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C.M.A(MD)Nos.622, 623, 624, 625 and 626 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **12.02.2026**

Pronounced on : **27.03.2026**

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A(MD)Nos.622, 623, 624, 625 and 626 of 2025

C.M.A(MD)No.622 of 2025

1.K.Maheswari,
W/o.Late.M.Kandhaswami,
At No.96, Bharathidasan Salai,
Cantonment,
Tiruchirappalli - 620 001.

2.K.Prabu,
S/o.Late M.D.Kandhaswami,
At No.96, Bharathidasan Salai,
Cantonment,
Tiruchirappalli - 620 001.

...Appellants/Respondents/
Plaintiffs

Vs.

K.Inbarajan,
S/o.Late M.D.Kandhaswami,
Old No.23, New No.16, Second Main Road,
Shri Iyyappa Nagar, Virugambakkam,
Chennai - 600 092.

...Respondent/Petitioner /
Defendant

C.M.A(MD)No.623 of 2025

1.K.Maheswari,
W/o.Late.M.Kandhaswami,
At No.96, Bharathidasan Salai,
Cantonment,
Tiruchirappalli - 620 001.



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2.K.Prabu,
S/o.Late M.D.Kandhaswami,
At No.96, Bharathidasan Salai,
Cantonment,
Tiruchirappalli - 620 001.

...Appellants/Respondents/
Plaintiffs

Vs.

K.Inbarajan,
S/o.Late M.D.Kandhaswami,
Old No.23, New No.16, Second Main Road,
Shri Iyyappa Nagar, Virugambakkam,
Chennai - 600 092.

...Respondent/Petitioner/
Defendant

C.M.A(MD)No.624 of 2025

1.K.Maheswari,
W/o.Late.M.Kandhaswami,
At No.96, Bharathidasan Salai,
Cantonment,
Tiruchirappalli - 620 001.

2.K.Prabu,
S/o.Late M.D.Kandhaswami,
At No.96, Bharathidasan Salai,
Cantonment,
Tiruchirappalli - 620 001.

...Appellants/1st & 2nd Respondents/
Plaintiffs

Vs.

1.K.Inbarajan,
S/o.Late M.D.Kandhaswami,
Old No.23, New No.16, Second Main Road,
Shri Iyyappa Nagar,
Virugambakkam,
Chennai - 600 092.

...1st Respondent/Petitioner/
Defendant



C.M.A(MD)Nos.622, 623, 624, 625 and 626 of 2020

2. Chithra,
No.13, Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy – 620 001. (Nr Palakarai Railway Gate)
3. Inico Mary Sahayam,
No.13(A), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy - 620 001.
4. Antony Nelson,
No.13(B), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy - 620 001.
5. Durga Devi Sahayarani,
No.13(C), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy – 620 001.
6. Kavitha,
No.13(D), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy – 620 001.
7. Rajalakshmi,
No.13(E), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy – 620 001.
8. V.Jayaraman,
No.13(F), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy - 620 001.
9. Mary Vijaya,
No.13(G), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy 620001.



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10.Vijaya Kumar,
No.13(H), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy - 620 001.

11.Sundari,
No.13(I), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy - 620 001.

12.Selvi,
No.13(J), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy – 620 001.

13.Anand,
No.13(K), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy – 620 001.

14.Mustafa,
No.13(N), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy 620 001.

15.Karthik,
No.13(O), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy – 620 001.

16.Govindaraj,
No.13(P), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy - 620 001.

17.Meenakshi Sundaram,
No.13(Q), Kooni Bazaar Main Road,
Beemanagar, Palakarai,
Trichy – 620 001.

...Respondents 2 to 17/
Respondents 3 to 18



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C.M.A(MD)No.625 of 2025

1.K.Maheswari,
W/o.Late.M.Kandhaswami,
At No.96, Bharathidasan Salai,
Cantonment,
Tiruchirappalli - 620 001.

2.K.Prabu,
S/o.Late M.D.Kandhaswami,
At No.96, Bharathidasan Salai,
Cantonment,
Tiruchirappalli - 620 001.

...Appellants/1st & 2nd Respondents/
Plaintiffs

Vs.

1.K.Inbarajan,
S/o.Late M.D.Kandhaswami,
Old No.23, New No.16, Second Main Road,
Shri Iyyappa Nagar,
Virugambakkam,
Chennai - 600 092.

