IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.05.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

O.S.A.No.445 of 2018

1.K.Pugazhenthi
Residing at Door No.14/11,
Sakthi Vinayagar Koil Street,
MGR Nagar, Chennai 600 078.

2.P.Janakiraman,
Residing at Door No.1,
Thiruvalluvar Salai, 3rd Street,
Nesapakkam, Chennai 600 078. ... Appellants

Vs

1.Administrator General of Tamil Nadu,
Having office at Annex to the City Civil Court Buildings,
High Court Campus, Chennai 600 014.

2.J.Deepa,
No.13, Sivagnanam Street,
T.Nagar, Chennai -17.

3.J.Deepak,
No.13, Sivagnanam Street,
T.Nagar, Chennai -17.

(R2 & R3 is suo motu impleaded as party
respondents vide Court Order dated 15.11.2018
made in O.S.A.No.445 of 2018)

4.The Principal Chief Commissioner of Income Tax, Chennai,
121, M.G.Road, Nungambakkam, Chennai 34.

5.The Directorate of Enforcement (Chennai Zone)
2nd & 3rd Floors, C Block, Murugesa Naicker Office Complex,
84, Greams Road, Thousand Lights, Chennai 600 006.

6.The Secretary to Government,
Tamil Development and Information Department,
Secretariat, Fort St. George, Chennai.

R4 to R6 is suo motu impleaded as party respondents
vide Court order dated 02.01.2019 made in O.S.A.No.445/2018

… Respondents

PRAYER : Appeal against the fair and decreetal order passed by the learned Judge, dated 09.01.2018 made in O.P.Diary No.35654 of 2017.

For Appellants : Mr.S.Nandakumar

For Respondents : Mr.M.Baskar (for R1)

Mr.Sai Kumaran (for R2)

Mr.S.L.Sudarsanam (for R3)
Mr.A.P.Srinivas (for R4)

Mr.Rajnish Pathiyil (for R5)

Mr.Vijay Narayan, Advocate General
Asst. by Mr.T.M.Pappaiah (for R6)
Special Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The present Appeal has been filed against the fair and decreetal order dated 09.01.2018 passed by the learned Judge in O.P.Diary No.35654 of 2017.

2.Late Chief Minister Dr.J Jayalalithaa was hospitalised and she died in Apollo Hospital on 05.12.2016 due to health complications. Since she was unmarried, the question of who is the legal heir arose. Since there was no petition filed before any Court claiming the properties of Late Chief Minister Dr.J Jayalalithaa by close relatives, the appellants' claiming themselves as the members of AIADMK party emotionally attached with the leadership of the deceased filed the petition in OPD.No.35654 of 2017 under Section 217, 253, 254 and 278 of Indian Succession Act, 1925 for the grant of Letters of Administration without Will for Administration of properties and credits of Late Dr.J Jayalalithaa estimating the worth about a sum of Rs.913,41,68,179.01/-

3.The said petition was posted for maintainability before the learned Single Judge and the learned Single Judge by virtue of the impugned order rejected the OP at the diary stage itself as not maintainable as the petition lacked bonafides. Against the said order passed by the learned Single Judge, the present appeal has been filed.

4.During the course of the hearing, this Court thought it fit to implead Mr.J.Deepak and Ms.J.Deepa who are the brother's children of Late Chief Minister Dr.J Jayalalithaa as 2nd and 3rd respondents and the Principal Commissioner, Income Tax Department; Director of Enforcement (Chennai zone) and Government of Tamil

Nadu, Represented by its Secretary, Tamil Development and Information Department as respondents 4 to 6, for proper adjudication of the issue involved in the appeal.

5.Mr.N.S.Nandakumar, learned counsel appearing on behalf of the appellant would submit that they had raised necessary pleadings in the petition and filed an affidavit of assets of the deceased and therefore, the petition should not have been rejected at the diary stage itself. As per Section 253 of the Indian Succession Act, 1925, this Court can make appointment of administrator to administer with limited power to collect and preserve the properties of the deceased and either the appellants or the Administrator General can be appointed under Section 254 of the Act. As per Section 278, Letters of Administration can be granted to the appellants. Section 236 of the Act prohibits issuance of the Letters of Administration to the minors or the persons with unsound mind. Therefore, there is no prohibition under the Indian Succession Act, 1925 to grant Letters of Administration to the appellants. Moreover, Section 218 of the Act deals with persons to whom the Letters of Administration can be granted. In that Section also, it has been stated that the Administration can be granted to any person and hence, there is no prohibition under the Act for the appellants to get the Letters of Administration. Without taking note of the above provisions and considering the case of the appellants, on irrelevant considerations, the learned Single Judge rejected the petition at the threshold stage itself. Therefore, an opportunity should be given to the appellants.

