



A.No.5981 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2026

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

A No. 5981 of 2025

in

O.P. No. 221 of 2025

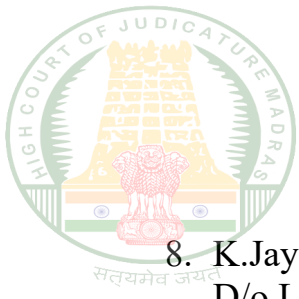
M. Thiagarajan

S/o.M.Mani Thanjirayar, No.191/126, Kollupettai
Street, East Gate, Thanjavur Town Munisif.

..Applicant(s)

Vs

1. V.Govindarasan and 9 others
S/o.Velayutham, No.S2, Fortune House, No.10,
Bharathi Street, Srinivasa Nagar, Perungalathur,
Chennai - 600 063.
2. K.Vasantha
W/o.Late M.Kumar,
3. K.Vijaya Nirmala
D/o.Late M.Kumar,
4. K.Sharmila
D/o.Late M.Kumar, All are residing at No.9/12,
Vidyothaya 2nd Street, T.Nagar, Chennai - 600
017.
5. K.Radha
W/o.Late M.Kumar,
6. K.Subhadarshini
D/o.Late M.Kumar,
7. K.Priyadharshini
D/o.Late M.Kumar,



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8. K.Jayadharshini

D/o.Late M.Kumar, 4 to 7 are residing at
No.H39, Block No.31, T.S.No.4 Part, 1 Avenue,
Ashok Nagar, Chennai - 600 083.

9. R.MAthiyazhagan

S/o.Ramayan, No.97, Sivan Kovil Street,
Vadapalani, Chennai - 600 026.

10.S.Sridhar

S/o.Sivaguru, No.95/45, Flat No.2, Pubby Flats,
7th Avenue, Ashok Nagar, Chennai - 83.

..Respondent(s)

To implead the applicant as the 10th respondent in the above
O.P.No.221 of 2025.

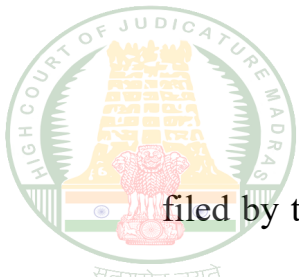
For Applicant(s): M/s.U. Karunakaran
V.Sithannan
K.S.Murali Kumar
J.Ranjith Kumar
S.Sibbhiraj

For Respondent(s): Dr.N.Moorthi.

ORDER

Heard

2. This Application has been taken out by M.Thiagarajan seeking to implead himself as the proposed 10th respondent in O.P.No.221 of 2025, which has been



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filed by the petitioner for grant of probate in respect of the Will dated 27.07.2023

said to have been executed by late M.Kumar.

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3. The applicant's case, in substance, is that he is already a party to the pending civil litigations relating to the properties covered by the Will; that the properties mentioned in the Will are also the subject matter of the partition suits in O.S.No.63 of 2017 and O.S.No.251 of 2009 renumbered as 165 of 2019; that he has obtained interim orders in those proceedings; and that, being an interested person, legal heir and joint owner according to him, he should be added as a necessary party to the probate Original Petition. The application affidavit specifically asserts that the properties covered by the disputed Will are the subject matter of pending partition proceedings and that the applicant claims interest as "legal heir and joint owner."

4. Per contra, the petitioner in the Original Petition has filed a counter opposing the application. The stand taken in the counter is that the applicant is not a necessary party to the probate proceedings; that he has approached the Court only to obstruct the testamentary cause; that he had already received his share under the family partition deed dated 18.01.2007; and that the question of title projected by him cannot enlarge the scope of the probate proceedings. The counter thus disputes



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both the applicant's alleged subsisting right and the necessity of his presence in the
testamentary Original Petition.

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5. The 2nd and 4th respondent opposes the application as not maintainable, contending that the deceased had executed a valid registered Will dated 10.02.2012, under which the estate was bequeathed to the Class-I legal heirs/respondents. She states that the applicant is neither a legal heir, beneficiary, creditor, nor a person having any caveatable interest, and therefore lacks locus standi to seek impleadment. She further denies the alleged oral partition/Muchalika and submits that pending civil suits do not confer any right to participate in probate proceedings, which are confined to examining the genuineness of the Will and testamentary capacity of the testator.

6. The Original Petition itself discloses that the petitioner has sought probate on the footing that he is the executor named under the Will; that the deceased left behind his wives, daughters and certain beneficiaries who have been arrayed as respondents; and that, according to the petitioner, there is no other next of kin or person interested required to be impleaded. The petition further states that the



immovable properties covered by the Will are self-acquired properties of the deceased.

7. The point that arises for consideration is whether, in a probate proceeding, a person who sets up an independent or rival claim to the properties covered by the Will, on the strength of pending partition suits and alleged co-ownership, is liable to be impleaded as a necessary or proper party.

8. It is trite that a probate Court is not a Court of plenary civil jurisdiction to adjudicate questions of title to the properties comprised in the Will. The testamentary Court is concerned primarily with the proof, genuineness, due execution and validity of the Will, and with the entitlement of the executor or legatee to represent the estate in accordance with the Will. Questions as to whether the testator had absolute title to each item, whether a family arrangement binds some of the properties, whether any item forms part of a joint family pool, or whether any co-owner has a subsisting share, are matters falling within the domain of the competent civil Court.



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9. In the present case, the applicant's own affidavit makes it clear that the foundation of his request is not merely that he is a person who would succeed to the estate in the event of intestacy, but that he claims the very properties to be the subject matter of pending partition suits and asserts a substantive right therein as legal heir/joint owner. The gravamen of his plea is thus a title dispute. His prayer for impleadment is built on the assertion that the properties covered under the Will are already the subject matter of civil suits and that his civil rights may be prejudiced if probate is granted.

10. Such a contention, in the considered view of this Court, does not make the applicant a necessary party to the testamentary cause. The grant or refusal of probate does not, by itself, conclude title to the properties. Even if probate is granted, any rival claimant is not foreclosed from agitating his independent civil rights before the competent civil forum. Conversely, the pendency of a civil suit over title does not convert every rival claimant into a necessary party to the probate proceedings.



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11. This Court also finds that the persons shown by the petitioner as wives, daughters and beneficiaries under the Will have already been arrayed in the Original Petition. The petition proceeds on the basis that there is no other next of kin or other person interested required to be impleaded. The applicant's status, as projected in the present application, is at best that of a person asserting a rival proprietary claim in the subject properties. That is insufficient, in the facts of this case, to compel impleadment in the testamentary Original Petition.

12. Equally, this Court is not inclined, in this interlocutory application, to pronounce upon the merits of either side's claim regarding the alleged family partition dated 18.01.2007, the extent of the applicant's subsisting rights, or the correctness of the petitioner's assertion that all the properties are self-acquired properties of the deceased. Those questions are left entirely open to be decided in the appropriate civil proceedings, uninfluenced by any observation made in this order.

13. Therefore, this Court holds that A.No.5981 of 2025 is devoid of merit. The applicant is neither a necessary nor a proper party to the probate proceeding merely



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because he asserts a rival title or co-ownership claim in respect of the properties mentioned in the Will and is litigating over them elsewhere.

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14. In the result, A.No.5981 of 2025 is dismissed. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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DR.A.D.MARIA CLETE, J.

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O.P. No. 221 of 2025**

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