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A No. 3067 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-02-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

**A No. 3067 of 2025 in
O.P.No.47 of 2006**

1. Arockiasamy
S/o.Jacob
2. Robert Rajkumar
S/o.Mr.Arockiasamy
3. Daniel
S/o.Mr.Arockiasamy
4. Kithion
S/o.Mr.Arockiasamy
5. Johnes
S/o.Mr.Arockiasamy
6. Rachel
D/o.Mr.Arockiasamy
7. Charles
S/o.Mr.Arockiasamy Allare
residing at No.127/17/G-5, Bajanai Koil street,
Ernavur, Chennai 600 057.

..Applicant(s)

Vs

Maria Joseph alias Jayakumar
S/o.Gopal Francis, Residing at New Door No.30,
Old No.25, Thiruvengadapuram Street,
Choolaimedu, Chennai 600 094.

..Respondent(s)



A No. 3067 of 2025

Prayer: Application filed under Order XIV Rule 10 of O.S.Rules read with Section 263 of the Indian Succession Act to revoke the Letters of Administration granted to the Respondent/Petitioner on 10/04/2006 in O.P.No.47 of 2006.

For Applicant(s): Mr.K.M.Ramesh
Sr.Counsel for
Mr.D.Sugumar

For Respondent(s): Mr.Nirmal Roy Sanjeevi

ORDER

This application has been filed by the applicants to revoke the Letters of Administration granted to the respondent on 10.04.2006 in the main Original Petition No.47 of 2006.

2. According to the applicants, the respondent has filed the main Original Petition for grant of Letters of Administration of the Will dated 13.12.1993 alleged to have been executed by late Kanaga Mariammal without impleading any of the legal heirs of the said Kanaga Mariammal and filed consent affidavits alleged to have been given by her legal heirs and obtained order for grant of Letters of Administration dated 10.04.2006 from this Court by misleading, misrepresenting, suppressing the facts and by playing fraud upon this Court.



A No. 3067 of 2025

2.1. The applicants now only came to know about the above said order passed by this Court through their cousin one P.M.Rajkumar after demise of his mother, who filed a case before the City Civil Court, Chennai in O.S.No.3332 of 2014 against the respondent, viz., Maria Joseph. The said Kanaga Mariammal, W/o late Mr.R.Gopal, who is none other than the grand mother of the applicants had purchased the property in Door No.25, Thiruvengadapuram Street, Choolaimedu to an extent of 1900 sq.ft., through sale deed dated 26.05.1972. The said Kanaga Mariammal settled some portion of the property, viz., to an extent of 1087 sq.ft., to her daughter, namely, Mary Philomena and son-in-law, V.Palanimuthu, through settlement deed dated 27.04.1977. The remaining portion of 813 sq.ft., was retained by the said Kanaga Mariammal. Based on the said settlement deed dated 27.04.1977, the property was enjoyed by Mary Philomena and her husband, Palanimuthu till their life time without alienation and thereafter, absolutely to be inherited by their son, the said P.M.Rajkumar. Thereafter, due to misunderstanding between the parents of Rajkumar, i.e., Mary Philomena and Palanimuthu, they were separated through decree of divorce and Mrs. Mary Philomena was in absolute possession and enjoyment of the property and her husband was given life interest. After the divorce was granted by the Court, the father of the said Rajkumar has not claimed any rights over the property. During the life time, the said Kanaga Mariammal, grand mother of the



A No. 3067 of 2025

applicants has filed O.S.No.2115 of 1984 on the file of this Court seeking a declaration in respect of the above said settled property and the same was dismissed on 20.01.1987. The said order was challenged in Appeal in A.S.No.609 of 1987, which was also dismissed on 29.08.1988. Therefore, the settlement deed executed in favour of the parents of the said Rajkumar by Kanaga Mariammal attained finality. By suppressing the above said facts, the Original Petition has been filed by the respondent and obtained order from this Court.

