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CS No. 237 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-06-2026

CORAM

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

CS No. 237 of 2024

1. Mr.K.S Ramarathainam,
S/o Late K.Srinivasa Rathinam,
Presently Residing At B 65,
Wellington Estate Ii,Dlf Phase
V, Gurgaon, Haryana - 122 002.
Premanent Residence
A2, Balaji Nagar, 7th Street,
Balaji Nagar, Chennai 107.
2. Mrs.S.Kamala Rathinam
D/o Late K.Srinivasa Rathinam,
W/o G.R.Vishwanath,
Residing At 8, Kempanna Layout,
Ramachandrapura, Jaahalli Post,
Near Vishwas Daffodils Apartement,
Ramachandrapura,
Bangalore, Karnataka 560 013.

..Plaintiff(s)

Vs

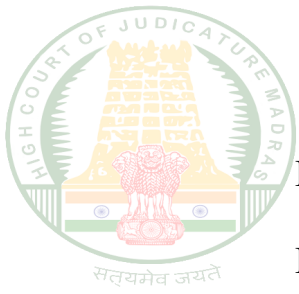
1. Mr.Venkatasubramanian Venkatakrishnan
S/o Late Venkatasubramanian,
Residing At No.327, Anand Somu Pristine
Gollahalli,
Near J P Nagar Anjanapura,
Raghavana Paiya Anjanpura Bangalore,
South Bengalauru, Karnataka - 560 108.



2. Mr.Udhay Balaji Shastri,
S/o Late Balaji Shastri,
Residing At B-4/220, Juhi Co-op, Hsg.Society,
Lok Vatika, Kalyan,
Thane, Maharashtra - 421 306.
3. Mrs.Aparna Balasubramanian Iyer
D/o Late Balaji Shastri,
W/o Balasubramanian Iyer,
Residing At Building No.48, Room No.16
Scheme No.11, 714, Shashank Co.Op.Ho.So
Near Sri Niwas Hospital Sector,
No.21, Yamunanagar Nigdi,
Pune, Maharashtra - 411 044.
4. Mrs. Anupama Balasubramaniam Iyer
D/o Late Balaji Shastri,
Residing At No.2, Krishna Kuttir Building,
Ayre Road, Near On Bunglow,
Donbivli East, Kalyan Thane,
Maharashtra - 421 201.
5. Nitanth Suryanarayan
S/o N.G.Suryanarayan,
Presently Residing At
B3, Beveron Crescent, Ajax, Ontario, Lit 017,
Permanent Residence
Flat No.B4/103, Mahalaxmi Puram Baran
Road,
Kota, Rajasthan.

..Defendant(s)

Prayer : Suit filed Order VII Rule 1 CPC read with Order IV Rule 1 of O.S. Rules i) to declare the plaintiffs as one of the case II heirs of the deceased Mr. Krushnarathinam, S/o Kuppurathinam, ii) to divide the suit A and B properties by metes and bounds and allot 1/7th share to each of the Plaintiffs and Defendants.



For Plaintiff(s):

Mrs.P. Veena Suresh

For Defendant(s):

Mr.K.Selva Kumar

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JUDGMENT

The plaintiffs have filed the present suit seeking partition and separate possession of their alleged 1/7th share each in the suit schedule 'A' and 'B' properties left behind by late K. Krishnarathinam, who died intestate and unmarried on 21.05.2021.

2. The plaintiffs are the son and daughter of a predeceased brother of the deceased K. Krishnarathinam. Defendants 2 to 4 are the sons and daughters of the predeceased sister of K. Krishnarathinam, namely Lalitha Balaji Shastri. The 1st defendant is also the son of another predeceased sister of K. Krishnarathinam,. It is further seen that one daughter of the predeceased sister of K. Krishnarathinam survived him but subsequently died after the death of K. Krishnarathinam leaving 5th defendant as her legal heir.

3. Under Entry IV of Class II of the Schedule to the Hindu Succession Act, 1956, read with Section 11 thereof, the children of the deceased's predeceased brothers and sisters succeed simultaneously and equally.



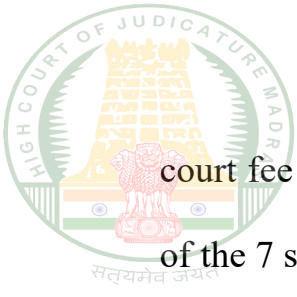
Accordingly, on the death of K. Krishnarathinam, seven persons became entitled to succeed to his estate, each being entitled to an equal 1/7th share.

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4. The 1st Defendant filed a written statement admitting the averments contained in the plaint. The defendants 2 to 5 have filed memos adopting the said written statement. The defendants have not disputed either the relationship of the parties or the quantum of shares claimed by the plaintiffs and have also prayed for allotment of their respective shares. In view of the admitted facts and pleadings, **no triable issue survives** for determination.

5. However, the plaintiffs have paid court fee only in respect of the relief claimed by them. Though the plaint seeks a declaration of 1/7th share each for the plaintiffs and the defendants, no separate court fee has been paid on behalf of the defendants. Likewise, the defendants, though claiming allotment of their respective shares, have not paid the requisite court fee under Section 37(3) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955.

6. Therefore, while the entitlement of all seven sharers is not in dispute, this Court can grant relief only to the extent of the claim properly valued and



court fee paid by the plaintiffs. Since the two plaintiffs together represent 2 out of the 7 shares, they are entitled to a declaration of their aggregate 2/7th share in the suit schedule properties.

7. In the result, a preliminary decree is passed declaring that the plaintiffs are jointly entitled to 2/7th share in the suit schedule 'A' and 'B' properties and for partition and separate possession of the same by metes and bounds. The claims of the defendants for allotment of their respective shares are left open to be worked out in accordance with law upon payment of the requisite court fee.

8. The suit is decreed accordingly. There shall be no order as to costs.

24-06-2026

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

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DR.A.D.MARIA CLETE, J.

VRC

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