



WEB COPY

A.Nos. 4486 to 4488 c



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09-09-2025**

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THE HONOURABLE MR.JUSTICE P. DHANABAL

A.Nos. 4486 to 4488 of 2025

In

C.S. No. 32 of 2022

Mrs. Elizabeth Paulin
W/o Late Chandran, Are Residing At No.152A, Gandhi Road,
Velachery, Chennai - 600 042. and 4 Others

Applicant(s)
in All Applications

Vs

Mrs. Juliet Santhana Mary, (deceased)

1.Mrs.Pushparani
W/o Late H.James, No.107 A,Old Trunk Road, Pallavaram,
Chennai -600 043. and 6 Others

Respondent(s)
in all Applications

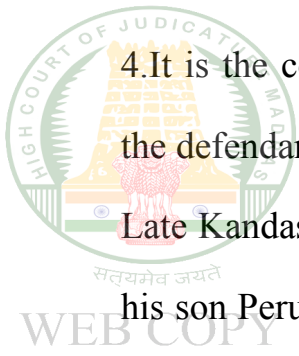
For Applicant(s): M/s. M.Vishnukumar
For Respondent(s): Mr.S.Patrick - R1 & 2
Mr.I.Prakash - R3
Exparte - R4 to R7

COMMON ORDER

Application No.4486 of 2025 is filed to recall the DW2.

2.Application No.4487 of 2025 is filed to re-open the case for adducing further evidence of DW2 on the side of the defendants.

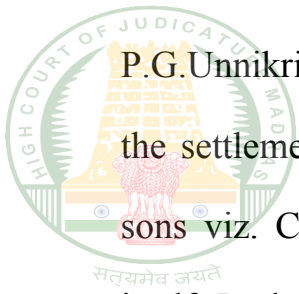
3.Application No.4488 of 2025 is filed to receive the Additional documents.



4. It is the contentions of the learned counsel for the applicants that the applicants are the defendants 4 to 8 in the main suit. Originally, the suit schedule property belonged to Late Kandasamy and Late K.N.Narayanaswamy. After the demise of Late Kandasamy, his son Perumal and daughter in law Anbuammal were in possession and enjoyment of the property. After the demise of Perumal, who died on 28.01.1957, the Anbuammal and her two sons viz. Chandran and Santhalingam and four daughters viz. Gnanasoundari, Juliet Santhanam Mary, Pushparani and Sampooram were in possession and enjoyment of the property. The said Anbuammal and her sons performed marriages of the daughters of Anbuammal through their own earnings.

4.1 The learned counsel further contend that the said Anbuammal with the consent of her four daughters executed a settlement deed dated 21.04.1976 in favour of her sons viz. Chandran and Santhalingam to an extent of 0.45 cents. Thereafter, the said Chandran and Santhalingam partitioned their property through registered partition deed dated 12.09.1985. While so, after a lapse of twenty years, the legal heirs of Narayanaswamy @ K.N.Edward brother of Late Kandaswamy, filed a partition Suit in C.S.No.305 of 2005 before this Court against Chandran and Santhalingam. Thereafter, the same was settled out of the Court and based on the compromise Memo, the suit was decreed on 08.08.2005. As per the compromise decree, the area of the property was reduced from 45 cents to 19.5 cents, which belonged to Chandran and Santhalingam. The plaintiffs and other defendants are well aware about the execution of settlement deed dated 21.04.1976 and the partition deed dated 12.09.1985.

4.2 The learned counsel further contend that the husband of the 3rd plaintiff viz.

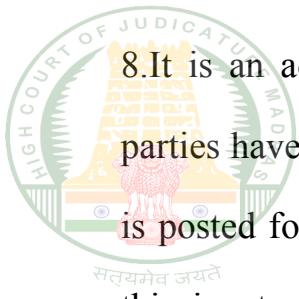


P.G.Unnikrishnan applied two Encumbrance Certificates in the year 1995 and a the settlement deed dated 21.04.1976, executed by Anbuammal in favour of her two sons viz. Chandran and Santhalingam on the date of applications dated 27.04.1995 itself. In the year 2006, based on the compromise decree in C.S.No.305 of 2005, both the families of Perumal and Edward partitioned their property and the family of Edward sold their property to one DEV Apartments by way of sale deed in the year 2006. The 1st plaintiff also sold her property to a third party in the year 2006 at the insistence of Edward's family and DEV Apartments. Therefore, the documents viz. Encumbrance Certificates and the sale deeds executed in the year 2006 are very essential to prove the case of the applicants / defendants and also to decide the case.

5.Both sides evidences were closed already after examining the witnesses on either side. For the purpose of marking the above said documents, the DW2 has to be recalled. Therefore, the applicants have come forward with the present applications to reopen the case, to recall the DW2 and to receive and mark the documents.

6.Learned counsel for the respondents would submit that the documents mentioned in the affidavits are no way connected to the suit property and both sides evidences were already closed. The applicants in order to protract the suit proceedings, have filed the above applications. The documents sought to be received and marked by the applicants are no way relevant to the suit or to decide the case and the applications are liable to be dismissed.

7.Heard both sides. Perused the materials placed on record.



8.It is an admitted fact that already both sides evidences were closed and b parties have examined witnesses and marked documents on their side and now the case is posted for arguments and the plaintiffs' side arguments were also heard already. At this juncture, the applicants have filed the above applications to receive additional documents, to recall the DW2 and to reopen the case for marking those documents. The main suit is filed for partition and the documents sought to be received are Encumbrance Certificates of the year 1995 and the sale deeds executed by the parties in the year 2006. In the Encumbrance Certificate dated 24.04.1995, there are no entries about the settlement deed, whereas in the Encumbrance Certificate dated 27.04.1995, there was an entry in respect of the settlement deed dated 21.04.1976. That application was filed by one Unnikrishnan, who is not even a party to the suit and the sale deed referred in the application is also not in respect of the suit property. Therefore, those documents are no way connected to the suit property and those documents are not relevant to decide the case. Therefore, for the purpose of marking those documents, the DW2 need not be recalled and for recalling of DW2, the case may not be reopened. Therefore, as discussed supra, this Court is of the opinion that these applications have no merits and they deserve to be dismissed.

9.In the result, Application Nos.4486, 4487 and 4488 of 2025 stand dismissed. No costs.

09-09-2025

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