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A. No.3608 of 2025

in

C.S. No.24 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

A. No.3608 of 2025

in

C.S. No.24 of 2024

Sunita Charupalli

D/o. Edamadaka Bala Venkata Subbiah

... Applicant / Plaintiff

Vs.

1.Edamadaka Bala Venkata Subbiah

S/o. E. Pakkeeriah Chetty

2.Hanumayamma Edamadaka

W/o. Edamadaka Bala Venkata Subbiah

3.Satish Kumar Edamadaka

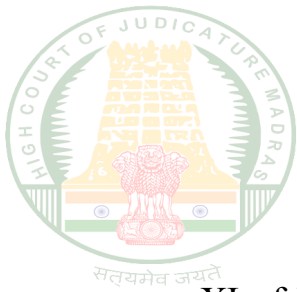
S/o. Edamadaka Bala Venkata Subbiah

4.Lakshmi Manasa Charupalli

D/o. Sunita Charupalli

... Respondents / Defendants

PRAYER: This application has been filed under Order XIV Rule 8, Sub Rule



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XI of High Court Original Side Rules read with Section 151 of the Code of Civil Procedure read with Order VI Rule 17 of Civil Procedure Code read with Order II Rule 3 of Original Side Rules praying to grant leave to the applicant / Plaintiff to amend the Plaint in terms of the accompanying schedule of amendments, as the same is essential for the proper, effective and complete adjudication of the real controversy between the parties.

For Petitioner : Mrs. Hema Srinivasan

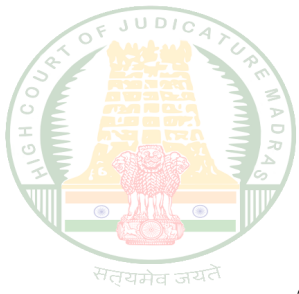
For Respondents:

R1 to R3 : Mr. M. Gopalakrishnan

R4 : No appearance.

ORDER

This application has been filed to amend the Plaint under Order XIV Rule 8, Sub Rule XI of High Court Original Side Rules read with Section 151 of the Code of Civil Procedure read with Order VI Rule 17 of Civil Procedure Code read with Order II Rule 3 of Original Side Rules.



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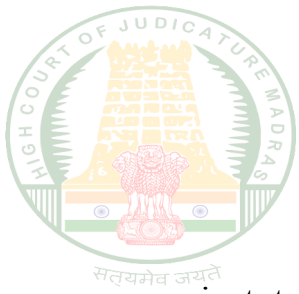
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2. According to the applicant, she is the Plaintiff in the main Suit and she filed above Suit for the relief of partition over the Suit properties. The Schedule A Property situated at Kandappa Chetty Street, Chennai originally belonged to her paternal grandfather, late E. Pakkeeriah and developed upon the 1st respondent by way of a series of registered release deeds executed by his brothers. The said property has been treated, recorded and accepted as HUF property in multiple registered documents. While so, the 1st and 2nd respondents have unilaterally executed and cancelled settlement deeds by excluding the applicant from her rightful shares and rendering the settled structure of HUF property vulnerable to manipulation. On 28.02.2007, a registered settlement deed was executed by the 1st and 2nd respondents in favour of the applicant and her daughter, the 4th respondent, conveying the entirety of Schedule A property. However, the said settlement was fraudulently revoked on 11.01.2012 followed by a series of clandestine and self-serving transactions, transferring the property in bits to other respondents,

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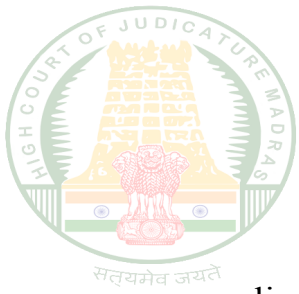
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in total violation of HUF law and without the knowledge of the applicant.

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Due to the above said unlawful acts, the applicant has been denied access and ownership to her lawful 1/3rd share in the Schedule A property. The applicant is also entitled to 1/3rd share in Schedule B Property and the said property was purchased using HUF funds and therefore, the applicant is entitled to her share over the Schedule-B Property. The 1st respondent has fraudulently settled the said property in favour of the 2nd and 3rd respondents through a registered Deed dated 03.01.2020, which is contrary to law. The 1st respondent in collusion with the 3rd respondent, has concealed other HUF / ancestral properties, including those situated in Kadappa District, Andhra Pradesh and had effected a fraudulent partition deed dated 06.12.2021 and already the applicant has challenged the partition through a Suit in O.S No.43 of 2023 before the II Additional District Court, Proddatur and the same is pending. Therefore, the proposed amendments are very essential to decide the real controversy between the parties. Therefore, she has filed this

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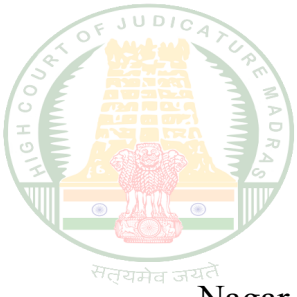
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application.

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3. The respondents filed counter stating that the averments found in the affidavit are all false and the application to amend the Plaint is not maintainable, since there is entire and total change in the facts and nature of the Suit and cause of action. The present amendment alters the nature and character of the Suit and introduces a new and different case. The respondent denied the applicant's share in the B-Schedule property. The father of the 1st respondent died on 07.09.1982 and the business carried on by his father was closed. After his demise, the business suffered huge loss and there was huge debts. The Anna Nagar property is his self-acquired property. The father of the 1st respondent had 8 sons, out of which, three sons including the 1st respondent were separately living outside of his native place Proddatur. The 1st respondent is residing at Chennai. The properties were self acquired by the 1st respondent out of self acquired funds. He made settlement of his Anna

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Nagar property in favour of his son, the 3rd respondent and his wife, the 2nd

defendant under a duly executed Deed of Settlement dated 14.05.2004 retaining the his and his wife's life interest. Thereafter, he shifted to his residence to the 1st floor of the said property and he revoked the said Settlement Deed through a Deed of Revocation dated 03.01.2020. On the very same day, he executed a Deed of Settlement dated 03.01.2020, in favour of his wife and his son retaining life interest for him and his wife. Therefore, the applicant has no any share over the Anna Nagar Property. As regards Kandappa Chetty property is concerned, the said property is entirely purchased out of his self earnings and he treated the said property as HUF property for tax purposes. Therefore, the amendments in the applicant will alter the nature and character of the Suit and the same is liable to be dismissed.