...1st Respondent/Petitioner

2. M.S.Shakthi Kumar,
Chief Manager, GVTC, NLC,
42B, Type 3, Block 12,
Neyveli Town - 607 803,
Cuddalore District,
Also At
No.1, Samuthuram, Main Road Near Arch,
(1st House Near Samuthram Arch),
Kulumani-Village,
Srirangam Taluk,
Trichy District - 639 103.

3. Vijayraj @ Kanagaraj,
(1st House Near Samuthram Arch),
Kulumani-Village,
Srirangam Taluk,
Trichy District - 639 103.

...2nd & 3rd Respondents/3rd & 4th
Respondents



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C.M.A(MD)No.626 of 2025

1.K.Maheswari,
W/o.Late.M.Kandhaswami,
At No.96, Bharathidasan Salai,
Cantonment,
Tiruchirappalli - 620 001.

2.K.Prabu,
S/o.Late M.D.Kandhaswami,
At No.96, Bharathidasan Salai,
Cantonment,
Tiruchirappalli - 620 001.

...Appellants/Petitioners/Plaintiffs

Vs.

K.Inbarajan,
S/o.Late M.D.Kandhaswami,
Old No.23, New No.16, Second Main Road,
Shri Iyyappa Nagar,
Virugambakkam,
Chennai - 600 092.

...Respondent/Respondent/Defendant

COMMON PRAYER:- Civil Miscellaneous Appeals filed under Order XLIII Rule 1(R) of CPC, to set aside the order, dated 07.02.2025, made in I.A.Nos.2, 3, 4 of 2023, 5 of 2024 and 6 of 2025 in O.S.No.359 of 2023 respectively on the file of the II Additional District Judge, Tiruchirappalli and allow these appeals.

For Appellants
in all CMAs

: Mr.K.S.Vamsidhar

For Respondent/s
in all CMAs

: Mr.N.Ilango



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COMMON JUDGMENT

These Civil Miscellaneous Appeals are filed against the common fair and decretal order, dated 07.02.2025 passed in I.A.Nos.2, 3 & 4 of 2023, 5 of 2024 and 6 of 2025 in O.S.No.359 of 2023 on the file of the II Additional District Court, Tiruchirappalli.

2.The appellants in all Civil Miscellaneous Appeals are the plaintiffs in O.S.No.359 of 2023. The respondent is the defendant in that suit.

3.The brief facts of the case:

The appellants/plaintiffs have filed the suit in O.S.No.359 of 2023 for partition seeking their 2/3rd share in the suit properties. The appellants/plaintiffs have pleaded in the plaint that the suit properties were allotted to the share of M.D.Kandasamy under registered partition deed, dated 27.10.1959 entered into among himself, his father and his brothers. He died on 10.03.2017. The 1st plaintiff is his wife. The 2nd plaintiff and the defendant are his sons through 1st plaintiff. The 1st plaintiff is residing in the family house at Trichy, and the 2nd plaintiff is residing along with her and looking after the 1st plaintiff. The defendant is residing at Chennai without caring for the 1st plaintiff/mother. The 1st plaintiff, being widow of



M.D.Kandasamy, is entitled to be maintained out of estate of her husband until the properties are partitioned. The 1st plaintiff is receiving income from the suit properties. Due to old age, she is not able to maintain herself and also she is not able to repair the suit properties as they have become very old. The plaintiffs and the defendant are entitled to 1/3rd share each in suit properties. Hence, the 1st plaintiff suggested the 2nd plaintiff and the defendant for amicable division of suit properties, so that she could sell her allotted share for her own and medical expenses. The 2nd plaintiff has agreed for partition, but the defendant is not amenable for partition as he seeks unreasonable demands. Hence, the plaintiffs have filed the suit for partition of their 2/3 share in the suit properties.

3.1. Pending suit, the defendant has contended that since the suit properties are ancestral properties, he, the 2nd plaintiff and their father M.D.Kandasamy were entitled to 1/3rd share each; their father died on 10.03.2017 intestate and also leaving savings of Rs.24 lakhs; on demise of their father, their father's 1/3rd share goes to the plaintiffs and the defendant and hence, the defendant is entitled to 4/9th share in the suit properties. He further contended that number of tenants are residing in the suit properties, taking advantage of absence of the defendant, the plaintiffs



enjoyed the entire rental income derived from the suit properties and also encumbered the undivided suit properties by receiving about Rs.30 lakhs.

