



A No. 3937 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-09-2025

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CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

A No. 3937 of 2025

AND

CS NO. 567 OF 2017,A NO. 3938 OF 2025

1. K.P.Balasubramanian

S/o Late K.Paramasiva Nadar. Old

No.5/A, New No.15, Srinivasa rao

Road, Mylapore ,Chennai-600 004.

Applicant(s)

Vs

1. K.P.Ramachandran and 8 others

S/o Late K.Paramasiva Nadar, No.67,

Alamelu Mangapuram ,

Mylapore,Chennai-600 004.

2.B.Niranjan

S/o K.P.Balasubramanian . Old No.5/A,

New No.15, Srinivasa rao Road,

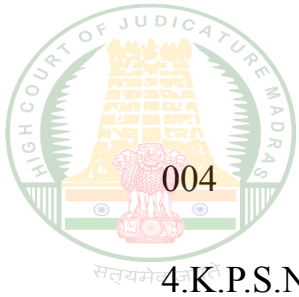
Mylapore ,Chennai-600 004.

3.Mrs.S.Sumathi

D/o late K.P.Sathyaseelan, 3 to

5,residing at No.32/48, Rokkayappa

Mudali Street, Mylapore , Chennai-600



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4.K.P.S.Nirmal

D/o late K.P.Sathyaseelan, 3 to
5,residing at No.32/48, Rokkayappa
Mudali Street, Mylapore , Chennai-600
004

5.Mrs.Deepa

D/o late K.P.Sathyaseelan, 3 to
5,residing at No.32/48, Rokkayappa
Mudali Street, Mylapore , Chennai-600
004

6.Mrs.G.Mangayarkarasi

W/o Daniel Gunanithi, No.15, 23 rd
Cross Street, Besant Nagar, Chennai-
90.

7.Mrs.M.Savithri Devi

Dr.S.Murugesan, No.25, 21 st Cross
Street, Maharaja Nagar, Tirunelveli-627
011.

8.Shemapandi

Old No.98/2 No.1 Dr.Natesan Road, 1
st Lane Mylapore ,Chennai 600 004.

9.V.Jawahar

S/o A.D.Vincent, No.1 Ezhil Nagar ,
OMR, Alathur, Thiruporur,
Kanchipuram District.

Respondent(s)



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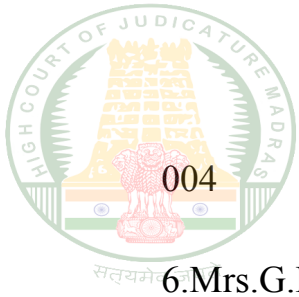
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Kanchipuram District.

Respondent(s)

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PRAYER

To reopen the 6th Defendants side evidence for examination by Applicant/ 1st Defendant.

A No. 3938 of 2025

PRAYER

To recall the 6th Defendants side evidence for examination by Applicant/ 1st Defendant.



In both applications:

For Applicant(s): MR.D. Sai kumaran

For Respondent(s): MR. G.Santhoshkumar for D6,
Mr. D. Prabhu For D2

COMMON ORDER

These applications have been filed by the 1st defendant to verify the 6th defendant to be examined on the side of the 1st defendant.

2.The learned counsel for the applicant submitted that DW.1, during his cross-examination,admitted that he had obtained the property documents pertaining to the year 1960 from the 6th defendant in order to apply for an encumbrance certificate, and so the examination of the 6th defendant as a witness is essential.

3. The 1st respondent/plaintiff has raised his objection by stating that the 6th defendant who is the party to the proceedings had not chosen to examine herself as a witness, the other defendant to the suit cannot be allowed to compel the presence of the 6th defendant. He further submitted that the 6th defendant is a senior citizen, and this is exactly the reason why she has not opted to attend the court to depose the evidence.



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4. The 6th defendant herself has filed her counter, stating that the 6th defendant has not claimed any independent relief to necessitate her to come and depose evidence. As she has chosen not to come to the box, the defendant cannot compel her appearance for deposing evidence.

5. The suit has been filed for the relief of partition, and the suit property is said to be the property purchased by one of the brothers of the parties who died without marriage.

6. The plaintiff claims a share in the suit property on the strength of a will dated 31.08.1978 wherein one of the brothers of the parties had been bequeathed with certain properties on the condition that he should get married. If the said brother has not married in his lifetime, then the property allotted to his share will revert to other siblings.

7. The 1st defendant has taken a stand that the deceased brother has got absolute right over the property and settled the same in favour of the 1st defendant.

8. The relationship between the parties is also not in dispute. In such a



case, the issue now that might arise relevant to the suit would be revolving

around the entitlement of one of the brothers of the parties to the suit property

and the relative dispossession of the same, etc. Since the issues do not require

anything to do with the 6th defendant, and the 6th defendant has been

impleaded as a party just because she is also one of the legal heirs, I don't find

any necessity to call for the 6th defendant at the instance of the 1st defendant to

prove facts extraneous to the matter in issue.

In the result, these applications are dismissed.

10-09-2025

Jrs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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R.N.MANJULA J.

jrs

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