

A NO. 1008 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-03-2025

CORAM

THE HONOURABLE MR JUSTICE K.KUMARESH BABU

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A No. 1008 of 2025

in O.P.No.611 of 2005

A.C.Gangadharan

S/o.Late A.Govindan Nair, No.23, Khana Bagh Street, Triplicane,
Chennai 600 005.

Applicant(s)

Vs

K.ALAMELU AMMAL (Deceased

No.23, Khana Bagh Street, Triplicane, Chennai 600 005. and 2
Others

Respondent(s)

For Applicant(s):

M/s.Suchit Anant Palande
Suyesh Palande
L.Tamilarasi

For Respondent(s):

M/s.B.Sangeetha

Nandhini.V

K.Hemalatha

For R2 & R3 - D.No.10486/2025

Vak filed on 14.03.2025

Pn-affidavit Of Service Filed (postal Track Only)

Cn-batta Not Filed

ORDER

Under the instant application the petitioner had sought for a clarification with regard to the



Will dated 25.06.1999 viz., “In case any of the beneficiaries who intends to sell 1

the property, he can sell the same only to the other beneficiary/ beneficiaries and under any

circumstances, it cannot be sold or alienated in any manner to any third party” that it is only a

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preferential right between beneficiaries and not a bar for all the beneficiaries to jointly

alienate the property in favour of third parties.

2. Heard the learned counsels appearing on either side.

3. Probate had been granted in respect of this Will by order of this court on 28.03.2007.

Under the said Will a condition had been imposed with regard to the sale of the shares by the

beneficiaries. The same read as follows:-

***“ In case any of the Beneficiaries who intends to sell his share in the
property, he can sell the same only to the other Beneficiary/
Beneficiaries and under any circumstances, it cannot be sold or
alienated in any manner to any third party”.***

4. It is the claim of the applicant herein that the applicant and the respondents 2 & 3 have



decided to dispose of the property but, however, there seems to be some queries the prospective purchasers. Hence, they had sought for a clarification with regard to the said permission of the Will so as to enable the petitioner and the respondents 2 & 3 to dispose of the property under the Will for better enjoyment.

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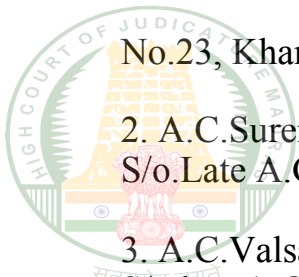
5. A reading of the condition that had been imposed in the Will would indicate that the testator had made such a recital, only to avoid any inconvenience to any of the beneficiary if the other intends to sell the property, the same should be sold only to other beneficiaries and not to any third party. This clause cannot prohibit the beneficiaries jointly in disposing the properties for achieving the object of the Will. Hence, this Court finds no impediment in ordering the application.

6. In view of the clarification stated above the applicant and respondents 2 & 3, who are the beneficiaries under the Will are entitled to deal with the property jointly in favour of the third parties.

18-03-2025

Gba

To
1. K. ALAMELU AMMAL (Deceased)



No.23, Khana Bagh Street, Trilpicane, Chennai 600 005.



2. A.C.Surendran

S/o.Late A.Govindan Nair

3. A.C.Valsarajan

S/o.late A.Govindan Nair, No.23, Khana Bagh Street, Triolicane, Chennai 600 005.

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