



A.No.6294 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON  
12.06.2025

PRONOUNCED ON  
07.07.2025

**CORAM**

**THE HONOURABLE MR JUSTICE K.KUMARESH BABU**

**A.No.6294 of 2024**

**in**

**C.S.No.90 of 2022**

V.Jagadeesan

... Applicant(s)

Vs

1.T.G.Kumudha

2.T.G.Ishwarya

... Respondent(s)

For Applicant(s) : Mr.N.Suresh

For Respondent(s): Mr.M.Balachandar

**ORDER**

The present application has been filed to grant leave to the petitioner to file the documents (1)deposit account No.008604421400008 – Rs.1 Lakh dated 13.02.2014 (photocopy), (2)deposit receipt No.010804111500614 – Rs.1,09,986/- dated 02.06.2015 (photocopy), (3)deposit receipt No.008604411000012 – Rs.3 Lakhs dated 16.04.2010 (photocopy), (4)deposit receipt No. 008604511400042 – Rs.2 Lakhs dated 17.01.2014 (photocopy), (5)Account statement in savings bank account



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No.00868601000020025 (original copy) dated 27.09.2016 in the suit on the side of the defendant and those documents may be received in evidence on applicant's side and pass such other orders.

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2. Heard Mr.N.Suresh, learned counsel for the applicant and Mr.M.Balachandar, learned counsel for the respondents.

3. Learned counsel for the applicant would submit that the respondent herein had initiated a suit for partition and that during the cross examination of PW2, the PW2 had categorically admitted that the father of the applicant and the respondents had certain Recurring Deposits and Fixed Deposit accounts which were also withdrawn after his life time.

4. It is his case that the said Fixed Deposit receipts and other documents are in admitted possession of PW2. Such Fixed Deposits had been suppressed while filing the suit and the applicant during the search of his house had come across the scheduled mentioned Fixed Deposit receipts and therefore, it could be necessary to receive the said documents in further proceeding with the suit. He would submit that the said documents are not accepted to be taken on record, it would cause prejudice to the applicant who



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is the sole defendant in the suit. Therefore, he prays this Court to take the said documents on record at least subject to its proof and relevancy of the suit.

5. Countering his arguments, Mr.M.Balachandar, learned counsel appearing on behalf of the respondent/ plaintiffs would submit that the present application is nothing but only an attempt to protract the partition suit filed by the respondents. He would submit that even in the plaint it had been averred that certain Fixed Deposits had been already been partitioned and what is left to be partitioned is only the suit scheduled immovable properties and in such an event, he would submit that there is no necessity to receive the said documents.

6. He would further submit that the evidence on the side of the respondents/ plaintiffs were completed as early as in July 2023 and thereafter, the applicant had taken out the application to file an additional written statement involving the Fixed Deposit and the Recurring Deposits which was negated by this Court in A.No.4093 of 2023. Even, thereafter, without leading in any evidence on his side, the applicant had been taking time repeatedly before the learned Master and now he had come out with the present application. This attempt of the applicant would only show that he is



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attempting to protract the proceedings and trying to deny the rightful share of the respondents in the suit properties. Therefore, he would pray this Court to dismiss the present application.

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7. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

8. The suit had been filed by the respondents seeking for partition and separate possession of the suit scheduled properties which had belonged to father of the applicant and the first respondent. Originally, a written statement had been filed by the applicant who is the sole defendant in the suit. He had not raised the issue of Fixed Deposits or Recurring Deposit which stood in the name of their father nor he had made a counter claim by adding such Fixed Deposits and Recurring Deposits. After the evidence had been completed on the side of the plaintiffs, the applicant had moved this Court in A.No.4093 of 2023 seeking to file additional written statement based upon the admission made by PW2 in the cross examination. The said application came to be dismissed by this Court by its order dated 28.08.2023, thereafter, the matter had been adjourned for one reason or the other. When the matter was listed, on 05.01.2024, this Court had directed the



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evidence on the side of the defendants should be completed within a period of one month. However, the matter had been adjourned repeatedly on one pretext or the other. Again by order dated 01.04.2024, after disposing of the A.Nos.1687 to 1689 of 2021 had directed the matter to be listed before the learned Master on 24.04.2024 for recording of evidence on the side of the defendants.

9. From a perusal of the series of orders recorded by the learned Additional Master-I, it is seen that the matter had been adjourned time and again as there is no representation on the side of the defendant or at the request of the defendant. A representation had been made on 12.02.2025 that the instant application had been filed and therefore, recording of evidence had been adjourned to 05.03.2025.

10. The case of the applicant is that there are certain Fixed Deposits and Recurring Deposits that stands in the name of his father which had also been admitted to by PW2 and such of the Fixed Deposits and Recurring Deposits had not been included to the schedule of the suit. It is to be noted that the respondent/ plaintiffs in their plaint had specifically averred that as regards to the Fixed Deposits and Recurring Deposits account and other



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jewels there are no disputes on the date of the suit as the shares with regard to the first plaintiff and the mother of the second plaintiff had been settled. A bald denial of the said allegations had been made in the written statement filed by the applicant/ defendant. He had not even whispered his claim of such movable properties of his father nor had sought the same to be included in the instant suit for partition.

11. Further, as rightly pointed by the learned counsel for the respondent that the attempt made by the applicant to include a pleading with regard to the movables by filing additional written statement had already been negatived by this Court, the present documents therefore are now sought to be introduced without any pleading or claim with regard to the said movables. Therefore, this Court is of the view that the said documents are not supported by any pleadings whatsoever nor being the subject matter of the partition suit are necessary documents to be taken on record.

12. For the aforesaid reasons, I do not find any merits in the said application and accordingly, the said application stands dismissed. As a corollary, the suit may be listed before the learned Additional Master-I for



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recording of evidence on the side of the defendant on 14.07.2025 and the defendant is directed to make himself available for recording of his evidence or any other witnesses. The applicant/ defendant is directed to complete his side of evidence on or before 31.08.2025.

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Index: Yes/No

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**K.KUMARESH BABU., J**

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Pre-Delivery Order in  
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**in**  
**C.S.No.90 of 2022**

**07.07.2025**