Hence, the defendant has filed the following petitions seeking for interim reliefs.

I.A. Nos.	Provision of Law	Relief
2/2023	Under Or.39 R.1 & 2 and Sec.151 of CPC	To grant an injunction restraining the respondents/plaintiffs, their men, etc., from collecting 4/9 share of rents from tenants of the suit properties due to the petitioner/defendant till the disposal of the suit.
3/2023	Under Order 39 R.1 & 2 and Sec.151 of CPC.	To grant an injunction restraining the respondents/plaintiffs from creating any 3rd party inference to the suit properties by way of lease, inducing any new tenants, alienation, or encumbrance without the concurrence, knowledge and written consent of the petitioner/defendant till the disposal of the suit.
4/2023	U/s.151 of CPC	To direct the respondents 3 to 18 (tenants) to pay 4/9th share of rent directly to the petitioner/defendant till the disposal of the suit.
5/2024	Under Or.39 R.1 & 2 and Sec.151 of CPC	To grant injunction restraining the respondents 3 & 4/plaintiffs, their men etc., from trespassing, dealing, using, encumbering, disturbing peaceful possession in the undivided common property being the land at Puthu Thiruthu Kattalai at Kulumani comprised in S.No.233/4 (1.48 acres) and S.No.233/7 (Old S.No.237/7) (0.24 acres) forming part of the item 3 of suit property till the disposal of the suit.



3.2. These petitions were resisted by the respondents/plaintiffs (appellants herein) by filing a counter and objected that the defendant did not take care of mother, but he wanted a larger share, the defendant being a senior counsel is using the influence of police officials and indulging in illegal activities by way of threats and saying the 1st plaintiff/mother would be thrown away from the suit property. The rent fetches only Rs.50,000/-, which is spent on maintenance and repair works of the suit properties as they have become very old. Rent control proceedings are pending against some of the tenants as they did not pay rent. So, the respondents/plaintiffs (appellants herein) have filed petition in I.A.No.6/2025 under Order XL Rule 1 of CPC r/w Sec.19, 20 and 21 of the Hindu Adoption and Maintenance Act, 1956 to appoint the 1st petitioner/1st plaintiff as the receiver for the suit properties and thereby permit her to collect the rent from the tenants of the suit properties and after paying for repair, maintenance and taxes, permit the 1st petitioner/1st plaintiff to appropriate the remaining amount towards her maintenance and medical expenses till the disposal of suit.

4. Both sides have not let in any oral or documentary evidence in these applications before the trial Court.



5. After hearing both sides, the Trial Court has passed common order on 07.02.2025 in I.A.Nos.2, 3, 4 of 2023, 5 of 2024 and 6 of 2025 in the following terms.

(a) Considering the nature of relief and also considering the fact that the 1st respondent/ mother has claimed maintenance amount, in the interest of the justice, it is ordered that the petitioner/ defendant and respondents/ plaintiffs are each entitled to get 1/3 share in the total monthly rental amount to be collected from the respondents 3 to 18/tenants from January 2025 till the disposal of the suit.

(b) The plaintiffs and the defendant have to open a joint savings bank account in their joint name immediately, in any one of the nearest nationalized bank. The respondents 3 to 18/ tenants in I.A. No. 4/2023 are directed to deposit the monthly rent in that joint account from January 2025 on- words till the disposal of the suit. Standing instruction has to be given by all the three persons viz plaintiffs and the defendant to credit 1/3 share each to their separate bank accounts from the said joint account.

(c) If any rent amount is collected directly from any of the tenant either by the plaintiffs or by the defendant, the same will also to be remitted in that joint account alone, from January



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2025 month on-wards till the disposal of the suit.

(d) In respect of the repair and maintenance and for paying government taxes all the three persons have to jointly bear the said expenses from January 2025 on-wards till the disposal of the suit.

(e) The petitioner/ defendant is at-liberty to work out his remedy to get means profit for his 1/3 share amount, from the date of the petition till December 2024, separately under Order 20 Rule 12 of CPC, after disposal of the suit. Accordingly I.A. No. 2/2023 and I.A.No. 4/2023 are disposed of.

