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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-07-2025

CORAM

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

A No. 1696 of 2025

and

A.No. 1697 of 2025

in

C.S.No.252 of 1996

C.Sathyannarayanan (deceased)

Santhanalakshmi (deceased)

1.S.Nirmala

2.Ms.Sangeetha

3.Ms.Sujatha

4. Indira

Applicant(s) in both Applications

Vs

P. Saraswathi Ammal (Deceased)

1.Shanthi Harikrishnan

2.K.Kumar

3.K.Gopinath

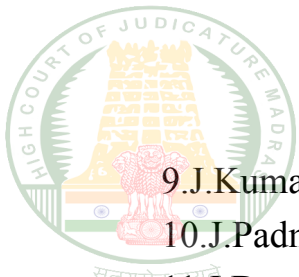
4.K.Suresh

5.Nithyakalyani Raja

6.Banu Raj

7.P.Ponni

8.J.Sriram



9.J.Kumar

10.J.Padmavathi

11.J.Devatha

12.Uma Ramanan

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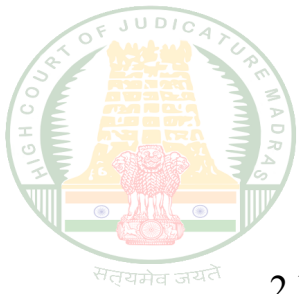
Respondent(s) in both Applications

For Applicant(s): Mr.R.Thiagarajan

For Respondent (s): Mr.C.Jagadish for R1 to R4
Mr.K.V.Ananthakrushnan for R5
Ms.Chitra Sampath,
Senior Counsel
For Mr.P.J.Rishikesh
for R6 to R9 & R11
Mr.T.Paranthaman for R10

COMMON ORDER

A.No.1696 of 2025 has been filed seeking permission to introduce further documents on behalf of D3, D5 to D7 in C.S.No.252 of 1996. In the annexure to the Judges Summons, a string of documents numbering 63 had been given and it is contended in the affidavit filed in support of the Judges Summons, that these documents are required to substantiate the defense taken by the applicants and therefore, these documents are required to be produced as evidence on the side of the applicants.



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2. In the Judges Summons appended to A.No.1697 of 2025 which is an application seeking permission to introduce secondary evidence, a list of 9 documents had been produced and it had been stated in the affidavit filed in support of the Judges Summons that originally, the case was handled by the late husband C.Sathyanarayanan and the deponent of the affidavit was not aware of the documents that were entrusted to various counsels at various points of time and therefore, only the photo copies are available and permission is sought to mark photo copies.

3. A counter affidavit had been filed on behalf of the plaintiffs primarily raising objection to the introduction of these documents on the ground of relevancy. It is contended by the learned counsel for the respondents / plaintiffs that among the documents which are sought to be introduced, the documents in Sl.Nos.24, 26, 27, 28, 29, 30, 31, 32, 33, 45 and 63 relate to parallel proceedings in C.S.No.949 of 2004 wherein, the plaintiff therein has to tender evidence and it is contended that introduction of the documents which relate to issues in

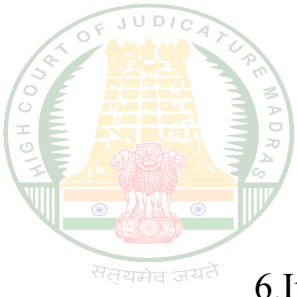


C.S.No.949 of 2004 are neither relevant nor required to be examined by this

Court nor produced as evidence while examining the issues in C.S.No.252 of 1996.

4.Before taking a decision on that particular representation, it must also be pointed out that C.S.No.252 of 1996 had been filed seeking judgment and decree for partition and separate possession of the share of the plaintiffs with respect to the suit schedule properties. The documents relevant would be those relating to the title of the plaintiffs to the properties mentioned in the schedule and asserting title and right to get a share in the said properties. Other documents may not be directly relevant to determine the issues in that particular suit.

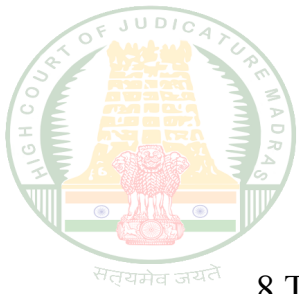
5.C.S.No.949 of 2004 had been filed seeking a judgment and decree to dissolve a partnership firm, Sri Sathyanarayana Brick Works and render accounts for the said firm and for consequential reliefs relating to the assets and liabilities of the said firm.



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6. In the schedule giving the list of properties in C.S.No.252 of 1996, seven separate properties had been listed and it is contended on behalf of the applicants / defendants that these properties originally belonged to the partnership firm, dissolution of which and accounts of which is the subject matter in C.S.No.949 of 2004. That statement is vehemently denied on behalf of the respondents / plaintiffs in the said applications. It is contended that none of the properties of the firm are included in C.S.No.252 of 1996. Even otherwise, both the suits are being tried simultaneously and at the time of arguments, reference could always be made to documents filed in one and the documents filed in the other.

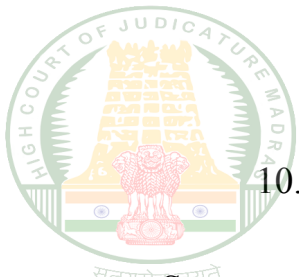
7. In so far as C.S.No.252 of 1996, I am informed that the witnesses for the plaintiffs had been examined in entirety and two separate witnesses had also been examined on behalf of the defendants. DW-3 will now have to graze the witness box and at this juncture, these documents are sought to be introduced.