6.Further, Mr.N.S.Nandakumar would submit that the learned Single Judge taking note of the mentioning of names of J.Deepak and J.Deepa in Paragraph 13 of the Original Petition filed by the appellants and the subsequent deletion of their names in the petition, without the leave of the Court, held that the said deletion would amount to a malafide action apparent on the face of the record. The said action of the appellants in deleting the names of J.Deepak and J.Deepa from the petition and the observation made by the learned Single Judge had lost its force in view of the suo motu impleading order passed by this Court impleading the said parties, viz., J.Deepak and J.Deepa as second and third respondents in the appeal. Hence, the finding rendered by the learned Single Judge that there is malafide intention on the part of the appellants in deleting the names of J.Deepak and J.Deepa from paragraph 13 of the petition amounting to malafide action has to be set aside.

7.It is further contended that the learned Single Judge had unnecessarily considered the scope of ***Section 29 of the Hindu Succession Act, 1956*** and the judgments and held that the appellants do not have any locus standi. Therefore, the order of the learned Single Judge has to be set aside.

8.Mr.N.S.Nandakumar, learned counsel appearing on behalf of the appellants relied upon the decision of the Hon'ble Apex Court reported in **(2008) 4 Supreme**

Court Cases 300, Krishna Kumar Birla v. Rajendra Singh Lodha and others to contend that any person can file a petition and it is for the Court to decide about the caveatable interest of the person who has approached the Court. In this case, he would submit that the appellants are the AIADMK party carders and followers of Late Chief Minister Dr.J Jayalalithaa and therefore, they should be given the Letters of Administration to preserve and administer the estate of the deceased, especially when no one approached the Court for such relief.

9.Mr.S.L.Sudarsanam, learned counsel appearing on behalf of the third respondent would submit that the third respondent Mr.J.Deepak has filed an original petition in O.P.No.630 of 2018 making his sister Mr.J.Deepa, the second respondent herein as a respondent in the said original petition, seeking Letters of Administration without Will. The second and the third respondents are the nephew and niece of the Late Chief Minister Dr.J Jayalalithaa, being the son and the daughter of J.Jayakumar, the Late brother of the deceased Dr.J Jayalalithaa. They are class-II legal heirs of late Chief Minister. Hence, third party like the appellants cannot file a petition which was rightly dismissed by the learned Single Judge. Thus, he sought for the dismissal of the OSA.

10.The same argument was putforth by Mr.Saikumaran, learned counsel appearing on behalf of the second respondent.

11.On behalf of the fourth respondent viz., Income Tax Department, Mr.A.P.Srinivas, learned Senior Standing Counsel filed a report and would submit that as on 31.12.2018, a sum of Rs.6,62,97,720/- is due towards Income Tax and a sum of Rs.10,12,01,407/- is due by way of settlement under the Wealth Tax Act. He would further submit that the properties belonging to the Late Chief Minister Dr.J Jayalalithaa situated at

(i).No.36, Poes Garden, Teynampet, Chennai;

(ii).No.2, No.18, Ground Floor, Parson Manor, Anna Salai, Chennai;

(iii).No.213/B, St.Mary's Road, Chennai and

(iv).The house property at H.No.8-3-1099, Plot No.36, Sri Nagar Colony, Ella Reddy Guda, Hyderabad

are under attachment from 13.03.2007 onwards.

12.Mr.Rajnish Pathiyil, learned standing counsel for the Enforcement Directorate would submit that there is no case pending against the Late Chief Minister Dr.J Jayalalithaa.

13.Mr.Vijay Narayan, learned Advocate General assisted by Mr.T.M.Pappiah, learned Special Government Pleader would submit that steps have been taken to acquire the residence of Late Chief Minister Dr.J Jayalalithaa situated at No.36, Poes

Garden, Chennai to convert the same into a Government memorial. In this regard, an objection has been raised by Ms.J.Deepa, niece of Late Chief Minister Dr.J Jayalalithaa vide her objection letter dated 06.07.2019 and notice of hearing has already been issued.

