



T.O.S. No. 38 of 2004
and
T.O.S. No. 36 of 2015

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

T.O.S. No.38 of 2004
and
T.O.S. No. 36 of 2015

T.O.S.No.38 of 2004:-

- 1.G.Ganesan
- 2.G.Viswanathan(deceased)
- 3.G.Rajasekaran
- 4.G.S.Ananth
- 5.G.Siva
- 6.S.Malliga
- 7.V.Rajalakshmi
- 8.V.Vidhya

...Plaintiffs

[7th and 8th plaintiffs are brought on record as LR's deceased 2nd plaintiff and amendment carried out as per order dated 23.01.2023 made in Application No.222 of 2023]

Vs.

- 1.P.Sundari(died)
- 2.R.Varalakshmi
- 3.M.Kasthuri
- 4.Muralidharan
- 5.Umarani

...Defendants

[4th and 5th defendants are brought on record LR's of the deceased 1st defendant as per order dated 21.04.2016 on memo in



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This Suit had been filed under Sections 232 and 276 of the Indian Succession Act and under Order XXV Rule 5 of Original Side Rules, for the following prayer:-

- (a) that the Letters of Administration with the certified copy of the Will annexed may be granted to the petitioners 1, 3 to 6 as the beneficiaries under the Will of the deceased having effect through the State of Tamil Nadu;
- (b) pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

For Plaintiffs : Mr.G.Vivekananth

For Defendants : Mr.K.S.Gnanasambandan

T.O.S. No. 36 of 2015:-

- 1.P.Sundari(died)
- 2.G.Varalakshmi
- 3.M.Kasthuri
- 4.U.Umarani

...Plaintiffs

[4th defendant is brought on record LRs of the deceased sole plaintiff P.Sundari as per order dated 30.10.2013 in A.No.3052 of 2012.]



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Vs.

1.G.Ganesan
2.G.Viswanathan (deceased)
3.G.S.Ananth
4.G.Siva
5.S.Malliga
6.Rajalakshmi
7.V.Vidhya

...Defendants

[D6 and D7 LRs of D2 brought on record as defendants 6 & 7 as per order dated 05.04.2022 in Application No.1447 of 2022 as time extended on 28.04.2022 and 04.07.2022 and amendment is carried out as per order on 07.07.2022.]

This suit had been filed under Section 232 and 276 of the Indian Succession Act and under Order XXV and Rule 5 of the Original Side Rules for the following prayer:-

- (a) that the letters of administration with the certified copy of the Will may be granted to the plaintiffs 1 to 4 and the defendants 1,2,5 and 6 the beneficiaries under the Will of the said deceased having effect limited to the State of Tamil Nadu;
- (b) pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Plaintiffs : Mr.K.S.Gnanasambandan

For Defendants : Mr.S.Senthil Kumaran (DD1,2,4 & 5)
Mr.Vijendran (D3)



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COMMON JUDGMENT

Initially O.P. No. 756 of 2003 had been filed by six petitioners, G.Ganesan, G.Viswanathan, G.Rajasekaran, G.S.Ananth, G.Siva and S.Malliga seeking Letters of Administration with Will annexed relating to a Will dated 22.06.1990 said to have been executed by Saraswathiammal, wife of late Gopichand Mudaliar. Saraswathiammal died on 27.08.2001.

2. In the Original Petition, there were three respondents, viz., P.Sundari, R.Varalakshmi and M.Kasthuri. P.Sundari had died pending the proceedings on 17.12.2011. However, a Caveat had been filed and Original Petition No.756 of 2003 had been converted as T.O.S. No. 38 of 2004. The Testamentary and Original Suit had been pending in this Court for the past more than 2 decades.

3. Parallely, O.P. No.31 of 2012 had been filed by P.Sundari, G.Varalakshmi, M.Kasthuri and U.Umarani seeking Letters of Administration of a Will dated 13.12.1993 also said to have been executed by Saraswathiammal, who died on 27.08.2001. This Original Petition had been filed against the G.Ganesan, G.Viswanathan,



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G.Rajasekaran, G.S.Ananth, G.Siva and S.Malliga. Subsequently, during the pendency of the Original Petition, P.Sundari died and her legal representatives P.Muralidharan and G.Viswanathan had brought on record as 4th petitioner and also as the 7th respondent. G.Viswanathan died pending the proceedings on 18.01.2021 and his legal heirs, viz., V.Vidhya and V.Rajalakshmi had been brought on record as 6th and 7th defendants. On Caveat being filed, O.P. No. 31 of 2012 had been converted as T.O.S. No. 36 of 2015. The said Testamentary and Original Suit has been pending before this Court for the past 1 decade.

4. Credit must be given to the respective parties, who had thought it prudent to enter into a compromise by dividing the property into definite shares. In this regard, a Memorandum of Compromise had been entered into, which had been signed by all the parties. It is to be also noted that two of the parties, viz., U.Umarani and S.Malliga are in the United States. The others have also signed, viz., G.Ganesan, Muralidharan, Umarani, Rajalakshmi, Vidhya, Varalakshmi, Siva and S.Malliga. G.S.Ananth had not signed in the Memorandum of Compromise, but he had filed an affidavit before this Court, wherein he



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had affirmed the Memorandum of Compromise. This affidavit is dated 02.07.2025.

5. Similar affidavits had also been filed by other parties viz., G.Varalakshmi, M.Kasthuri, V.Rajalakshmi, G.Siva, G.Ganesan and V.Vidhya. The parties also appeared through video-conferencing, viz., Ganesan, Varalakshmi, Kasthuri, Umarani, G.S.Ananth, S.Malliga, V.Vidhya and Rajalakshmi. G.Siva is present in Court today. All the parties are presented by learned counsels. The shares by which they had decided to divide the property measuring an extent of 6339 sq.ft., are as follows:-

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<i>Co-owner name</i>	<i>Allocated share</i>
1. G.Ganesan	1500
2.P.Sundari (deceased)	
2a.Muralidharan (her son)	202
2b.Umarani (her daughter)	202
3.G.Viswanathan (deceased)	1101
3a.Rajalakshmi (his wife)	
3b.Vidya(his daughter)	
4.G.Varalakshmi	730
5.G.Rajasekaran	550
6.M.Kasthuri	404



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<i>Co-owner name</i>	<i>Allocated share</i>
7.G.S.Ananth	550
8.G.Siva	550
9.S.Malliga	550

”

All of them had taken a decision to sell the property and to divide the land in accordance with the aforementioned ratio. But there was an issue of possession and the purchaser, if identified, should also be granted vacant possession. Therefore, affidavits had been filed by those, who are in possession that they would vacate within a period of 30 days from the date on which the agreement of sale had been entered into. The agreement of sale had been entered into on 18.08.2025.

6. I am confident that all the parties would abide by the terms of the Memorandum of Compromise. This would also indicate that those who are in possession, viz., Rajalakshmi, Ganesan, Siva, Vidhya have to vacate the premises on or before 19.09.2025, so that the agreement could move forward and if it moves forward, it will only be advantageous to all the parties as they would get their respective shares in monetary terms from the intending purchaser.



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7. Prudence is therefore required and sense and sensibility should prevail over pride and prejudice. Both the Testamentary and Original Suits are decreed in terms of the Memorandum of Compromise, which is nothing but the division of the shares of the land over which property is situated. The Memorandum of compromise is to form part of the Decree in both suits. No costs.

8. Registry may also retain the original affidavits filed by the parties in the Court records.

19.08.2025

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C.V.KARTHIKEYAN, J.
Maya



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