



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.04.2025

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Coram:

The Honourable Mr.Justice C.SARAVANAN

**Application No.682 of 2025
in C.S.No.986 of 2016**

- 1.Mukund Lal Chandak
- 2.Kantilal Chandak
- 3.Anurag Chandak
- 4.Amit Chandak
- 5.Alok Chandak
- 6.Late Smt.Nalinidevi Chandak
- 7.Manjudevi Chandak

...Applicants

Versus

- 1.Yogendra Chandak
- 2.Anand Chandak

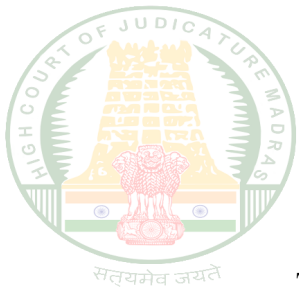
...Respondents

Prayer:

Application filed under Order XIV Rule 8 of the O.S.Rules r/w. Order VI Rule 17 of the Code of Civil Procedure, 1908 praying to permit the Applicants/Plaintiffs to amend the plaint.

For Applicants : Mr.Avinash Wadhwani
for Ms.V.Srimathi

For Respondent – 1 : Ms.M.Meena Rukmani
for Mr.L.Palanimuthu



ORDER

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This Application has been filed by the Applicants/Plaintiffs seeking permission to amend the plaint in C.S.No.986 of 2016.

2. The learned counsel for the Applicants/Plaintiffs submitted that Mr.Girdharilal Chandak, father of the 1st Respondent/1st Defendant had purchased the suit schedule properties, from and out of the income generated from the family properties and businesses. It is submitted that the 1st Respondent/1st Defendant and his father late Girdharilal Chandak had jointly purchased a property at Old No.100, New No.66, G.N.Chetty Road, T.Nagar, Chennai – 600 017 (property described in the proposed suit Schedule 'E'), from and out of the funds provided by the Applicants/Plaintiffs. That apart, it is submitted that late Giridharilal Chandak (father of the 1st Respondent/1st Defendant) had also purchased a property at Bharat Diamond Bourse Office No.FW 2090, F Tower West Wing, 2nd Floor, Bandra Kurla Complex, Mumbai – 400 051 (property described in the proposed suit Schedule 'F'), from the funds collected through the rentals of the properties.

2.1. The learned counsel for the Applicants/Plaintiffs further



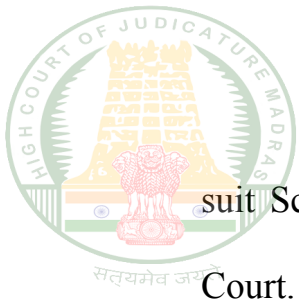
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submitted that after the demise of Giridharilal Chandak (father of the 1st Respondent/1st Defendant), the 1st Respondent/1st Defendant had been leasing out the suit schedule properties for rent and had been enjoying the benefits of the same to the detriment of the members of the Hindu Undivided Family (HUF).

2.2. It is also submitted that the Application No.683 of 2025 filed by the Applicants/Plaintiffs seeking to permit the 1st Applicant/1st Plaintiff to file 63 documents as additional documents was allowed by this Court vide order dated 21.04.2025. Hence, the learned counsel prayed this Court to allow this Application as well.

3. The learned counsel for the Respondents/Defendants submitted that the property described in the proposed suit Schedule 'E' had been purchased by the late Giridharilal Chandak (father of the 1st Respondent/1st Defendant) in the year 2000 itself. However, at the time of filing the suit in the year 2016, the Applicants/Plaintiffs did not include the said property in the suit schedule.

3.1. It is further submitted that the property described in the proposed



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suit Schedule 'F' is located at Mumbai i.e., outside the jurisdiction of this Court. Therefore, as per the terms of the decision rendered by the Division Bench of this Court in O.S.A.No.233 of 2022, this Application is liable to be rejected.