4. Heard both sides and perused the records available on record.

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5. In this case, the main Suit is filed for the relief of partition alleging that the Suit property was settled by the father of the applicant i.e., the 1st respondent through Settlement Deed dated 14.05.2004 in favour of the applicant and the 4th respondent, who is the daughter of the applicant and he assured to enjoy the property during his lifetime and after his lifetime, the applicant and the 4th respondent are entitled to possess the suit property. While so, the 3rd respondent has also executed a Settlement Deed dated 23.12.2004 towards his half share in favour of the 2nd respondent. Further the 1st respondent informed the applicant that he had cancelled the earlier Settlement Deed and had executed a fresh settlement deed in favour of the applicant and the 4th respondent and the applicant was unaware of the reason for the 1st respondent's cancellation of earlier settlement. However, the applicant was satisfied with the 1st respondent's saying that he had executed a fresh settlement deed to avoid legal complications. The 1st respondent

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cancelled the settlement deed and on 28.02.2007, a fresh settlement deed was executed by the 1 and 2 respondents in favour of the applicant and the 4th respondent for the entire suit property. Thereafter, the 1st and 2nd respondents unilaterally revoked the settlement on 11.01.2012. On the same day, the respondents 1 and 2 also executed another settlement deed in favour of the 4th respondent bequeathing 1/3rd share of the suit property. Again on 05.03.2019, another settlement was executed by the 1st respondent in favour of the 3rd respondent bequeathing 1/3rd share of the suit property and the remaining 1/3rd share was retained by the 2nd respondent. Again the 2nd respondent settled the 1/3rd share in favour of the 4th respondent through a Settlement Deed dated 05.03.2019. The applicant was unaware of the cancellation of settlement deed and the subsequent execution of several settlement deeds after executing settlement deed in favour of the applicant and the 4th respondent on 28.02.2007. Therefore, filed a Suit to declare unilateral cancellation of settlement deeds dated 11.01.2012 and 05.03.2019 and for partition to divide

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the suit properties into two parts and allot one such share to the applicant.

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6. Now contrary to the above said pleadings, filed the present application to amend the Plaint stating that the property belongs to HUF property and the applicant is having 1/3rd share over the property and also to include another property of the 1st respondent. The details of amendment shows that they will alter the entire nature and character of the Suit. The applicant wanted to amend the plaint by destructing her earlier plea and introduces a new plea and therefore, it would certainly alter the nature and character of the Suit. Therefore, the amendment application has no merits and deserves to be dismissed.

7. At this juncture, the learned counsel appearing for the applicant has relied upon the following judgments:

(i)Dinesh Goyal alias Pappu vs. Suman Agarwal (Bindal) and others

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reported in 2024 SCC Online SC 2615.

***(ii)Ragu Thilak D. John vs. S. Rayappan and others reported in
(2001) 2 Supreme Court Cases 472.***

***(iii)Vineet Kumar vs. Mangal Sain Wadhera reported in (1984) 3
Supreme Court Cases 352.***

8. On a careful perusal of the above said judgments, it is clear that the Hon'ble Supreme Court framed the following guidelines in respect of Order VI Rule 17 in Life Insurance Corporation of India v. Sanjeev Builders Pvt Ltd.,

(i)All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order VI Rule 17 of the CPC.

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(ii) In the following scenario such applications should be ordinarily allowed if the amendment is for effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings, provided it does not result in injustice to the other side.

(iii) Amendments, while generally should be allowed, the same should be disallowed if-

(a) By the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side.

(b) The amendment does not raise a time-barred claim, resulting in the divesting of the other side of a valuable accrued right (in certain situations).

(c) The amendment completely changes the nature of the suit;

(d) The prayer for amendment is malafide

(e) By the amendment, the other side should not lose a valid defence.



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(i) Some general principles to be kept in mind are-

(I) The Court should avoid a hyper-technical approach; ordinarily be liberal, especially when the opposite party can be compensated by costs.

(II) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach.

(III) The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.

9. In the case on hand, as per the said guidelines, if the amendment is for the effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings and without causing injustice to other side, the amendment has to be allowed. However, in the same judgment, the Hon'ble Supreme Court has categorically stated in Para No.IV that some

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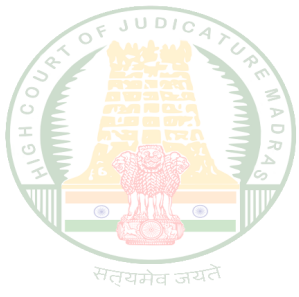
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general principles to be kept in mind are that the Court should avoid a hyper-technical approach; ordinarily be liberal, especially when the opposite party can be compensated by costs, amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach and the amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint. In the case on hand also, the amendment which changes cause of action and set up entirely a new case and foreign to the case set up in the plaint. Therefore, even as per the above judgments, the amendment cannot be allowed.

10. In view of the above discussions, this Court is of the opinion that this application has no merits and deserved to be dismissed.

11. Accordingly, this application is **dismissed**.

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