



WEB COPY



A.No.1186 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-04-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

A No. 1186 of 2026

in

C.S. No. 24 of 2024

Sunita Charupalli,
S/o Edamadaka Bala Venkata Subbiah,
No.2041, Prestige MSR,
MSRE College Road,
MS Ramaiah Nagar, Mathikere,
Bengaluru, Karnatata - 560 054.

..Applicant(s)

Vs

1. Edamadaka Bala Venkata Subbiah
S/o E.Pakkeeriah Chetty,
No.W364, New No.5,
North Main Road, Anna Nagar West,
Chennai 600040
2. Hanumayamma Edamadaka,
W/o Edamadaka Bala Venkata Subbiah,
No.W364 New No.5,
North Main Road, Anna Nagar West,
Chennai 600040
3. Sathish Kumar Edamadaka
S/o Edamadaka Bala Venkata Subbiah,
No. W364 New No.5,
North Mian Road, Anna Nagar West,
Chennai 600040.
4. Lakshmi Manasa Charupalli,
Daughter Of Sunita Charupalli,
No.W364, New No.5,



A.No.1186 of 2026

North Main Road, Anna Nagar West,
Chennai - 600 040.

WEB COPY

..Respondent(s)

To grant leave to the Applicant/Plaintiff to withdraw the above suit C.S.No.24 of 2024 with liberty to file a fresh, comprehensive suit for partition of HUF Properties, enabling the Applicant to sufficiently plead their rights.

For Applicant(s): M/S.Anupam Raghuraman R
C.Seethapathy(1237/1994)
A.Umasankar(311/1998)
I.Rollence Samuel(481/2021)
P.Pavithra Ragavi(4652/2021)
S.Sakthi Aatharsh(6103/2021)
S.Sandesh Saravanan(872/2022)

For Respondent(s): Mr.S.R.Sumathy for D1 & D2.
Mr.M.Gopalakrishnan for D3.
Mr.S.Gopinathan for D4.

ORDER

Heard.

2. This application has been filed by the plaintiff in C.S. No.24 of 2024 seeking leave to withdraw the suit with liberty to file a fresh suit on the same cause of action. The suit, as originally framed, was for reliefs in respect of the property at Kandappa Chetty Street and for a declaration regarding revocation of settlement deeds. In the affidavit filed in support of the present application, the



A.No.1186 of 2026

petitioner/plaintiff states that the suit came to be filed on an erroneous understanding and on mistaken legal advice that her rights arose only out of settlement deeds executed by her father. She would state that she later came to understand that the properties are alleged to be part of a larger Hindu Undivided Family corpus and that she intends to seek the benefit of the Hindu Succession (Amendment) Act, 2005, as a coparcener. She would further state that the present plaint does not contain proper averments on that basis, that the Anna Nagar property was omitted, that an earlier amendment application was dismissed, and that the present defect in the framing of the suit has therefore to be cured only by permitting withdrawal with liberty to file a fresh suit with correct and complete pleadings.

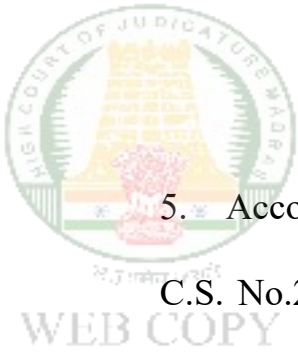
3. The first respondent/first defendant has filed a counter resisting the application. The respondent would contend that no formal defect or sufficient ground is made out under Order XXIII Rule 1 CPC; that the plaintiff had earlier sought amendment on the very same line and the same was dismissed and has become final; that the suit is already at the stage of trial; that the present attempt is only to avoid the consequences of the earlier order; that a fresh suit would be barred by limitation and would prejudice the defendants; and that the properties,



A.No.1186 of 2026

particularly the Anna Nagar property, are the self-acquired properties of the first defendant and not HUF properties. The respondent would therefore seek dismissal of the application with costs.

4. On consideration of the rival submissions and the materials placed, this Court is of the view that the plaintiff has made out sufficient ground to be permitted to withdraw the present suit with liberty to institute a fresh suit. The case of the plaintiff is that the suit was originally framed on an erroneous understanding of the source of her right and that she now seeks to place her claim on the basis of coparcenary right and the benefit of the amended law. Whether such claim is ultimately available or not is not for examination in this application. The present question is only whether the plaintiff should be denied an opportunity to agitate the issue with correct and proper averments. While not going into the merits of such claim, this court is not inclined to shut the doors of the Court to the plaintiff when she seeks to place the real basis of her claim in an appropriately framed suit. At the same time, this Court cannot ignore that the defendants have already been compelled to contest the present proceedings and have suffered litigation expenses. In the circumstances, liberty can be granted only on terms.



A.No.1186 of 2026

5. Accordingly, this application is allowed. The plaintiff is permitted to withdraw C.S. No.24 of 2024 with liberty to file a fresh suit on the same cause of action, with proper pleadings, if so advised. Such liberty is granted on condition that the plaintiff shall pay costs of Rs.10,000/- to the first defendant within a period of four weeks from the date of receipt of a copy of this order or before institution of any fresh suit, whichever is earlier. If the said amount is not paid within the stipulated time, the liberty granted under this order shall not enure to the benefit of the plaintiff. No costs in this application apart from the above condition. Consequently, connected applications, if any, shall stand closed.

24-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

AY



WEB COPY



A.No.1186 of 2026

DR.A.D.MARIA CLETE, J.

AY

**A No. 1186 of 2026
in
C.S. No. 24 of 2024**

24-04-2026