3.2. That apart, the learned counsel for the Respondents/Defendants submitted that already the trial was commenced and P.W.1 has been examined in Chief & Cross. Hence, at this stage, this Application is ought not to be entertained by this Court.

4. Heard the learned counsel for the Applicants/Plaintiffs and the learned counsel for the 1st Respondent/1st Defendant.

5. According to the 1st Respondent/1st Defendant, since the property described in the proposed suit Schedule 'F' is outside the jurisdiction of this Court, this Application has to be rejected in terms of the decision rendered by the Division Bench of this Court in judgment dated 08.06.2023 in O.S.A.No.233 of 2022.

6. It is to be noted that in Paragraph No.15 of the judgment dated



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08.06.2023 in O.S.A.No.233 of 2022, the Division Bench of this Court has held that in case, a portion of the property is located within the jurisdiction and a portion outside, leave must be sought and the discretion is vested with the Court, to grant leave or not. Paragraph No.15 of the said judgment is extracted hereunder:

“15. An unadorned reading of clause 12 suggests that the ordinary original civil jurisdiction of this court will extend as hereunder :

a) In a suit for land or other immovable property?

(i) where such land or property is wholly situated in the territorial jurisdiction of the High Court of Madras;

(ii) where such land or property is situated in part only within the said territorial jurisdiction of the court, if the leave of the court shall have been first obtained.

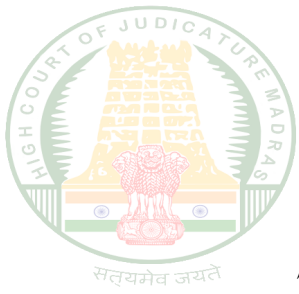
(b) In suits other than suit for land?

(i) if the cause of action has arisen wholly within the said limits;

(ii) where the cause of action has arisen in part only within the said limits, if the leave of the court shall have been first obtained;

(iii) if the defendant at the time of the commencement of the suit dwells or carries on business or personally works for gain within such limits.?”

Thus, it is very clear from the above that the jurisdiction of this Court in its original side can be invoked only when the entire property falls within the notified area. In case, a portion of the property is located within the jurisdiction and a portion outside, leave must be sought and the discretion is vested with the court, to grant leave or not. The plaintiff is seeking specific performance of the terms of the alleged Memorandum of Family Arrangements which will fall under Section 22 of the Specific Relief Act, 1963. Even though, possession of the property is not specifically sought, prohibitory injunction has been sought and the effect of enforcement of the Memorandum of Family Arrangements would result in delivery of property, which is inherent. In the present case, out of the 16 properties, 10 properties are located outside the jurisdiction of this Court and the memorandum itself is disputed. Insofar as the power of attorney itself is concerned, the execution of power would neither confirm nor confer title and therefore, the relief of declaration of power of attorney as null and void, is not a material factor to decide the question of grant of leave to sue for properties outside the jurisdiction of this Court. Therefore, the refusal on the part of the learned Judge to grant leave in respect of those properties which are situated outside the territorial jurisdiction of this Court is proper and it does not call for any interference by this Court. It is open to the plaintiff to seek appropriate relief before the court having jurisdiction over the suit property in respect of item Nos.I to VI, VIII, XIII to XV.”



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7. As far as this case is concerned, since the property described in the proposed suit Schedule 'F' is located at Mumbai i.e., outside the territorial jurisdiction of this Court, the Applicants/Plaintiffs have filed the Application No.5904 of 2024 in C.S.No.986 of 2016 seeking to grant leave to sue in respect of the property described in the proposed suit Schedule 'F' and the said Application was also allowed by this Court vide order dated 09.01.2025. Hence, I do not find any impediment in allowing this Application.

8. In the result, this Application is allowed. The learned counsel for the Applicants/Plaintiffs is directed to carry out necessary amendment in the plaint and file a clean copy of the amended plaint, on or before 13.06.2025.

23.04.2025

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Index : Yes/No

Note: Registry is directed to list C.S.No.986 of 2016 on 16.06.2025 for further orders.

C.SARAVANAN, J.



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