



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-09-2025

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THE HONOURABLE DR.JUSTICE R.N.MANJULA

A No. 2572 of 2025

IN

CS NO. 166 OF 2004

Mr.S.Ajit Kumar

S/o.M.Shanthilal Jain, Old No.39, New
No.9, Jeremiah Road, Vepery, Chennai
600 007.

Applicant(s)

Vs

1.Mrs.Kusum Ashok

Wife of Mr.Ashok,
Old No.39, New No.9,
Jeremiah Road, Vepery,
Chennai - 600 007.

1st Respondent / Plaintiff

2.Mrs.N.MAdan Bai

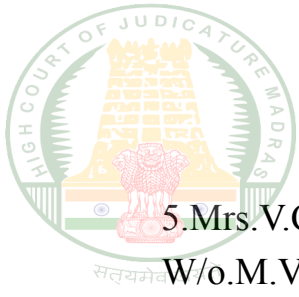
W/o.Late Nemichand Jain No.156 Trunk
Road Poonamallee Trivellore District 56

3.Mr.N.Jaya Kumar

S/o.Nemichand Jain No.156 Trunk Road
Poonamallee Trivellore District 56

4.Mrs.P.Padmavathi

W/o.Prakash Chand Solanki No.41
Kondapuram Street Trivellore 602 001



5.Mrs.V.Chandra

W/o.M.Veerandar Kumar No.605-a Wing
Adinath Apartments Tardeo Grantes West
Mumbai 400 001

6.Mrs.P.Nirmala

W/o.Prakash Chand Lalwani No.13
Clements Road Doveton (near Sms
Hospital) Purasawalkam Chennai 600007

7.Mrs.P.Lalitha

W/o.Padam Sen Surana Paras Agency
No.90 Nageshwaran South Street
Kumbakonam 612 001

8.Mrs.G.Saraswathi

W/o.Gouthamchandji Surana No.439
M.T.H. Road Ambattur Chennai 53

9.Mrs.V.Kalavathi

W/o.Vijayakumarji Mehta Mahaveer
Jewellers Lawrence Road Cuddalore

10.Mrs.P.Vaijayathimala

W/o.R.Praveen Kumar Kochar No.86 Mint
Street First Floor Sowcarpet Chennai 600
079

11.Mrs.R.Sharmila

W/o.Rateesh Kumarji Bhatia Chellani
Complex Veerappan Street Sowcarpet
Chennai 79

Respondents / Defendants



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PRAYER : To permit the applicant / second defendant to mark photocopies of the documents as listed in the schedule to the Judges Summons as secondary evidence on the side of the defendants in C.S.No.166 of 2004.

For Applicant : Mr.A.Palaniappan

For Respondent(s):M/s. Aashish Jain Lunia

For D2

Mr.M.Devendran for D1,D3 to D1

ORDER

This Application has been filed to permit the applicant / second defendant to mark photocopies of the documents as listed in the schedule to the Judges Summons as secondary evidence on the side of the defendants in C.S.No.166 of 2004.

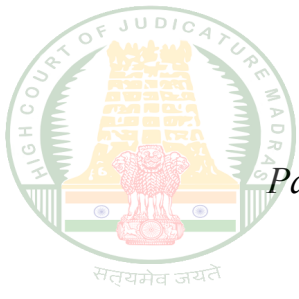
2. The applicant is the second defendant in the main suit. The first respondent / plaintiff has filed a suit for partition by claiming $\frac{1}{2}$ share in the suit property. The suit is now at the stage of recording defendants' side evidence. The applicant who claims himself as the adopted son of the original owner of the property Shanthilal Jain has filed this application to receive the following documents by claiming that they are relevant to the case:

"(i) Family card of M.Shanthilal Jain.

(ii) Family Card of M.Shanthilal Jain.

(iii) Statement of accounts of M.Shanthilal Jain maintained by Indian Bank.

(iv) Discharge summary for the 2nd defendant by



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Padma Clinic & Nursing Home.

(v) Medical Certificate issued to the 2nd defendant.

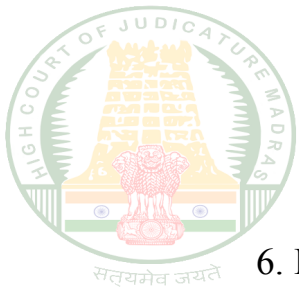
(vi) Scan findings of the 2nd defendant.

(vii) Medical Prescription."

3. The learned counsel for the applicant submitted that the documents 1 and 2 are the copies of the old family cards of Shanthilal Jain, in which the applicant's name has also been shown as one of the family members and hence, they are essential documents. As those documents have been surrendered, while getting the new ration cards, the applicant intends to produce the copies of the original as secondary evidence in order to prove his relationship with the deceased Shanthilal Jain.

4. The documents 1 and 2 would be no doubt relevant documents as regards the relationship. As the original ration card cannot be in the custody of the applicant and they would have been surrendered, the copies can be permitted to be received and marked. However, the burden is on the applicant to prove the same by examining appropriate witnesses who can speak about the genuineness of the entries and other incidental aspects.

5. The third document is the statement of accounts of Shanthilal Jain maintained in the Indian Bank. Even this document has been shown without mentioning any time limit, but in a generalised manner. If the applicant is intended to produce the account statement available with the Indian Bank, he can file an appropriate petition seeking for the same.



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6. Despite the applicant has filed written statement claiming that there are other movable properties belonged to the deceased Shanthilal Jain and that he has also got a share in those properties, he did not pay any Court Fee with regard to the said claim.

7. The learned counsel for the first respondent / plaintiff submitted that the first respondent has filed a Writ Petition earlier for the purpose of seeking a direction to settle the amounts lying in the Bank Accounts of the deceased Shanthilal Jain and hence, those documents may not be available now. The first respondent / plaintiff claims that she has filed a Writ Petition and got a direction in her favour. In such case, it would be sufficient if the applicant could produce the order passed in the Writ Petition alleged to have filed by the first respondent.

8. The learned counsel for the first respondent further submitted that in accordance with the direction of this Court, the above amount lying in the account of Shanthilal Jain has been settled in her capacity as the nominee.

9. If the applicant claims any relief in the above said property, he is liable to pay the Court Fee for the same. If the applicant pays Court Fee, then he is at liberty to file a fresh application to call for the account details of late Shanthilal Jain. The necessity to produce the copies would arise only if the applicant could



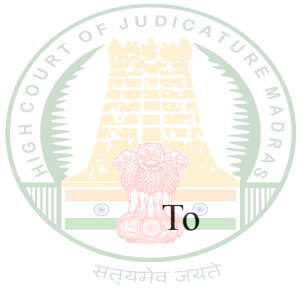
not prove through other document that the deceased Shanthilal Jain owned money to his credit in the account maintained by him with the Indian Bank. As the applicant has not prescribed any period from which he is seeking for the account details of late Shanthilal Jain and without having any seal of authentication about the certification of the copy, it cannot be allowed to be received as a document before the Court.

10. So far as the document Nos.4 to 7 are concerned, they are medical documents relating to the applicant / second defendant. The learned counsel for the applicant submitted that those documents are essential to prove that the applicant was tortured by the plaintiff every now and then. The health condition of the applicant can have no relevancy to the claim of partition made by the applicant by claiming that the deceased Shanthilal Jain was his adoptive father. As the matter in issue need not be stretched beyond the scope of the suit, I feel documents Nos.4 to 7 cannot be permitted to be received as documents on the side of the applicant.

11. In view of the above discussion, this Application is partly allowed in respect of document Nos.1 and 2 and partly dismissed in respect of document Nos.3 to 7.

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