



WEB COPY

A No.4571 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-12-2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

A No.4571 of 2025

in

CS No.85 OF 2025

1. Razia Sultana
W/o G.M.Nustafa Shariff,
Represented by her Power Agent,
Mr.G.M.Rizwan Ahmed,
S/o G.M.Mustafa Shariff,
Both residing at No.84/9, Aadinath
Impressions, Flat No.8, 2nd Floor,
6th Main Road, Rajesh Nagar,
Pallikaranai, Chennai 600 100.

2. Munwar Sultana,
Represented by her Power Agent,
Mr.Moinudeen Zayeed,
S/o Late A.K.Shahin Shah,
Both residing at new No.4, Kareem
Mohideen Sahib Street, 8th Lane,
Chinthadripet, Chennai 600 002.

Applicant(s)

Vs

1. A.Sultan Mohideen
S/o.Late.Ahmed Jan Sahib,
No.18, 4th street, Rangarajapuram,
Saidapet, Chennai-600015

2. A.J.Khaja Mohideen

3. A.Ghouse Mohideen

Applicant(s)



PRAYER: This application filed under Order XIV Rule 8 of High Court Original Side Rules read with Order I Rule 10(2) and Section 151 of Civil Procedure Code, to pass an order impleading the applicants herein as the Defendants No.3 and 4 in C.S.No.85 of 2025.

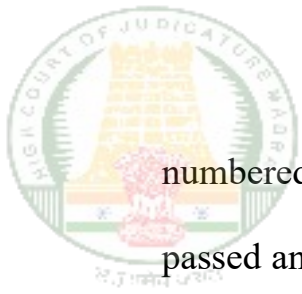
For Applicant(s): Mr.M.Mohideen Pitchai

For Respondent: Mr.M.Jaikumar for D2

ORDER

This application has been filed by the applicants to implead the applicants herein as the Defendants No.3 and 4 in C.S.No.85 of 2025 pending on the file of this Court.

2. According to the applicants, they filed a suit in O.S.No.9 of 2025 on the file of this Court for the relief of partition of separate possession. They also filed original application in O.A.No.44 of 2025, where the respondents therein filed counter stating that they already filed a suit for partition in O.S.No.2068 of 2020 on the file of II Additional City Civil Court, Chennai, against the 2 & 3 respondents herein for partition of suit 'A' Schedule Property. These applicants came to know that the 1st respondent herein has made averments in the suit that after the death of their mother Mrs.Begum Jan, the applicants herein have released their right over 'A' Schedule Property. In fact, these applicants have neither made any oral HIBA nor executed any deeds in respect of 'A' Schedule Property. The said suit in O.S.No.2068 of 2020 was transferred to this Court and



numbered as C.S.No.85 of 2025. In the suit already preliminary decree was passed and now pending for passing final decree. Therefore, the applicants filed petition to set aside the preliminary decree and for impleading them as parties to the suit.

3. The respondents filed counter stating that originally the property belonged to their mother, Begum Jan and after her demise, the 2 & 3 defendants have released their shares in favour of the plaintiffs and the 1st defendant and they are in the possession and enjoyment of the properties. Now they filed the suit for partition. Since these applicants have already released their shares in the properties in favour of the plaintiffs and the 1st defendant, they have no right over the properties and they were not impleaded as parties. Moreover, the preliminary decree was already passed and now pending for passing final decree. Hence, the petition is liable to be dismissed.

4. This Court heard both sides and perused the materials available on record.

5. It is admitted that already the preliminary decree has been passed in the suit and pending for passing final decree. The applicants are not party to the proceedings in C.S.No.85 of 2025. After passing the preliminary decree, it is not



appropriate to implead the applicants as parties in the main Suit, as there is no petition filed to implead them in the final decree proceedings. Moreover, the same applicants have filed a suit in C.S.No.9 of 2025 by including all the properties mentioned in the Suit and all the parties in C.S.No.85 of 2025 are also the parties to the Suit in C.S.No.9 of 2025.

6. Since these applicants are not parties to the suit in C.S.No.85 of 2025, if any decree passed, the decree will not bind these applicants and the entitlement of the shares of the parties can be very well decided in the suit in C.S.No.9 of 2025.

7. In view of the above, the impleadment of the applicants in the suit in C.S.No.85 of 2025 is not necessary and therefore, the applicants shall work out their remedy in the pending suit in C.S.No.9 of 2025.

8. Accordingly, this application is dismissed.

03-12-2025

Jd
Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No



WEB COPY

A No.4571 of 2025



P.DHANABAL J.
jd

A No.4571 of 2025
in
CS No.85 OF 2025

03-12-2025