

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
AT CHENGALPATTU**

**Present: Thiru.A.Saravanakumar.,B.A.B.L.,
Additional District Judge,
Chengalpattu.**

Monday, the 27th day of April 2026

I.A.No.8/2025

in

O.S.No.37/2011

CNR.No: TNCG01-000328-2011

K.Delli

...Petitioner/6th defendant

-Vs.-

1.Kannamani Ammal

... 1st Respondent/Plaintiff

2.Kasthuri Ammal (died)

3.V.Nagarajan (died)

4.Ramani

5.V.Gnansundari

6.K.Muralidharan

7.K.Dhansekar

8.T.Meenakumari

9.N.Arulmozhi

10.N.Vasanthakumar

11.N.Sakthivel

12.N.Vinothkumar

...Respondents/Defendants

This Petition coming before this court on 2.4.2026 for final hearing in the presence of Mr.G.Veerapathiran, counsel for the Petitioner/6th defendant and Mr.B.Baskar, counsel for 1st Respondent and endorsed as no counter. The 2nd and 3rd respondents died pending the suit. The 5th and 7th respondents remained ex parte. Mr.V.Nandakumar, counsel for 4th , 9th to 12th respondents and Mr.G.G.Ramesh, counsel for 6th and 8th respondents and upon hearing the arguments of both sides and perusing the material records and having stood over for consideration till this day, this Court delivered the following:-

ORDER

This petition is filed under Order 40 Rule 1 read with section 151 CPC to appoint an advocate commissioner/Receiver directing him to collect all the rental income from the tenants namely first shop (2 shops), eighth shop, Ninth shop and Tenth shop (ground floor 2 shops) (Upstairs 7 shops) and from the other tenants who are all residing in the above said premises and also from the godown inside and deposit the same to the suit account.

1. The petition and counter perused.
2. Both sides heard.
3. The points for consideration:

Upon perusing the petition and counter this court has framed the following point for consideration

“Whether the petition is to be allowed as prayed for”?

4. Answer to the point:

The petitioner is the 6th defendant in the original suit. The 1st respondent is the plaintiff therein. The 2nd to 12th respondents are the other defendants therein. The original suit was filed for the relief of preliminary decree for partition and also for the declaration in respect of a Will dated 18.11.1993. After the settlement of issues, the 1st respondent/plaintiff let in evidence and closed his side. Subsequently, the case was posted for D3 side evidence. At this stage, the petitioner has come forward with this application under Order 40 Rule 1 CPC for the appointment of receiver.

5. The petitioner submits that his mother Kasthuri Ammal's younger sister Kannamani Ammal filed the original suit for the relief of partition against his mother, her sister Ramani and brother Nagaraj. Pending the suit, Kasthuri Ammal died and all her legal heirs were brought on record. The petitioner further submits that there are 10 shops in the ground floor and upstairs of the suit property wherein there are tenants inducted into the same. It is further submitted that all the rent were collected by the 2nd respondent and his legal heirs only and the amount would fetch a sum of Rs.10,00,000/- as rent per month. Though such a huge amount was collected, the 2nd respondent and legal heirs are not paying any rent to them. Therefore, an appointment of receiver is necessary to collect the rent.

6. The 2nd and 3rd respondents died pending the suit. 5th and 7th respondents remained ex parte. The 1st respondent has endorsed as no counter. However 4th respondent, 9th to 12th respondents filed counter. It is

their submissions that the present petition is wholly prematured and misconceived. The petitioner has no exclusive or independent right to seek appointment of a receiver when the suit for partition is still pending and shares have not been determined. It is further stated that though the petitioner contends that sum of Rs.10,00,000/- was received as rent per month no substantial proof is produced. Moreover, the names of the tenants in the petition mentioned property is not at all stated. Therefore, the above respondents submit that the petition may be dismissed.

7. This court has considered the submissions of the both sides. As stated supra, the petition has been filed under Order 40 Rule 1 CPC for the appointment of receiver. The term receiver has not been defined in CPC. However, it is held in several cases that a receiver is an impartial person appointed by the court to collect and receive the rents, issues and profits of land etc., pending the proceedings which it does not seem reasonable to the court that either party should collect or receive, or for enabling the same to be distributed among the persons entered it. Order 40 Rule 1(a) makes it clear that when it appears to the court to be just and convenient it may appoint a receiver. A survey of judgment rendered by Hon'ble High Court and the Supreme Court would make it very clear that the following principles must be borne in mind before a receiver is appointed by the court:-

(i) The appointment of a receiver is a discretionary power of the court. (ii) It is a protective relief. The object is preservation of the property

in dispute pending a judicial determination of the rights of the parties to it.

(iii) A receiver should not be appointed unless the plaintiff *prima facie* proves that he has very excellent chance of succeeding in the suit.

(iv) It is one of the harshest remedies which the law provides for the enforcement of rights, and therefore, should not be lightly resorted to.

Since it deprives the opposite party possession of property before a final judgment is pronounced, it should only be granted for the prevention of a

manifest wrong or injury. A court will never appoint a receiver merely on

the ground that it will do no harm. (v) Generally, an order appointing a

receiver will not be made where it has the effect of depriving the defendant

of a *de facto* possession, since that might cause irreparable loss to him. But

if the property is shown to be in *medio*, that is to say, in enjoyment of no

one, it will be in the common interest of all the parties to appoint a receiver.

(vi) The court should look at the conduct of the party who makes an

application for appointment of a receiver. He must come with clean hands

and should not have disintitiled himself to this equitable relief by laches,

delay or acquiescence.

8. Keeping the above principles in mind, it is to be understood that

appointment of receiver is a discretionary power of the court and it should

not be exercised by mere asking of a party and it must be exercised

cautiously, judiciously and for the purpose of serving ends of justice. In the

case on hand, the petitioner states that the 1st respondent is receiving more

than 10,00,000/- as a rent. However, there is no proof produced for the

same. Similarly the petitioner has not mentioned the name of the tenants who are in occupation in the suit schedule property. Similarly, the petitioner has not stated the exact rents which are being paid by them. Moreover the petitioner has not explained as to why he has not added the tenants as a party to the proceedings. Without adding the tenants as parties the petitioner has filed the present application. Considering the entire facts and circumstances involved in this application, this court is of the view the discretion vested with this court for the appointment of the receiver cannot be exercised. While so, this court is inclined to dismiss the application.

In the result, the petition is dismissed. No costs.

Dictated to the Shorthand writer and typed by her and corrected and pronounced by me in open Court, this the 27th day of April 2026.

Additional District & Sessions Judge
Chengalpattu.

Both sides Exhibits and Witnesses: **Nil**

Additional District & Sessions Judge
Chengalpattu.

Draft/Fair Order
I.A.No.8/2025 in
O.S.No.37/2011
Dated:27.04.2026
ADJ/CPT
