



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

**OA No. 615 of 2025 and OA No. 616 OF 2025
in CS NO. 134 OF 2025**

Mr. S. Haribabu
S/o.Late. B.Sankaran Naidu,
No.4/B, 3rd Street, Gandhi Nagar,
Keelkattalai, Old Pallavaram,
Chennai-600117

..Applicant(s) common in
both Original Applications

Vs

1. Mrs. Subba Rathnam Ammal and 3 others
W/o.Late. B.Sankaran Naidu,
4/9, Anna Street, Ethiraj Nagar,
West Mambalam, Chennai-600033.
ALSO AT
No.26/50, Nammalwar Street,
Sowcarpet, Chennai-600079
2. Mr.Prabhu Raj
S/o.Late. B.Sankaran Naidu,
4/9, Anna Street, Ethiraj Nagar,
West Mambalam, Chennai-600033.
ALSO AT
No.26/50, Nammalwar Street,
Sowcarpet, Chennai-600079
3. S.Hema Kumar
S/o.Late.B.Sankaran Naidu,
Tummikapalli gate(Near Vagdevi
College)
Tummikapalli Village, Kotha Valasa
Monpalam,
Vijaya Nagarm D.T.,
Andhra Pradesh-535183
4. Ms.S.Nirmala Devi
D/o.Late.B.Sankaran Naidu,



Old.No.81, West Jones Road,
West Saidapet,
Chennai-600015

WEB COPY

..Respondent(s) common in
both Original Applications

PRAYER in OA No. 615 of 2025:

The Original Application has been filed under Order XIV Rule 8 of Madras High Court Original Side Rules read with Order XXXIX Rule 1 and 2 of Code of Civil Procedure praying to pass an order to grant an order of Temporary Injunction restraining the Respondents/Defendants or their men, agents or any other persons claiming through them either to sell, mortgage, create any nature of Encumbrances in respect of all the properties more fully described in the Schedule A, B and C as detailed herewith till the disposal of the above Civil Suit.

PRAYER in OA No. 616 of 2025:

The Original Application has been filed under Order XIV Rule 8 of Madras High Court Original Side Rules read with Order XL Rule 1 of Code of Civil Procedure praying to pass an order to appoint an Advocate receive to collect the details of all the tenants respectively occupying their tenancy portions more fully described in the A Schedule mentioned property and also to collect the Rental advances, Premium, Maintenance charges and monthly rents payable by them in respect of the tenancy premises occupied by them in the A schedule property more fully described in the Judges Summon with effect from December 2024 and to deposit the same before this Hon'ble Court to the credit of the above civil suit accounts and to render proper accounts till the disposal of the above civil suit.

For Applicant(s): M/S.N. Premkumar

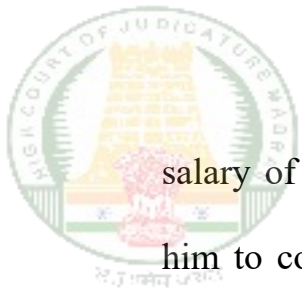
For Respondent(s): Mr. N. Siva Prakash



COMMON ORDER

The Original Application in **615 of 2025** has been filed to grant an order of temporary injunction restraining the respondents from creating encumbrance in respect of the properties in 'A', 'B' and 'C' schedules. The Original Application in **616 of 2025** has been filed seeking for appointment of an Advocate receiver to collect the details of all the tenants occupying their tenancy portions in 'A' Schedule property and also to collect the rental advances, premium, maintenance charges and monthly rents payable by them in respect of the tenancy premises occupied by them in the 'A' Schedule property.

2. According to the applicant, he is the Plaintiff in the main Suit filed for the reliefs of partition and for permanent injunction and to furnish details of the rental collections and rental advances. Originally, the Suit properties belonged to the father of the applicant namely B.Sankaran Naidu, who died intestate on 14.10.2008 leaving behind the applicant and the respondents as his legal heirs to succeed his estate and the applicant and the respondents are equally entitled to share the 'A' schedule property. The Suit properties are the buildings and vacant land. The father of the applicant constructed a multi-storied building consisting of ground plus four floors and the lands were purchased in the name of the mother of the applicant and his mother has no income source and the applicant, being the earning member of the family, had contributed his monthly



salary of Rs.2 lakhs and stood as a co-borrower along with his father to help him to construct the said building. He also mortgaged 40 sovereigns of gold ornaments, thereby he also contributed money for the construction of the building. While so, in the month of February, 2024, he came to know that 1st respondent had executed a Settlement Deed dated 18.02.2016 settling 1/3 share portion of the property to the applicant and 2/3 portion of the land to the 2nd respondent. The 2nd respondent does not have any source of income and he is alone enjoying the entirety of the monthly rents derived from the 'A' schedule property. He is always in constructive and joint possession of the Suit properties. When the applicant demanded for partition, the respondents denied for the same. Therefore, he filed the main Suit. The 'B' and 'C' schedule properties are situated at Arakkonam and the petitioner is also having share over the said properties. The respondents are attempting to create encumbrances over the properties in favour of third parties. The 2nd defendant has been collecting rents from all the tenants, who are respectively occupying the prime 'A' schedule property at Sowcarpet and he is only enjoying the monthly rents collected from the 'A' schedule property without sharing the rental income with the applicant / Plaintiff. Therefore, the applicant has filed this application to appoint an Advocate Commissioner to collect the rents and to grant an order of temporary injunction restraining the respondents from creating encumbrance over the properties.



