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T.O.S.No. 19 of 2009
IN
O.P.No. 119 of 2009

C.V.KARTHIKEYAN, J.

The matter had been listed under the caption 'for being mentioned'.

2. The Registry may carry out the correction in paragraph No. 3 by deleting the word 'sister' and include the word 'daughter' and also the correction in paragraph No.4 by deleting the first three lines and include these lines “Now the parties have entered into a settlement. The plaintiffs have given up the Will and retained 45% share in the property and accepted that the defendants 4, 5 and 6 are entitled to 35% and the 7th defendant will have 20% share in the property” and in the same paragraph No.4 by deleting the word 'Both' and include the word 'All'.

3. The Registry may, before the words in the first line of paragraph “5th and 6th defendants”, delete the words 'plaintiffs'.

4. Registry is directed to issue fresh order copy to the plaintiffs after correcting the aforementioned correction.

Vsg

10.07.2025



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C.V.KARTHIKEYAN, J.

vsg

**T.O.S.No. 19 of 2009
IN
O.P.No. 119 of 2009**

10.07.2025



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

T.O.S.No.19 of 2009

in

O.P.No.119 of 2009

1.M.A.Rathinavelu
2.M.A.Manickavelu

.. Plaintiffs

/versus/

1.M.K.Siva Prakasam (Deceased)
2.M.K.Annamalai
3.M.S.Vijayalakshmi (Deceased)
4.M.S.Rajeswari
5.S.Gunasekar
6.M.S.Natarajan
7.A.Gowri Palani

.. Defendants

(Defendants 3 to 6 impleaded as legal heirs of Late.M.K.Sivaprakasam, 1st defendant as per order dated 08.07.2013 in A.N.2697 of 2013.

(The memo filed by the plaintiffs is recorded. D3 died and the defendants 4 to 6 are recorded as legal heirs of the deceased 3rd defendant as per order dated 13.08.2014 on memo.)

(7th defendants impleaded as per order dated 07.10.2016 in A.No.4360 of 2016 and time extended on 28.10.2016 in A.No.6222 of 2016).



WEB COPY This Suit is filed under Sections 222 and 276 of the Indian Succession Act, XXXIX of 1925, prayed for grant of Letters of Administration.

For Plaintiffs : Mr.N.Ramanujam
For D3 to D6 : Mr.M.Murugesan
For D7 : Mr.N.Ramamani

JUDGMENT

The plaintiffs, M.A.Rathinavelu and M.A.Manickavelu are both present. They had filed O.P.No.119 of 2009 seeking probate of the last Will and testament of their paternal uncle and paternal aunt, M.K.Shanmuga Sundram Chettiar and Mrs.Thirupurasundari. The Will was dated 23.05.1996. M.K.Shanmuga Sundaram Chettiar died on 14.08.1999 and Mrs.Thirupurasundari died on 10.05.2007. They had impleaded as defendants M.K.Sivaprakasam another paternal uncle and M.K.Annamalai their father.

2.In view of the objections raised O.P.No.119 of 2009 was converted as T.O.S.No.19 of 2009. Pending the proceedings, both the defendants, M,K.Sivaprakasam and M.K.Annamalai had died. The legal

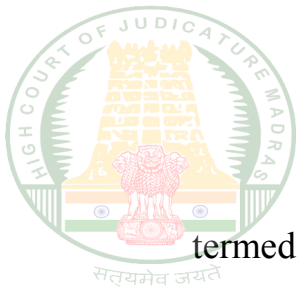


representatives of M.K.Sivaprakasam had been subsequently impleaded as

3rd, 4th, 5th and 6th defendants namely, M.S.Vijayalakshmi, M.S.Rajeswari, G.Gunasekar and M.S.Natarajan respectively. During the proceedings, M.S.Vijayalakshmi also died and since her legal representatives were already on record, there was no necessity to implead any other party.

3. There is yet another application filed in A.No.4360 of 2016 by A.Gowri Palani who claimed to have a caveatable interest and that application was allowed and she was impleaded as the 7th defendant. Incidentally, she is a sister of M.K.Annamalai. In the counter affidavit filed to the said application by the 1st plaintiff, M.K.Rathinavelu, he had mentioned the fact that his father M.K.Annamalai had died on 01.04.2016. That fact had not been recorded in the cause title.

4. Now the parties have entered into a settlement. The plaintiffs have given up the Will and retained 65% share in the property and accepted that the defendants are entitled to the balance 35% share in the property. They affirmed their signatures in each and every page of the compromise deed which had been presented before this Court, which is



termed as a Memorandum of Compromise entered into by the parties to the suit and dated 23.06.2025. Both the learned counsels are also present.

They have also signed in the last page of the Memorandum of Compromise . The description of the suit schedule property has been given.

5.The plaintiffs have also undertaken to distribute the share of the 4th defendant, M.S.Rajaswari. It is hoped that all the parties abide by the terms of the compromise, which had been entered into out of free will and consent by the parties who contested the suit.

6.The Memorandum of Compromise is recorded.

7.In view of the same, the Testamentary Original Suit in T.O.S.No.19 of 2009 stands decreed in accordance with the terms of Memorandum of Compromise. No order as to costs. The Memorandum of Compromise shall form part of the decree.

8.The learned counsel for the plaintiffs may also record the fact that



the 2nd defendant M.K.Annamalai had died and the same may be recorded

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in the cause title of the suit before the order copy is issued.

23.06.2025

smv

Neutral citation : Yes / No

Index : Yes / No

Speaking order : Yes / No

C.V.KARTHIKEYAN,J.

smv



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