2.2. The original settlee Mrs.Mary Philomena executed release deed realising her life interest in favour of her son, Rajkumar and his father, namely, Palanimuthu also executed release deed in favour of the said Rajkumar. In the meantime, the said Kanaga Mariammal passed away on 19.01.1996. After demise of Kanga Mariammal, the said Rajkumar along with his mother are in possession and enjoyment of the property. When major portion, i.e., 1087 sq.ft., was settled in favour of Rajkumar out of 1900 sq.ft., and only Kanaga Mariammal is entitled to the remaining extent of 813 sq.ft., the respondent herein, suppressing the above said facts, obtained Letters of Administration for the entire property by playing fraud, therefore, the said order passed by this Court by playing fraud is liable to be revoked.



A No. 3067 of 2025

3. The respondent filed detailed counter stating that the application filed by the applicants to revoke the Letters of Administration, which was granted in favour of the respondent, is barred by limitation and the applicants have no locus standi or caveatable interest to file and maintain this application. The applicants are not entitled to claim any right whatsoever to be heard by this Court in the Testamentary proceedings, as Mrs.Fathima, daughter of Testatrix, Mrs.Kanaga Mariammal, being the wife of the 1st applicant and mother of the applicants 2 to 7 had given consents for the grant of Letters of Administration to the Will. The said Kanaga Mariammal had six children through her husband Mr.Gopal Francis and the husband of the Kanaga Mariammal pre-deceased her. The said Kanaga Mariammal purchased the property through sale deed dated 26.05.1972. During her lifetime, she executed last Will and Testament dated 13.12.1993 and the same was registered on 15.12.1993, as per the said Will, she bequeathed part of her property in favour of the respondent, i.e., the petitioner in the main O.P. without absolute rights and also bequeathed the remaining property in favour of her daughters and one Mary Philomena, who is the sister of the respondent, therefore, the respondent filed the main original petition in O.P.No.47 of 2006 before this Court and all legal heirs of the deceased Kanaga Mariammal had consented for grant of Letters of Administration. After demise of Kanaga Mariammal on 19.01.1996, the Will executed by Kanaga



A No. 3067 of 2025

Mariamammal came into effect. The said Testamentary Proceedings was very well known to all the legal heirs of the deceased Kanaga Mariammal and the applicants, now, after the huge delay, filed this application.

3.1. The respondent had also filed a suit in O.S.No.5152 of 2014 and the same was withdrawn. The allegations are subject matter of the suit proceedings pending adjudication in O.S.No.5152 of 2014 on the file of V Additional Judge, City Civil Court, Chennai and O.S.No.2105 of 2025 on the file of the learned VI Additional Judge, City Civil Court, Chennai. The said Rajkumar had filed the suit in O.S.No.3132 of 2014 and the same is pending before the learned V Additional Judge, City Civil Court, Chennai. The respondent filed comprehensive suit in O.S.No.2105 of 2025 and the same is also pending for adjudication. Therefore, the mother of the applicants 2 to 7 had effectively represented herself in the proceedings and she also consented for grant of Letters of Administration through consent affidavit, now, the applicants, only to delay the proceedings filed this application, therefore, this application is liable to be dismissed.

4. The learned senior counsel appearing for the applicants would submit that the applicants are the one of legal heirs of Kanaga Mariammal. Originally the property belonged to Kanaga Mariammal and she purchased the property



A No. 3067 of 2025

through sale deed dated 26.05.1972 and out of the total extent of 1900 sq.ft., she settled the property to an extent of 1087 sq.ft., to her daughter, namely, Mary Philomena and son-law namely, Palanimuthu through settlement deed dated 27.04.1977. The remaining portion of 813 sq.ft., was retained by Kanaga Mariammal. The said Kanaga Mariammal died on 19.01.1996 and after the demise of Kanaga Mariammal, the legal heir of Mary Philomena and Palanimuthu, namely, Rajkumar has been in possession and enjoyment of the property. The applicants are the legal heirs of the deceased Fathima, who is one of the daughters of the deceased Kanaga Mariammal, while so, the petitioner in the main Original Petition suppressing the legal heirs of Kanaga Mariammal, filed the main petition for probate based on the Will dated 13.12.1993 and obtained orders by suppressing the materials facts and without impleading all legal heirs of Kanaga Mariammal and the applicants are entitled to share over the properties of the said Kanaga Mariammal. Therefore, the order passed by this Court in the Main Original Petition by granting Letters of Administration has to be revoked.