3. The respondents filed a **counter** stating that the respondents denied all the allegations made in the affidavit, except those that are specifically admitted herein. The properties situated in Nammalwarpet Street, Sowcarpet, Chennai is exclusively purchased by the mother of the applicant and the respondents 2 to 4 by selling her jewels. The applicant / Plaintiff never contributed any money to the tune of Rs.2 lakhs and he never contributed any pie to meet out the expenses as stated in the affidavit. After the twin daughters born to the applicant / Plaintiff, he got separated from the joint family and he has been living along with his wife and children separately and he never cared about the joint family. In fact, the 1st respondent / defendant expressed his desire to give a share to the Plaintiff in respect of 'A' schedule property, which was accepted by the 2nd defendant without any objection. The 1st respondent / defendant before executing the Settlement Deed dated 18.02.2016 called upon the Plaintiff and the respondents 2 to 4 to her house and after mutual discussion, executed the Settlement Deed dated 18.02.2016 in favour of the applicant / Plaintiff and the 2nd respondent / defendant. The 2nd respondent / defendant was taking care of the 1st respondent / defendant as well as the properties of Late B. Sankaran Naidu i.e., Suit C Schedule property and the property of the 1st respondent / defendant viz., Suit 'A' and 'B' properties. The 1st respondent / defendant executed the Settlement Deed settling 1/3 share in favour of the applicant / Plaintiff and 2/3 share share in favour of the 2nd respondent / defendant in the Suit 'A' Schedule property. After execution of Settlement Deed, the applicant /



Plaintiff did not show any care, love and affection to the defendants. The applicant / Plaintiff at any point of time acted upon the Settlement Deed executed in his favour and never exercised any right as the owner of the property settled in his favour.

3.1. Out of motherly love and affection, when the 1st respondent / defendant came to see the Plaintiff at his house, at that time, the Plaintiff cunningly got the jewels weighing about 50 sovereigns belonging to the 1st respondent / defendant, thereby, she could not stay in the house of the applicant / Plaintiff. The applicant / Plaintiff issued a Legal Notice dated 12.03.2024 and the same was suitably replied through a reply notice dated 17.04.2024. The 'B' Schedule property is the separate property of the 1st respondent / defendant. The applicant / Plaintiff and the other respondents / defendants have no right over the said 'B' schedule property. In respect of 'C' Schedule property, the defendants have no objection for 1/5 share. The 1st respondent / defendant is collecting rent in respect of 'A' Schedule property. Therefore, there is no need of appointment of an Advocate receiver to collect the details of tenants and rental advance and other maintenance charges. The said Settlement Deed has not been acted upon, thereby the Suit itself is not maintainable. Therefore, the applications are liable to be dismissed.

4. This Court heard both sides and perused the entire materials.



5. In this case, the applicant being the Plaintiff has filed the Suit for the reliefs of partition and separate possession, permanent injunction, to appoint an Advocate Commissioner and to direct the 2nd defendant to furnish the details of rental collections as well as rental advances collected by him from 'A' Schedule property and to pay 1/3 share to the Plaintiff accordingly. The applicant has filed these applications for grant of interim injunction not to create any encumbrance over the properties and the appointment of an Advocate receiver to collect rents from the properties. The respondents are none other than the own mother, brother and sisters of the applicant / Plaintiff. There is a family dispute between the parties in respect of the properties.

6. According to the applicant, the 'A' Schedule property was purchased by his father in the name of the 1st respondent / defendant, but the amount was contributed by the applicant and his father, thereby, the applicant is entitled to the share over the property. But the respondents denied the contributions made by the applicant for the purchase of 'A' Schedule property. Since the property stands in the name of the 1st respondent, whether the amount was contributed by the applicant / Plaintiff or his father, has to be tested through trial. It is also the contention of the applicant that the 1st respondent / defendant executed a Settlement Deed in favour of the applicant in respect of 1/3 share and the 2nd respondent / defendant in respect of 2/3 shares. While so, he filed the application for appointment of an Advocate receiver for collection of rent in



respect of his share and the respondents have denied the Settlement Deed and according to them, the Settlement Deed has not been acted upon and therefore, it is a matter of trial. At this stage, the Advocate Receiver cannot be appointed unless there are grounds to attract provisions of Order XL of code of Civil Procedure. There are no grounds to appoint an Advocate receiver and it is the matter of trial. Moreover, the Plaint itself contains the prayer to direct the 2nd defendant to furnish the details of rental collections as well as rental advances collected by him in the 'A' Schedule property, in respect of 1/3 share to the Plaintiff. While so, the prayer for appointment of Advocate receiver cannot be considered at this stage. Therefore, it is not appropriate to appoint an Advocate receiver.

7. As far as the prayer in respect of not to create any encumbrance or alienation is concerned, the 'A' Schedule property belongs to the 1st respondent / defendant and she settled the said property in favour of the applicant / Plaintiff in respect of 1/3 share and 2/3 share to the 2nd respondent / defendant. It is not possible to create encumbrance in respect of the share of the applicant and if any alienation is made, it is subject to the outcome of the result of the Suit. As far as 'B' Schedule property is concerned, according to the respondents, it is exclusively belongs to the 1st respondent / defendant, while so it is matter of trial. As far as 'C' Schedule property is concerned, the defendants have no objection to grant partition. The applicant has not



established that the respondents / defendants are making attempts to alienate the properties. There are no prima facie material to show that the respondents are making attempts to alienate the properties and no prima facie case is made out and the balance of convenience is also not lying in favour of the applicant / Plaintiff and no irreparable loss would be caused to the applicant, if injunction is not granted. Therefore, this Court is of the opinion that these applications have no merits and deserve to be dismissed.

8. Accordingly, these *Original Applications are dismissed.*

MJS

19-02-2026



WEB COPY

OA Nos. 615 and 616 of 2



P.DHANABAL J.

MJS

**OA Nos. 615 of 2025
and 616 OF 2025
in
CS NO. 134 OF 2025**

19-02-2026