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CMP NO. 28399 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-11-2025

CORAM

**THE HONOURABLE MR.JUSTICE P.B. BALAJI**

**CMP NOs. 28395, 28399 and 28401 of 2025**

**IN**

**AS NO. 64 OF 2023**

Ramajayam

S/o. Krishna Udayar, No. 23, Pillayar Koil Street, Alathur Village  
and post, Chengam Taluk.

petitioner/Appellant

Vs

Gandhi

S/o. Krishna Udayar, No.1456, Kubera Nagar (Behind Kubera  
Lingam), Vengikkal Village and Post, Tiruvannamalai District.  
Krishna Udayar (Died). and 5 Others

Respondent(s)

**For Appellant(s):**

V.Jayaprakash Narayanan

**For Respondent(s):**

Mr.K.Selvakumar

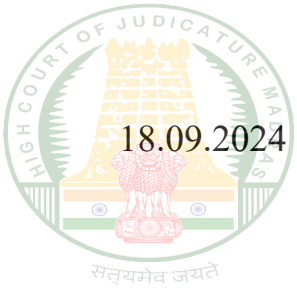
RR.2 to 4

R.1, R.5, and R.6 – No appearance

**COMMON ORDER**

**CMP No.28395 of 2025:**

Petition is filed to recall the decree and judgment in A.S.No.64 of 2023 dated



18.09.2024 and 04.10.2024.



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**CMP No.28399 of 2025:**

Petition is filed to suspend the decree and judgment made in A.S.No.64 of 2023 dated 18.09.2024 and 04.10.2024.

**CMP No.28401 of 2025:**

Petition is filed to note and take on record the death of Krishna Udayar, the 1<sup>st</sup> respondent/1st defendant in A.S.No.64 of 2023.

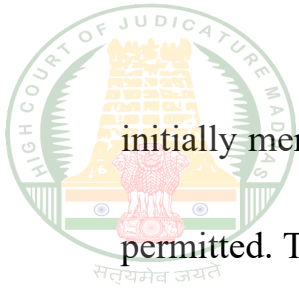
2. The suit for partition in A.S.No.64 of 2023 was dismissed by the trial Court. Aggrieved by the same, the first respondent, as plaintiff in the suit, challenged the dismissal in A.S.No.64 of 2023.

3. Admittedly, some of the properties belonging to the family have been



alienated pending the suit for partition. When the appeal was listed for hearing before this Court, a Joint Memo of Compromise was presented and this Court was informed that the parties have amicably settled their disputes. This Court, by order dated 22.08.2024 recorded that the settlement was with regard to the defendants 6 and 7, who are the purchasers of the property from the defendants 1 to 5. This Court directed the learned Principal District Judge, Tiruvannamalai to summon the parties and verify the terms of compromise and report the compromise before 09.09.2024.

4. On 18.09.2024, the matter was listed before this Court. The purchasers' counsel informed this Court that the matter has been settled and in terms of the directions issued by this Court on 22.08.2024, the joint memo of compromise has been recorded by the learned Principal District Judge, Tiruvannamalai. Recording the said submission that the matter has been settled amicably between the parties, this Court disposed of the appeal as settled out of Court by judgment dated 18.09.2024. Thereafter, it appears that a mention has been made by the appellant's counsel contending that the memo of compromise is to form part of the decree and the properties which were not

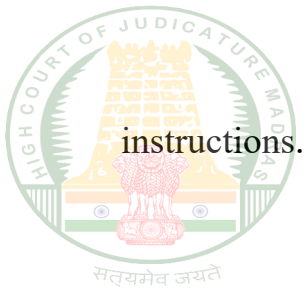


initially mentioned in the compromise memo should also be included and the same was permitted. This order was not passed in the presence of the present applicant.

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5. Mr.V.Jayaprakash Narayanan, learned counsel for the petitioner would submit that the petitioner was the fourth defendant in the suit and he has never engaged any counsel and he has also not signed the memo and he was under the impression even when the learned District Judge summoned him, that the compromise was only pertaining to the purchasers who are the defendants 6 and 7 and therefore, he did not raise any objection at that point of time. However, now, subsequent to the order dated 04.10.2024, it is brought to the knowledge of the petitioner that the other properties have also been included in the compromise memo and based on the same, the first respondent is attempting to alienate the properties.

6. Mr.K.Selvakumar, learned counsel for the respondents states that since the appeal has been disposed of recording the terms of compromise, the counsel has no



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7. I have gone through the affidavit filed in support of the petition, seeking to recall the decree and judgment in A.S.No.64 of 2023. As there has been fraud and collusion in bringing about the compromise before this Court, Notice to the respondents, returnable by 05.01.2026. Private Notice is also permitted.

8. In view of the above.

**CMP No.28395 of 2025:** Notice to the respondents, returnable by 05.01.2026.

Private Notice is also permitted.

**CMP No.28399 of 2025:** In view of the above, I am inclined to suspend the judgment and decree passed in A.S.No.64 of 2023. Accordingly, the decree and judgment made in A.S.No.64 of 2023 dated 18.09.2024 and 04.10.2024 is suspended.

**CMP No.28401 of 2025:** The petition is ordered.

Post on 05.01.2026.



27-11-2023

To

1. Gandhi

S/o. Krishna Udayar, No.1456, Kubera Nagar (Behind Kubera Lingam),  
Vengikkal Village and Post, Tiruvannamalai District. Krishna Udayar  
(Died).

2. PANCHAVARNAM

S/o. Krishna Udayar, No. 23, Pillayar Koil Street, Alathur Village and post, Chengam  
Taluk, Tiruvannamalai District.

3. MOORTHY

S/o. Krishna Udayar, No. 23, Pillayar Koil Street, Alathur Village and post, Chengam  
Taluk,  
Tiruvannamalai District.

4. BANUMATHI

W/o. Subramani, No. 23, Pillayar Koil Street, Alathur Village and post, Chengam Taluk,  
Tiruvannamalai District.

5. Susai Raj

S/o. Solomon Naidu, Res. at C. Namiyandal Village, (Vis) Kanji, chengam Taluk,  
Tiruvannamalai District.

6. LOURDHUMARY

W/o. M.S. Losin Raj, Res. at C. Namiyandal Village, (Vis) Kanji, chengam Taluk,  
Tiruvannamalai District.



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**P.B.BALAJI,J**

sr

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in A.S.No.64 of 2023**

**27.11.2025**