



WEB COPY

A No. 4511 of 2
in O.P. No.825 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-12-2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

**A No. 4511 of 2025
in O.P. No.825 of 2023**

1. Saradha (Deceased) 1.Hemalatha
W/o.Neela Megham, No.16/21,
Customs Colony, Hospital Road,
Saidapet, Chennai - 600 015.

Applicant(s)

Vs

1. Smrithy Eacharath Udayakumar and
2 Others
W/o.Late Udayakumar,

2.Ashwath Krishna (Minor)
S/o.Late Udayakumar,

3.Anay Krishna (Minor)
S/o.Late Udayakumar, Represented by
his Mother and Natural Guardian
Smrithy Eacharath Udayakumar, All are
residing at Flat No.S1, Subiksha
Apartments, 1st Avenue, Indira Nagar,
Adyar, Chennai - 20.

Respondent(s)

PRAYER: This application has been filed under Order XIV Rule of Original Side Rules read with Section 151 of Civil Procedure Code praying to transpose this applicant / 4th Respondent in place of Deceased Saradha, Petitioner in the O.P.No.825 of 2023 and the mother of the applicant herein.



For Applicant(s): M/s.P.Chandrasekar
T.A.Raghavan

For Respondents: No appearance.

ORDER

This application has been filed by the applicant to transpose her as petitioner in the main petition, since the petitioner in the main petition in O.P. No.825 of 2023 died during the pendency of the petition.

2. According to the applicant, she is the 4th respondent in the main Original petition and her mother filed the said Original petition for grant of Letters of Administration. Already the respondents 1 to 3 had filed a Suit in O.S. No.6000 of 2022 for the relief of partition and declaration of Settlement Deed as null and void. During the pendency of this application, the said Suit was disposed of in spite of pendency of the Original petition filed for grant of Letters of Administration in respect of the Will executed in favour of the mother of the applicant. During the pendency of the main petition, the mother of the applicant namely Saradha died on 18.04.2025 leaving behind this application as her legal heir. The applicant, being the only legal heir of the petitioner in the main petition, has to contest the case and therefore, she has to be transposed in the place of her deceased mother as petitioner in the main petition. Therefore, she has filed this application.



3. The 1st respondent has filed a counter stating that the 1st respondent already filed a Suit in O.S. No.6000 of 2022 on the file of the XIX Additional City Civil Court, Chennai and the 1st defendant Saradha passed away on 18.04.2025 and the 2nd defendant in the said Suit namely Hemalatha alone was arrayed as applicant in the above application and petitioner in the Original petition. The deceased Saradha is the mother of the present applicant. The said Suit was filed for partition and declaration of Settlement Deed dated 29.02.2018 executed by the 1st defendant in favour of the petitioner as null and void and the said Suit was decreed on 02.08.2024 and preliminary decree was passed by dividing the properties into three equal shares and to allot one such share to the 1st respondent. The applicant has not disclosed the pendency of this petition in the above said Suit. This original petition was filed subsequent to the filing of the above Suit. There is a delay of 16 years for approaching this Court for grant of Letters of Administration. The Testator died on 26.06.2004. In the written statement filed by the defendants, they have not disclosed anything about the filing of the original petition for Letters of Administration. The Original Petition itself is not maintainable due to the unexplained delay of 16 years and already the trial Court decided the matter and appeal is pending in A.S. No.699 of 2024 and the Appellate Court stayed the passing of final decree alone. Therefore, the applicant is not entitled to the relief as prayed for and the application is liable to be dismissed.



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

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5. It is an admitted fact that the applicant is the daughter of the petitioner, who filed an Original Petition in O.P. No.825 of 2023 and she died during the pendency of the said Original petition on 18.04.2025. The applicant herein was arrayed as 4th respondent in the said Original petition. The main Original petition was filed for grant of Letters of Administration. The respondents have filed counter objecting to allow this application and main focus is that there is a huge delay in filing the main petition for grant of Letters of Administration. However, that has to be decided in the main Original petition. Now this application is for transposing the applicant / 4th respondent as petitioner in the main original petition. Since the 4th respondent in the main original petition is the daughter of the deceased / petitioner in the original petition and the said original petition is filed for grant of letters of administration and merits of the case can be decided in the main petition and the applicant, being the legal heir of the deceased petitioner, she has to be transposed as petitioner in the main original petition to contest the case. Therefore, it is appropriate to allow this application and the defence raised by the respondents are to be decided in the Original petition and not through this application.



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6. Therefore, this application is *allowed*. There shall be no order as to costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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