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8. The learned counsel for the applicants stated that any and every document should be permitted to be marked as exhibits subject to proof, relevancy and admissibility and the relevancy could be examined at a later stage.

9. But however, when there are parallel suits are pending, one for partition and separate possession of the properties listed in the schedule to the plaint and an other relating to dissolution of accounts of a separate partnership firm, it would only be appropriate that the documents are separated in two separate bunches, one relating to partition and separate possession and the other relating to the partnership firm. Overlapping of the documents would not come to the assistance of any of the parties. Both the suits will have to be examined on the basis of the evidence which would certainly appreciated in the proper light by the Court.



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10. The learned counsel placed reliance on the judgment of the Hon'ble Supreme Court reported in **2022 LiveLaw (SC) 533, *Levaku Pedda Reddamma & Ors. Vs. Gottumukkala Venkata Subbamma & Anr***, wherein the Hon'ble Supreme Court had laid as a general rule that documents should be marked and the relevancy to be examined at the time of trial. But, when on the face of it documents are said to be related to a parallel suit, it would only be appropriate that the documents are produced in the parallel suit in C.S.No.949 of 2004 and not intermingled with the documents required to be examined by the Court in the instant suit.

11. It would only be appropriate that the documents relating to bringing home the issue of partition and separate possession alone are introduced. The contention whether the properties belonging to the partnership firm are also the subject matter of the suit or not is an issue, which will have to be examined only during the course of arguments and not otherwise. Merely marking of several documents would not advance the case of any party. The documents must be relevant and they must be proved in manner known to law. If they are not



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relevant, it would only add to the records already available. The documents must be of some assistance to the Court to come to a conclusion to the issues raised in the suit.

12.Taking that as a point of view, I would permit marking of the documents which relate only to C.S.No.252 of 1996 and exclude documents which do not relate to this particular suit. If that is the view to be taken, then Document Nos.23, 24, 26, 27, 28, 29, 30, 31, 32, 33, 40, 41, 43, 45 and 63 will have to be excluded and cannot be permitted to be marked.

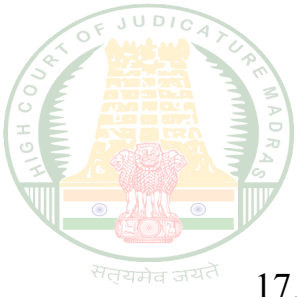
13.Among the other documents, objections had been raised with respect to the document in Sl.No.18 which is the second Will of E.K.Pattabirama Reddiar and is dated 05.03.1982. It is contended that the application seeking affirmation of that Will had been dismissed by the Court and therefore, the Will cannot be examined by this Court for any purpose. Therefore, document No.18 cannot also be marked at this stage.



14. With respect to document No.20, I am informed it is the subject matter of pending Testamentary Original Suit in T.O.S.No.49 of 2022 which originated from O.P.No.255 of 2022. Since the proof of the said Will is still nebulous, the Court cannot place any reliance on the same. Therefore, document No.20 cannot be marked.

15. There is yet another issue of document No.9 which is an award No.2/62 passed by the Special Tahsildar, Land Acquisition, Industrial Estate dated 07.08.1962. It is contended that the original had been marked in a parallel proceedings in C.S.No.405 of 2008. The learned counsel may workout appropriate remedies to produce the original or certified copy of the said document and if the original / certified copy is produced the same may be introduced as document.

16. Though in the list, copy of the draft sale deed dated 10.07.1947 had been mentioned as a document No.7, the learned counsel now asserts that he has the original and therefore, the original could be marked.



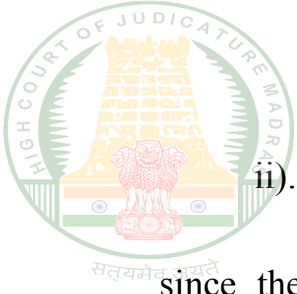
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17. With respect to the document No.8, the Personal Account Book dated 10.07.1947, the Registry has put up a note that the original had been marked in C.S.No.157 of 2021. The applicants / learned counsel for the applicants may take necessary steps to either call for the records or mark a certified copy of the said account book.

18. The learned counsel for the applicants may ensure that with respect to Document No.51, the entire evidence of K.Krishnan in C.S.No.476 of 2008 is produced and marked as a document, not necessarily restricted to the cross examination.

19. In view of the above reasoning,

i). A.No.1696 of 2025 is partly allowed and the document Nos.1 to 17, 19, 21, 22, 25, 34 to 39, 42, 46 to 62 may be marked as exhibits. Document No.44 may be marked subject to producing certified copy.



ii). A.No.1697 of 2025 is partly allowed with respect to document No.1, since the learned counsel stated that he had the original. With respect to document No.2, it had already been held that necessary steps may be taken to call for the records or mark a certified copy of the said account book, which had been marked in C.S.No.151 of 2021. With respect to document No.3, it had been directed that in the order in A.No.1967 of 2025 that he must workout his remedy to provide certified copy of the said document which had been filed in C.S.No.405 of 2008. Document Nos.4, 5, 6 and 9 are not permitted to be marked. Document No.8 may be permitted to be marked subject to producing certified copy.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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