sathappan, then minor represented by his mother S.Meenakshi claiming half share in joint family properties. Learned counsel submits that there are six schedules of properties to the suit and each schedule consists of multiple items of immovable properties. The other suit is C.S.No.442 of 1983 and this second suit has been filed by one P.S.S.Somasundaram Chettiar (against son Sathappan) seeking a declaration that his legal rights over his properties is absolute and independent and that Sathappan has no legal rights either by birth or by succession.

3. On 07.10.1994, a learned single Judge who tried both suits together partly decreed the partition suit and dismissed the declaration suit. To be noted, decree is obviously a preliminary decree as C.S.No.188 of 1972 is a partition suit.



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4. Learned counsel for review applicants submits that in this common judgment dated 07.10.1994 (more particularly paragraphs 269 and 331 thereat), one property at Greenways Road and another property being a flat in Bombay have been held to be joint family properties and this now constitutes the kernel of the review application before us.

5. The aforementioned three OSAs are directed against this 07.10.1994 common judgment and decree (to be noted, there are two appeals qua partition suit as it was partly decreed) and these three OSAs came to be disposed of by a common order dated 13.11.2002 and captioned review application is directed against the order in one of the three OSAs viz., O.S.A. No.261 of 1995.

6. As regards respondents in the review application, we find that they are 25 in number. Cause list shows M/s.Surana and Surana (Law Firm) represents R1 and R2 to R25 have been given up vide Court order dated 30.08.2005.

7. Learned counsel for review applicants submits that two CMPs viz., C.M.P.Nos.168 of 2014 and 169 of 2014 have been taken out with prayers to declare two of the review applicants viz., S.S.Seetha and S.Jagan Somasundaram as majors



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and discharge their guardianship (mother). The second application has been filed (C.M.P. No.168 of 2014) with a prayer to bring on record the legal heirs of deceased R1 / P.S.S.Somasundaram Chettiar. Learned counsel submits that these two CMPs have to be considered first.

8. Though two CMPs come across as petitions with innocuous prayers, as no one represented R1 today though name of the counsel M/s.Surana and Surana (Law Firm) is duly shown in the cause list, with the intention of giving opportunity to R1 and counsel for R1, list this matter again on 01.08.2024.'

3. In the aforementioned proceedings in paragraph 2 in Line No.5, 'six' schedules should read as 'ten' schedules. Ms.R.Ramya, learned counsel for petitioners in captioned CMPs expressed regret for the error in the previous proceedings which were made on the basis of submission made at the Bar. This order will now be read as errata/corrigendum in this regard qua aforementioned 18.07.2024 proceedings (on being uploaded).

4. Reverting to captioned CMPs, R1 – Mr.P.S.S.Somasundaram Chettiar is no more, date of demise is 22.09.2013 and date of demise of his spouse is 06.10.2013.



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Respondents 2 to 25 have been given up. As regards Respondents

26 to 28, who are to be brought on record, Ms.S.Rekha, learned counsel has entered appearance and submits that she does not oppose the prayer in C.M.P.No.168 of 2014. In C.M.P. No.168 of 2014, in the petition, Ms.R.Ramya submits that an inadvertent typographical error has crept in and requests that 'R25 to R27' may please be read as 'R26 to R28'. This request is acceded to.

5. In the light of captioned C.M.P. No.168 of 2014 not being opposed and also taking into account the position that it is not only innocuous but imperative for the matter to proceed, C.M.P.No.168 of 2014 is ordered as prayed for. Registry to carry out necessary and consequential amendments in the case file within ten days from today i.e., by 09.08.2024.

6. As regards C.M.P. No.169 of 2014 which has been filed with prayer for declaring the petitioners 2 and 3 as majors and for discharging their guardianship, the position as regards the parties is pretty much the same. In other words, R1 is no more, date of demise is 22.09.2013, date of demise of spouse of R1 is 06.10.2013, R2 to R25 given up and R26 to R28 represented by Ms.S.Rekha, counsel on record does not oppose the prayer.



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Considering the nature of the prayer which is not only innocuous but imperative for the matter to proceed, captioned C.M.P. No.169 of 2014 is also ordered as prayed for. (to be noted there is no typographical error in the prayer in C.M.P. No.169 of 2014).

7. Registry to carry out necessary and consequential amendments in the case file within ten days from today i.e., by 09.08.2024.

8. Captioned C.M.P. No.3 of 2011 is disposed of as closed without expressing any view or opinion on the merits of the matter as R1 is no more.

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(M.S.J.) (K.G.T.J.)
01.08.2024
(1/2)



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01.08.2024