(f) In respect of the prayer sought for in IA. 6/205 to appoint the 1st plaintiff as receiver cannot be granted in view of the order passed above. The mother/1st plaintiff is entitled to get 1/3rd monthly rental amount from the joint account to be opened in this regard. Even after receipt of the 1/3rd monthly rental income, if she feels that the same is not sufficient for her maintenance, she is at liberty to initiate appropriate legal proceedings against her son(s) by method known to law.

(g) In respect of prayer sought for in IA.No.3/2023, the petitioner / Defendant being a co -sharer is entitled to get an order of interim injunction in his favour restraining the respondents/plaintiffs from creating any 3rd party



inference to the suit schedule properties by way of lease inducting any new tenants alienation or encumbrance without the concurrence, knowledge and written consent of the petitioner/defendant from the date of the order till the disposal of this suit.

(h) In respect of the prayer sought for in IA.No.5/2024, the petitioner / defendant is entitled to get ad -interim injunction as prayed for against the 3rd and 4th respondents alone, in respect of the property described therein.

(i) The parties are directed to bear their own cost.

6. Aggrieved by the common order of the Trial Court, the appellants/plaintiffs moved this Court by way of these Civil Miscellaneous Appeals.

7. Heard both sides and perused the records in these Civil Miscellaneous Appeals.

8. The learned counsel appearing for the appellants/plaintiffs has argued that the appellants/plaintiffs are ready to proceed with the trial, but the respondent/defendant is not ready to co-operate for trial, he is only interested



in collecting 4/9th share in the rental income without regard to the payment of taxes, repairs and without providing maintenance to the mother (1st plaintiff).

There is no huge income from the suit properties, as alleged by the defendant. There is income only to the tune of Rs.45,000/-. The plaintiffs are ready to value and ready to furnish accounts. The trial Court failed to consider the facts of the case, instead focusing only on the citations produced by the respondent, even though those citations are not applicable to the facts of the case. The 1st plaintiff is old and has many health issues and she is depending only on this rental income. After incurring payments towards taxes and other maintenance of properties, only a small amount is available as rent. The defendant has never bothered about giving any maintenance to his mother and he is only interested in his share of the properties and rent. The trial Court erred in observing that if the rental income was insufficient, the 1st plaintiff might initiate legal proceedings against her sons, which seems to suggest that the 1st plaintiff to give money first to her sons and then file a separate application to get back money from her sons. Such a procedure is totally unwarranted. The trial Court failed to note that some tenants are not paying rent due to rent control proceedings. The orders of the trial Court are unworkable. The parties are not on good terms and therefore, only one person, i.e., the mother, should be allowed to withdraw, as she is solely depending on the rental income. The 1st plaintiff is entitled to interim



maintenance from the estate of her husband until his properties are partitioned in this case. The trial Court has not considered all these aspects, but simply ordered in all these applications, which is against the principle of law. Therefore, the impugned order of the trial Court has to be set aside and this Civil Miscellaneous Appeals may be allowed. In support of his arguments, the learned counsel for the appellants/plaintiffs has relied on the following rulings:

(1) AIR Online 2021Chh 960 in the case of Amar Pal Singh Broka & Ors. /v/ Amrit Kaur and Anr.

(2) AIR 2002 Andhra Pradesh 130 in the case of P.Srinivasa Rao /v/ P. Indira and Anr.

9.The learned counsel for the respondent/defendant submitted that the defendant is ready for settlement or trial of the case. The 2nd plaintiff is in possession of the entire property and is enjoying all the properties, including the income derived from the properties. The 2nd plaintiff is using the 1st plaintiff as a doll to dance according to his wish. The defendant is ready to give his share amount towards the maintenance of his mother. The share allotted from ancestral properties to M.D.Kandasamy will be the ancestral properties as regards his male issue. It is also well settled that the property in the hands of a sole coparcener allotted to him in partition shall be his separate



property, for the same shall revive only when a son is born to him. So, the defendant and the 2nd plaintiff are legally entitled to a 4/9th share each. But the 2nd plaintiff is trying to get a 2/3rd share. The defendant has been waiting for 10 years. The trial Court has properly considered the averments and case of the parties and correctly passed the impugned order in view of the legal propositions in the rulings relied on by either side. If this Hon'ble Court deems fit to direct the trial Court to dispose of the case within a stipulated time. Therefore, these Civil Miscellaneous Appeals may be dismissed. In support of his argument, the learned counsel for the respondent/defendant would relies on the following rulings:

(1)Judgment in Cvl.Appeal No.5415 of 2011 of Hon'ble Supreme Court in the case of Shyam Narayan Prasad /v/ Krishna Prasad & Ors.