5. Per contra, the learned counsel appearing for the respondent would submit that in fact, the respondent, who is the petitioner in the Main Original Petition has filed the petition for grant of Letters of Administration based on the Will executed by Kanaga Mariammal dated 13.12.1993 and the same was



A No. 3067 of 2025

registered on 15.12.1993, through the said Will, she bequeathed part of her property in favour of the respondent without absolute rights and also bequeathed the remaining property in favour of one of the daughters, namely, Mary Philomena, therefore, based on the said Will, the respondent filed the Main Original Petition. In fact, in the main petition, all the legal heirs, who are daughters of Kanaga Mariammal had given their consents and based on the said consents, this Court passed an order by granting Letters of Administration in favour of the respondent. The wife of the 1st applicant and the mother of the applicants 2 to 7, namely, Fathima, had also given consent letter after knowing that the Testamentary Proceedings are initiated, she has not questioned the Will and testamentary proceedings and now, after the demise of the said Fathima, the legal heirs of the said Fathima filed this application. Further, this Court passed an order on merits as early as on 10.04.2006 and now after a period of about 20 years, this application has been filed only to harass the respondent. There are no grounds to revoke the Letters of Administration already granted by this Court, therefore, this Application is liable to be dismissed with costs.

6. Heard the learned counsel on either side and perused the entire documents placed on record.



A No. 3067 of 2025

7. It is an admitted fact that the respondent herein has filed the Main Original Petition in O.P.No.47 of 2006 for grant of Letters of Administration for the Will executed by Kanaga Mariammal dated 13.12.1993. According to the applicants in this application, the respondent herein, has filed the Main Original Petition and obtained orders, without impleading all the legal heirs of the deceased, as if all the legal heirs had consented for grant of Letters of Administration in favour of the respondent / petitioner, in fact, no body have knowledge about the alleged Will and testamentary proceedings, by playing fraud, the order was obtained. According to the respondent, though the legal heirs of Kanaga Mariammal have not been impleaded in the main Original Petition, they had knowledge about the Testamentary Proceedings and Will executed by Kanaga Mariammal and given consent letters and based on the said consents, this Court passed orders as early as on 10.04.2006. Now after a period of about 20 years, this application has been filed by the legal heirs of the deceased, Fathima.

8. On a perusal of the entire records, it is seen that the respondent herein, who is the petitioner in the main Petition, has not impleaded the legal heirs of the deceased Kanaga Mariammal and the respondent column shown as 'Nil'. Though the respondent claimed that all the daughters of Kanaga Mariammal had given consents for grant of Letters of Administration, without



A No. 3067 of 2025

impleading all the legal heirs, he filed the petition, therefore, the conduct of the respondent herein creates doubt over the genuinity of the claim made in the Main Original Petition.

9. At this juncture, learned counsel appearing for the applicant brought to the knowledge of this Court that as per Order 25 Rule 4 of the Original Side Rules of the Madras High Court, the petitioner has to plead that the petitioner has impleaded all the next of kin or other persons persons interested as party/respondents and there is no next of kin or other person interested to be impleaded. In the main petition also, there are pleadings to that effect, however, the respondent / petitioner has failed to implead all the legal heirs of the deceased Kanaga Mariammal, who had interest over the properties. Further, the learned counsel for the applicants relied on the following Judgments :-

(i) Judgment of the Hon'ble Supreme Court reported in 2010 (85) AIC 95 [Suresh Kumar Bansal Vs. Krishna Bansal and Ors.]

(ii) Judgment of Hon'ble Division Bench of this Court in O.S.A.No.105 of 1992 dated 01.12.1992 [G.Nagappan Vs. Kalaiselvam]

(iii) Judgment of Hon'ble Division Bench of this Court in O.S.A.No.210 of 1993 dated 11.10.1995 [V.Muralidharan Vs. R.raghavendran]

(iv) Judgment of Hon'ble Division Bench of this Court in O.S.A.No.153 and



A No. 3067 of 2025

236 of 1990 and Appeal No.(Indigent) 20 of 1990 dated 22.09.1995

[S.Panchanathan Vs.Ellappan (died) and 5 Others / South India Vaniga Vaisya Sangam.

