



WEB COPY

A NO. 4361 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-10-2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

A No. 4361 of 2025

in C.S. No. 32 of 2024

M.Bhuvaneswari

D/o.Late K.Tulasi Ayya Vandayar, W/o.M.P.R.Malaiandy alias
Ashok, Kancharam Pettai, New Natham Road, Madurai 625 014.

Applicant(s)

Vs

T.Krishnasamy Vandayar

S/o.Late Tulasi Ayya Vandaya, No.27/A, Pappa Nadu Illam,
Abraham Pandidhar Street, Thanjavur 613 001.

Respondent(s)

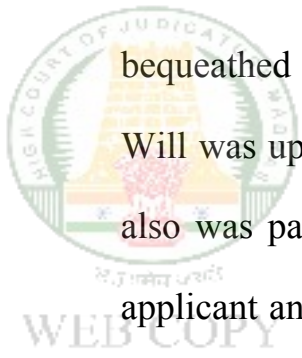
For Applicant(s): Mr.K. Rajasekaran

For Respondent(s): Mr.U.Karunakaran

ORDER

This application has been filed by the applicant to amend the plaint by deleting the properties mentioned in the application viz. item Nos.10 to 12, 14 to 20 in schedule V of the Plaint.

2.According to the applicant, he is the plaintiff in the main Suit and he has filed a Suit for the relief of partition and separate possession and for permanent injunction. In fact, the Suit has been filed for the schedule I to VII of the Suit properties. At the time of filing the main Suit, the properties mentioned in schedule V, in items 10 to 12 and 14 to 20 have been wrongly included in the Suit. In fact, the father of the plaintiff settled certain properties in the name of the applicant / plaintiff and his paternal grand father

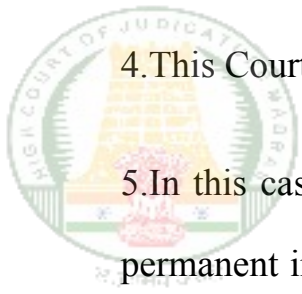


bequeathed certain properties to the applicant out of love and affection, and t

Will was upheld by the Sub Court, Thanjavur, in O.S.No.8 of 1982, and a final decree also was passed on 23.12.1996. Therefore, the properties settled by the father of the applicant and the properties bequeathed by his grand father are his separate properties.

However, those properties have been wrongly included in the schedule V, and therefore, those properties have to be excluded from the Suit properties. Therefore, the present application.

3.It is the contention of the respondent / defendant that the Suit itself is not maintainable and the Suit schedule properties were already orally partitioned between the parties, and the said oral partition was effected on 20.05.2022. In the said family partition, all the properties of Sri.K.Thulasi Ayya Vandayar and Smt.Padmavathi Ammal and the landed properties which is standing in the name of the respondent /defendant at Siddhamalli Village, Nannilam Taluk, Thiruvarur District, were partitioned and allotted to the respondent / defendant. The applicant / plaintiff was allotted the house building property standing in the name of Smt.Padmavathi Ammal at Trichy and also the applicant / plaintiff received a sum of Rs. 3 crores towards her share and the jewels of the Tmt.Padmavathi Ammal were also given to the applicant / plaintiff, which are more than 200 sovereigns. Therefore, it is the contention of the respondent / defendant that the properties mentioned in the suit schedule have already been partitioned and the Suit itself is not maintainable. Now, the applicant wanted to delete the properties and the same affect the nature and character of the Suit, and therefore, the petition is liable to be dismissed.



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

5.In this case, the applicant / plaintiff has filed the Suit for the relief of partition and permanent injunction and for other reliefs. At the time of filing the Suit, VII schedules of the properties were included in the plaint. Now, the applicant / plaintiff filed this application to delete the properties mentioned in the items 10 to 12, 14 to 20 in the schedule V of the plaint. According to the applicant / plaintiff, those properties are his separate properties and some of the properties were given through settlement deeds by his father and some of the properties were bequeathed through the Will by his grand father, and the said Will also approved and upheld by the Sub Court, Thanjavur, in O.S.No.8 of 1982. Though the respondent / defendant has objected, the plaintiff is a *Dominus litis*, and he has to choose against which properties he has to file the Suit.

6.Since the Suit is filed for partition, and according to the applicant / plaintiff the properties are self acquired and separate properties, it is for him to prove the same, and if the properties are ancestral properties available for partition, the applicant /plaintiff has to face the consequences for partial partition. Therefore, the applicant being the plaintiff himself wants to delete some items of the properties in the plaint, this Court is inclined to allow this application.

7.In the result, this application stands allowed.

17-10-2025
(1/3)