



A.No. 3076 of 2025
in
T.O.S. No. 90 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

A.No. 3076 of 2025
and
T.O.S. No. 90 of 2024

G.Murugan

...Applicant

Vs.

1. C.Sivagamasundari
2. Saraswathy
3. Parvathy

...Respondents

Prayer : This application has been filed under Order XIV Rule 8 of the Original Side Rules read with Order I Rule 10(2) of Code of Civil Procedure, praying to implead the applicant as the proposed defendant-3 in T.O.S. No. 90 of 2024 to pass such other just and necessary orders that may be deemed fit and proper in the circumstances of the case.

For applicants : Mr.G.Murugan (Party-in-person)

For Respondents : Mr.S.Jerald Lenin (D1)
Mr.E.Ashok Kumar (DD2 & 3)



A.No. 3076 of 2025
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WEB COPY

ORDER

Application No. 3076 of 2025 has been filed by a third party to the Testamentary and Original Suit seeking to implead himself as a further defendant in the suit.

2. In the affidavit filed in support of the application, it had been stated that the property, which is the subject matter of the Will originally belonged to K.Gopala Naicker and his wife, Mrs. Kathayee Ammal. Gopal Naicker died on 09.08.1994. They had six children. The father of the petitioner, G.Govindarajan was the first son. He died on 14.06.2002 leaving behind his wife G.Lalitha/ mother of the petitioner, the petitioner and his two younger sisters, G.Abirami and G.Vijayalakshmi. The Gopala Naicker had one another son, G.Chandrasekaran, who died on 29.03.2020, whose wife Shakuntala also died on 06.06.2022 without any issues. The said Gopala Naicker had four other daughters, viz., S.Jyalakshmi, S.Yasodha, who died on 06.05.2021 leaving behind her husband M.Shanmugam and her son and daughter, S.Parthasarathy and S.Tamilselvi. There were two other daughters to the Gopala Naicker, viz., Saraswathi and Parvathy.



A.No. 3076 of 2025
in
T.O.S. No. 90 of 2024

WEB COPY

3. Originally, the petition in O.P. No. 832 of 2023 had been filed seeking probate of a Will dated 14.11.2014 said to have been executed by G.Chandrasekaran, who died on 29.03.2020. The said G.Chandrasekaran is the younger brother of the father of the petitioner. The said petition had been filed by C.Sivagamasundari, who claimed that she is the adopted daughter of G.Chandrasekaran and the beneficiary under the Will.

4. In the Original Petition, she had impleaded as respondents the three surviving sisters of her father of G.Chandrasekaran, viz., Jyalakshmi, Saraswathy and Parvathy and also the legal representatives of the deceased sister S.Yasoda, viz., M.Shanmugam, S.Parthasarathy and S.Tamilselvi as respondents. She had totally omitted to implead the legal representatives of the brother of G.Chandrasekaran, the father of the petitioner viz., G.Govindarajan.

5. This petitioner had therefore filed Application No. 3291 of 2024 in O.P. No. 832 of 2023 seeking to implead himself as further respondent in the Original Petition. That was contested by the petitioner in the Original Petition. An order was passed by a learned Single Judge of this



A.No. 3076 of 2025
in
T.O.S. No. 90 of 2024

WEB COPY

Court on 21.08.2024, dismissing the said petition. The reasoning of the learned Single Judge is that the petitioner in the Original Petition had added the sisters of the deceased testator as R1 to R3 since they fall under Class-II Entry IV sub division 4 of Section 9 of the Hindu Succession Act. The said order had not been appealed against and had become final.

6. Thereafter, the Original Petition had been converted as Testamentary and Original Suit. A similar application has again been presented before this Court seeking to implead the petitioner as further defendant in the Testamentary and Original Suit. Once again the same ratio alone will have to be applied. It may not be proper on the part of this Court to sit in Review over the order passed by the learned Single Judge in Application No. 3291 of 2024 dated 21.08.2024. This Court cannot take the role of an appellate court over the order of the learned Single Judge. The applicant herein will have to work out his remedy by filing an appeal, if he is so advised against the order in Application No.3291 of 2024 dated 21.08.2024. The applicant, who appeared as party-in-person however stated that since the Original Petition had been



A.No. 3076 of 2025
in
T.O.S. No. 90 of 2024

WEB COPY

converted as Testamentary and Original Suit, it may not be possible for them to file an appeal. That is an issue, which the applicant will have to address, but unless the order dated 21.08.2024 is interfered with by an appellate authority, this Court cannot sit in Review over the said order and act as an appellate authority.

7. Taking that narrow point of view, this application is once again dismissed. If the petitioner is so advised, he can take up the issue before the appellate forum.

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12.08.2025
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WEB COPY



A.No. 3076 of 2025
in
T.O.S. No. 90 of 2024

C.V.KARTHIKEYAN, J.

Maya

A.No. 3076 of 2025
in
T.O.S. No. 90 of 2024

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