14.Heard the parties and perused the records.

15.The appellants in paragraph 5 of the petition filed in support of the Appeal stated that they are the members of the AIADMK party and emotionally attached with the Late Chief Minister Dr.J Jayalalithaa. Moreover, it is stated that the first appellant is holding the post of South Chennai District Deputy Secretary of J.Jayalalithaa peravai and therefore, they are interested in preserving the estate of the Late Chief Minister Dr.J Jayalalithaa. Though they have stated that they are the cadres of AIADMK, no document has been filed to prove their status. Assuming for a moment that they are the cadres, that itself would not give them the right to approach the Court for grant of Letters of Administration for administering the "Vast properties" of the Late Chief Minister Dr.J Jayalalithaa, as rightly held by the learned Single Judge.

16.The learned counsel appearing on behalf of the appellants would refer to Sections 218, 236 of the Indian Succession Act to state that anyone who is interested in the property can file the petition. Section 218 of the said Act is usefully extracted

hereunder:

> ***218.To whom administration may be granted, where deceased is a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person*** *--*
> *(1) If the deceased has died intestate and was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate.*
> *(2) When several such persons apply for such administration, it shall be in the discretion of the court to grant it to any one or more of them.*
> *(3) When no such person applies, it may be granted to a creditor of the deceased."*

A perusal of the above section would reveal that any person can file an application for grant of probate and Letters of Administration. The said Section also fixes the qualification regarding the persons who can maintain the application. According to the said Section, a person who, according to rules for the distribution of the estate, is entitled to the whole or part of such deceased estate is entitled and not to anybody and everybody. Inspite of such qualification under Section 218 of the Act, the appellants without any right to entitlement have approached the Court for the relief set out earlier. As per Section 218 of the Act, the appellants are not qualified to maintain the application and consequently, there is no locus standi for the appellants as rightly held by the learned Single Judge.

17.The appellants also invoked Section 236 of the Indian Succession Act, 1925. It is not known as to why the said section has been invoked. The said Section reads as follows:-

> *236.**To whom administration may not be granted**--Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor to any association of individuals unless it is a company which satisfies the conditions prescribed by rules to be made by the State Government in this behalf.*

The above Section only states about who may not be granted the Letters of Administration. It states that the person who is a minor or is of unsound mind cannot be granted. Probably, the appellants would like to point out that they do not suffer from any such disqualification as enumerated under Section 236 of the Act.

18.The other Section that the appellants relied upon is Section 253 of the Act. Section 253 deals with the circumstances under which any person can be granted Letters of Administration only for the limited purpose of collection and preservation of the property. Section 253 of the Act is stated as follows:

> *253.**Administration limited to collection and preservation of deceased's property**--In any case in which it appears necessary for preserving the property of a deceased person, the court within whose jurisdiction any of the property is situate may grant to any person,*

whom such Court may think fit, letters of administration limited to the collection and preservation of the property of the deceased and to the giving of discharges for debts due to his estate, subject to the directions of the Court".

Though to some extent Section 253 of the Act has been rightly invoked, it is not known in whose custody many of the properties of Late Chief Minister Dr.J Jayalalithaa remain and who is collecting the income derived from those properties. However, it does not mean that the appellants can be granted the Letters of Administration for the limited purpose. In any event, the Class-II legal heirs of the Late Chief Minister Dr.J Jayalalithaa have already filed a petition seeking Letters of Administration. Therefore, Section 253 of the Act cannot be of much use to the appellants.

19.Section 254 of the Act gives power to the Court to appoint third parties to administer the estate in the interest of safety of the estate for proper administration, especially when there is a question with regard to the consanguinity. Section 254 of the Act is extracted hereunder:

*254.**Appointment, as administrator, of person other than one who, in ordinary circumstances, would be entitled to administration**.--(1) When a person has died intestate, or leaving a will of which there is no executor willing and competent to act or where the executor is, at the time of the death of such person, resident out of the State, and it appears*

to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof, other than the person who, in ordinary circumstances would be entitled to a grant of administration, the Court may in its discretion, having regard to consanguinity, amount of interest, the safety of the estate and probability that it will be properly administered, appoint such person as it thinks fit to be administrator.
(2) In every such case letters of administration may be limited or not as the Court thinks fit."

