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A NO. 1098 of 2025
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2025

CORAM

THE HONOURABLE MR JUSTICE K.KUMARESH BABU

A NO. 1098 of 2025

in

C.S.No.249 of 2024

Dr.M.A.M.Ramaswamy Chettiar of Chettinad
Charitable Trust
W/o Late Kumara Rajah, M.A.M.Muthuan
Chettiar Chettinad House, Raja Annamalaipuram,
Chennai 28.

Applicant(s)

Vs

Mr.Ramaswamy Muthiah
S/o Mr.M.A.M.R.Muthiah, Chettinad House, Raja
Annamalaipuram, Chennai - 600 028. and 2 Others

Respondent(s)

For Applicant(s):

M/s.K.R. Ramesh Kumar

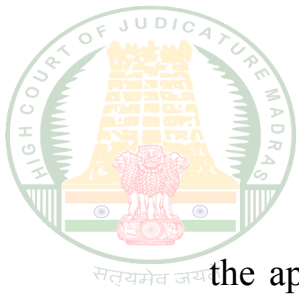
For Respondent(s):

Mr.K.V.Babu (For R1)

M/s.S.Meenakshi (For R3)

ORDER

The present application has been filed to implead the applicant Trust as
the 3rd defendant in C.S.No.249 of 2024.

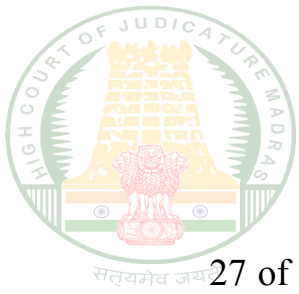


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2. The learned counsel appearing for the applicant would submit that the applicant Trust is a beneficiary of the properties under a Will, which is sought to be probated before this Court. Since there was an objection raised, the said original petition had been converted into TOS No. 27 of 2021. Since they are beneficiaries under the said Will and if the applicants are successful in the T.O.S, the judgment and decree passed in the suit would have a bearing on their rights. Therefore, he would pray this Court to implead the applicant as a party defendant in this suit.

3. Mr. K.V. Babu, learned counsel appearing for the first respondent would submit that the interest of the plaintiffs has been taken care of by the defendants in the suit, wherein even in the written statement, they have made necessary averments. Therefore, the applicant may not be a proper or necessary party to the suit. Only if the rights are crystallized in the pending T.O.S, the applicant can have any right and only thereafter they will become a proper and necessary party to the suit.

4. I have considered the submissions made by the learned counsel appearing on either sides.



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5. It is an admitted case that the Testamentary Original Suit in TOS.No. 27 of 2021, in which, the applicant had claimed probate of the Will including the suit schedule properties are pending consideration. It is the claim of the applicant that they are the beneficiaries under the Will, and therefore, the schedule mentioned property cannot be subject matter of the partition in the suit. If the claim of the respondent/plaintiff is accepted and the present suit is disposed of prior to the disposal of the T.O.S, and if the applicant succeeds in the Testamentary Original Suit, it would lead to multiplicity of proceedings.

6. Further, this Court is of the view that since the property involved in the present suit as well as in the TOS are also same, it would be necessary for this Court to deal with both the instant suit and TOS No. 27 of 2021 together, in the interest of justice and to avoid multiplicity of proceedings.

7. In such an event, the application in A.No.1098 of 2025 in C.S.No.249 of 2024 stands allowed. The applicant is impleaded as Party Defendant No.3 in the suit. However, there shall be no order as to costs.

8. Necessary amendments shall be carried out within a period of one week from today.



17-04-2025
(1/2)

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To

1. Mr.Ramaswamy Muthiah

S/o Mr.M.A.M.R.Muthiah, Chettinad House, Raja
Annamalaipuram, Chennai - 600 028.

2. Kumara Rani Meena Muthiah

W/o Late Kumara Rajah, M.A.M.Muthuan Chettiar Chettinad House, Raja
Annamalaipuram, Chennai 28.

3. Mr.M.A.M.M.Annamalai

Adopted son of Smt.Kumara Rani Meena Muthiah Chettinad House, Raja
Annamalaipuram, Chennai 28.