10. On a careful perusal of the above said Judgments, it is clear that as per Clause (c) of Section 263 of Indian Succession Act, 'All persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of Probate or Letters Of Administration' and also enables the persons claiming such interest to oppose the grant on their own and each case has to be decided on its own facts. Further, it is clear that under Order 25 of Original Side Rules of High Court of Madras, the petitioner has to state that the petitioner has impleaded all the next of kin and other persons interested as party and there is no other kin or other person interested to be impleaded. As per Section 263 of the Indian Succession Act, 1925 the grant of probate of Will is at discretion of Court, which has to be exercised for 'just cause' only. Section 263 of the Indian Succession Act, 1925 allows revocation or annulment of grant of probate on existence of 'just cause' only. The said provision vests a judicial discretion in the court to revoke or annul a grant for 'just cause'. This itself makes it very clear as to what 'just cause' means and includes and the 'just cause' shall be deemed to exist where the proceedings to obtain the grant were defective in substance. The



A No. 3067 of 2025

defective in substance must mean that defect was of such a character as to substantially affect the regularity and correctness of the previous proceedings.

Under explanation (a) of Section 263 of Indian Succession Act, if the proceedings to obtain the grant was defective in substance and under explanation (b) if the grant was obtained fraudulently by making a false suggestion or by concealing from the Court something material to the case it would be deemed to be 'just cause' which enables the Court to revoke or annul the probate.

11. In the case on hand, the Letters of Administration was granted as early as on 10.04.2006, but the petitioner in the main petition has not impleaded all the legal heirs of deceased testatrix as parties to the petition. According to the respondent / petitioner one of the daughters of Kanaga Mariammal, namely, Fathima had given consent along with her sisters and after her demise, the applicants have filed this application only to harass the respondent / petitioner. But without impleading all the next of kin or other persons interest as party to the proceedings, the main petition was filed and obtained grant of probate. Therefore, this case falls under the explanation (a) and (b) of Section 263 of Indian Succession Act. Therefore, the said case laws are squarely applicable to the present facts of the case. As per the said



A No. 3067 of 2025

Judgments in the case on hand, the petitioner in the main petition without impleading the other legal heirs of the testatrix produced the consent letter, it amounts to defective in substance and also suppressing the material facts and squarely within the purview of Explanation (a) and (b) of Section 263 of Indian Succession Act.

12. The learned counsel for the respondent has relied upon the Judgment of the **Hon'ble Supreme Court in Lynette Fernandes Vs. Gertie Mathias Since Deceased by Legal Representatives reported in (2018) 1 Supreme court Cases 271, since deceased by legal heirs.** On a careful perusal of the said Judgment, it is clear that revocation of annul of grant of probate of Will is at discretion of the Court, which has to be exercised for 'just cause' only. Since in the present case, the respondent, who is the petitioner in the main Original Petition failed to implead the legal heirs of the deceased, Kanaga Mariammal in the main Original Petition and without impleading them, by producing the consent affidavits from F.Fathima, Mary Philomena, J.Chandrakanth Santhakumar, J.Ranjith Rajkumar, J.Gautham Jayakumar, F.Cruzammal, F.Packiam Mary, J.Pratap Premkumar, J.Anand Ashok Kumar and J.Chandran Sundar Sasikumar had obtained order of Letters of Administration, would certainly come under the Explanation (a) & (b) of Section 263 of Indian Succession Act, therefore, there are grounds to



A No. 3067 of 2025

interfere with the order passed by this Court, viz., defective in substance and suppression of material facts, hence this application is liable to be allowed.

13. Accordingly, this Application is allowed and the order passed by this Court in O.P.No.47 of 2006 dated 10.04.2006 is revoked.

18-02-2026

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

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WEB COPY



A No. 3067 of 2025

P.DHANABAL, J.

ssd

**A No. 3067 of 2025 in
O.P.No.47 of 2006**

18-02-2026

Page15 of 15