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O.A.No. 844 of 2024 in C.S.No.166 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-12-2025

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THE HONOURABLE MR.JUSTICE P. DHANABAL

**O.A.No. 844 of 2024
in C.S.No.166 of 2023**

Subodh Kumar Bhutoria
S/o.Late Kesarichand Bhutoria,
Residing at Flat 2C, PGP Manor,
Barnaby Road, Kilpauk,
Chennai 600 010.

...Applicant / Plaintiff

Vs

1. Vinod Kumar Bhutoria
S/o.Late Mr.Kesarichand Bhutoria,
No.123-125, Block 3-6D,
Arihant Vaikunt Apartment,
Bricklin Road, Purasaivakkam,
Chennai - 600 007.

2.Mrs.Gyanendri Gupta
W/o.Late Mr.Kesarichand Bhutoria,
No.41/19, E.V.K.Sampath Salai,
Rundalls Avenue,
Vepery, Chennai 600 007.

3.Mrs.Alka Bachhawat
D/o.Late Mr.Kesarichand Bhutoria,
175A, Motilal Nehru Road,
Sarat Bose Road, Kolkata,
West Bengal 700 029.

... Respondent No.1 to 3 /
Defendants No.1 to 3

PRAYER:- To appoint the 1st respondent/1st defendant as party receiver to manage and maintain the suit schedule mentioned properties in above
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For Applicant : M/s.G.Vijayakumar
For R1 : No Appearance
For R2 : Mr.M.Vijayanand
For R3 : Mr.Bhagavath Krishnan

ORDER

This Application has been filed by the applicant/plaintiff to appoint the 1st respondent/1st defendant as party receiver to manage and maintain the suit schedule mentioned properties.

2. According to the applicant, originally the suit schedule mentioned properties belonged to his father late Mr.Kesarichand Bhutoria, who also made various investments in various banks and had jewels in the lockers maintained in various banks. The father of the applicant died intestate on 18.08.2022, leaving behind the 1st respondent, 2nd respondent / 2nd wife, 3rd respondent and plaintiff as his legal heirs to succeed his estate. The deceased father of the applicant has also left various deposit amounts and jewels in lockers in the following Banks:-

- i) The Cosmos Co-operative Bank, Vepery Branch
- ii) Jana Small Finance Bank, Purasawalkam Branch
- iii) Equitas Small Finance Bank, Millars Road Branch
- iv) The Chief Post Master GPO
- v) IDFC First Bank Vepery (Kilpauk)
- vi) Kotak Mahindra Bank Vepery Branch
- vii) State Bank of India Vepery Branch
- viii) Axis Bank Vepery Branch



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3. Apart from those Bank accounts, he lend money to third parties and had share certificates, jewels, diamonds and silver articles, which were within the knowledge of the respondents 1 to 3. The applicant is entitled to 1/4th share over the schedule mentioned properties. The applicant reliably understand that some of the respondents/defendants have withdrawn certain deposits, collecting rents from the schedule mentioned properties and also recovered loans from various borrowers. The above said funds recovered and and withdrawn are also to be shared equally by all the legal heirs. Further, the respondents/defendants are also trying to open the bank locker and requested the Bank Manager to close the fixed deposits made in the name of his father, in which the applicant also entitled to 1/4th share. There are certain tenants in the Schedule Item No.1 property and some of the bank accounts and lockers are yet to be verified with respect to the contents in the lockers and balance in the accounts. To avoid pilferage and mismanagement, a party receiver may be appointed to take care of all schedule mentioned properties during the pendency of the above suit. Therefore, he filed this application.

4. The 3rd respondent has filed counter by denying the averments made in the affidavit. The mother of the 3rd defendant died in the year 1997. In the year 2002, his father informed that he intends to marry the 2nd respondent and the 2nd respondent is also lived with his father for several years. In the mean time, his father died on 18.08.2022. A third party has to be appointed to manage and maintain the schedule mentioned properties and not a party receiver. Since the applicant is one of the party, a third party is necessary. The 3rd respondent also entitled to 1/4th share over the properties. The 3rd respondent has not recovered loans from any borrowers. Therefore, the petition has to be dismissed in respect of appointment of the party receiver.



5. The 2nd respondent also denied the petition averments and according to her, she is the 2nd wife of the deceased Kesarichand Bhutoria and the separate properties of the 2nd respondent also included in this litigation. There are no tenants in the buildings and the buildings are not in a condition to occupy by the tenants and only to harass the 2nd respondent the suit is filed and the suit itself is not maintainable and appointment of party receiver is not necessary.

6. This Court heard both sides and perused the records.

7. The applicant, who is the plaintiff in the suit has filed this application to appoint the 1st respondent / 1st defendant as party receiver to manage and maintain the suit schedule properties. The respondents have stoutly denied the averments made in the affidavit and also strongly opposed to appoint party receiver. Learned counsel for the 3rd respondent has no objection to appoint a third party receiver and after elaborate arguments, learned counsel appearing for the 2nd respondent also agreed for appointment of the Commissioner to take inventory, to note down the physical features of the properties and to collect the particulars of tenants and rent particulars. The 2nd respondent's objection is that the properties are not in a condition for usage and no any rental income has been received from the tenants. Therefore, in view of the above said submissions made by both side counsels and in order to avoid the multiplicity of proceedings and in the interest of justice, it is appropriate to appoint an Advocate Commissioner to take inventory and to find out the occupation of the tenants and the rents paid by the tenants in respect of the properties. The rights and entitlement of the properties over the properties can be decided in the main



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suit. This application is filed only for taking inventory and to find out the existence of the buildings and other valuable properties. In view of the same, this Original Application is allowed.

8. R.Sumithra, Advocate (M.S.1573 / 1999) 9841958626, is appointed as Advocate Commissioner to take inventories of the movable properties and to note down the physical features, occupancy of the tenants in the buildings and the condition of the buildings. The Advocate Commissioner is directed to submit a report.

9. Post the matter on 07.01.2026.

04-12-2025

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To

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P. DHANABAL, J.
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