(2)Judgment of High Court of Madras in S.A.No.945 of 2010 dated 27.05.2021 in the case of V. Periyasamy (died) and Ors. /v/ Minor Sivasubramaniam & Ors.

(3)2018 SCC Online Mad 4599 in the case of Paulraj /v/ Ramalakshmi

(4)Judgment of Hon'ble Supreme Court in Cvl.Appeal No.5124 of 2019 in the case of Arshnoor Singh vs. Harpal Kaur and Ors.



10.On hearing both sides and on perusal of the records, it is clear that the appellants/plaintiffs have filed the suit for partition. The plaintiffs claim 1/3 share each, whereas the defendant claims 4/9th share. The plaintiffs' case is that the suit properties were allotted to the share of M.D.Kandasamy, under a registered partition deed, dated 27.10.1959, entered between himself and his father & brothers and so the suit properties are his absolute properties. The defendants contend that the suit properties are joint family properties held by M.D.Kandasmy.

11.On perusal of the impugned order, the trial court has correctly held that 'whether the suit properties are the joint family properties or absolute properties of M.D.Kandasamy's case could be decided only at the time of final disposal of the suit after adducing oral and documentary evidence on either side. The trial Court rightly observed in its order that, without any oral and documentary evidence, the exact collection of rent cannot be determined in this petition. The appellants/plaintiffs have not produced any material to show the actual income derived from the suit properties and also the 1st plaintiff is in ailment, who is living only with the rental income of the suit properties. The defendant pleaded that the plaintiffs alienated some portion of the undivided suit properties to the tune of Rs.30 lakhs and also the said M.D.Kandasamy died, leaving Rs.24 lakhs as his savings. These allegations



are not specifically denied by way of filing any reply statement and they have not been *prima facie* disproved by producing any material, much less any revenue records or encumbrance certificates relating to the properties allotted to M.D.Kandasamy. Therefore, considering the rulings relied on therein and in the interest of justice, the parties are entitled to 1/3rd share each of the total monthly rental income collected from tenants and the defendant is at liberty to work out his remedy to get mesne profit separately under Order 20 Rule 12 of CPC., after disposal of the suit.

12.As there are rival claims over the suit properties and rental income and also considering the maintenance of the 1st plaintiff, the trial Court has correctly ordered the opening of a joint account and directed the tenants to deposit the rent into that joint account and also directed them to withdraw the amount with knowledge of the other two. Admittedly, the 1st plaintiff is entitled to maintenance, but the trial Court has directed that her 1/3rd share be withdrawn from the joint account. The respondent/defendant has admitted that he is ready to pay his share of the amount towards the maintenance of the 1st plaintiff. Therefore, the citations relied on by the appellants/plaintiffs are not applicable to the facts of the case. Also, the citations relied on by the respondent/defendant are related to the right of claim over ancestral properties allotted to the coparcener (his father M.D.Kandasamy), and since



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the same has to be decided after conclusion of trial, those citations are not applicable to the facts of these interlocutory petitions.

13.There is no error in the order of the trial Court. The learned counsel for the respondent/defendant has not raised any objection for the same and has not preferred any cross appeal. Therefore, this Court has not found any irregularity or infirmity in the impugned order of the trial Court and the same is upheld.

14.In the result, these Civil Miscellaneous Appeals are dismissed. The common fair and decretal order, dated 07.02.2025 passed in I.A.Nos. 2, 3 & 4 of 2023, 5 of 2024 and 6 of 2025 in O.S.No.359 of 2023 on the file of the II Additional District Court, Tiruchirappalli, is confirmed. No costs.

27.03.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The II Additional District Court,
Tiruchirappalli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
C.M.A(MD)Nos.622, 623, 624, 625 and 626 of 2025

27.03.2026