Section 254 of the Act relied on by the learned counsel appearing on behalf of the appellants speaks about the appointment of administrator other than the one who in ordinary circumstances would be entitled to administration. When there is no executor willing and competent to Act as per the Will or where the executor at the time of death is residing out of the State, in those circumstances the Court can step in and having regard to "consanguinity" could grant administration to some person to administer the estate.

20.In this case, there is no Will and the other circumstances stated under Section 254 of the Act are not present. As per Section 254 of the Act, the Court in its discretion having regard to consanguinity appoint such person for proper safety and administration. The word "consanguinity" employed in the section is an indicator regarding the persons to be appointed. According to Cambridge English Dictionary "consanguinity" means "the condition of being blood relation" (related to someone

by birth, not marriage). Therefore, only "some person" as stated in the section read conjointly with "having regard to consanguinity" as mentioned in the Section, it has to be held that only a person who is a blood relative could be appointed. Hence, the appellants are not entitled to be appointed.

21.Another Section invoked by the appellants is Section 256 of the Act and the same is extracted hereunder:

> *256.**Administration with exception**--Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.*

The nature of the present case is not as that of the one stated under Section 256 of the Act and therefore the said Section is not applicable.

22.A perusal of the order dated 09.01.2018 passed by the learned Single Judge would reveal that the petition filed by the appellants herein was rejected at the threshold itself on the ground that the deletion of the names of J.Deepak and J.Deepa stated in paragraph 13 of the petition without the leave of the Court would amount to malafide action. The learned counsel for the appellants would submit that as this Court has suo motu made J.Deepak and J.Deepa as parties to the proceedings, consequently the said finding given by the learned Single Judge gets nullified. Merely because this Court has passed an order suo motu impleading the niece and nephew of

the deceased as parties, it will not erase the wrong done by the appellants viz., deletion of the names of J.Deepak and J.Deepa stated in paragraph 13 of the petition without the leave of the Court. Therefore, the findings, that the material fact cannot be struck off without assigning reasons and appellants lack bonafide, given by the learned Single Judge are upheld.

23.The learned Single Judge observed that if there is no legal heir left to succeed the estate as stated in Section 29 of the Hindu Succession Act, 1956 namely, "Failure of heirs" for the estate of Late Chief Minister Dr.J Jayalalithaa, it is for the State to step in and take over the properties and not for the individuals. The said finding is valid and the same is upheld. It is useful to extract paras 11 to 16 of the learned Single Judge's order wherein the learned Judge elaborately dealt with Section 29 and the relevant judgments.

> *"11. Section 29 of the Hindu* ***Succession*** *Act is as follows:-*
>
> *"Escheat:-*
>
> *29. Failure of heirs. Failure of heirs. If an intestate has left no heir qualified to succeed to his or her property in accordance with the provisions of this Act, such property shall devolve on the Government; and the Government shall take the property subject to all the obligations and liabilities to which an heir would have been subject."*
>
> *12. In* ***CDJ 2017 SC 1095 (Kutchi Lal Rameshwar Ashram Trust Evam Anna Kshetra Trust Vs. Collector)****, the Honourable Supreme*

Court has observed as follows:-

"Section 29 embodies the principle of escheat. The doctrine of escheat postulates that where an individual dies intestate and does not leave behind an heir who is qualified to succeed to the property, the property devolves on government. Though the property devolves on government in such an eventuality, yet the government (2008) 12 SCC 541 takes it subject to all its obligations and liabilities. The state in other words does not take the property as a rival or preferential heir of the deceased but as the lord paramount of the whole soil of the country, as held in State of Punjab v Balwant Singh (1992 Suppl. (3) SCC 108). This principle from Halsburys Laws of England (4th Edition Volume 17, paragraph 1439) was adopted by this Court while explaining the ambit of Section 29. Section 29 comes into operation only on there being a failure of heirs. Failure means a total absence of any heir to the person dying intestate. When a question of escheat arises, the onus rests heavily on the person who asserts the absence of an heir qualified to succeed to the estate of the individual who has died intestate to establish the case. The law does not readily accept such a consequence."

13. In ***State of Bihar v Radha Krishna Singh (1983 3 SCC 118)****, a Bench of three Judges of the Honourable Supreme Court formulated the principle in the following observations:-*

"272. It is well settled that when a claim of escheat is put forward by the Government the onus lies heavily on the appellant to prove the absence of any heir of the respondent anywhere in the world. Normally, the court frowns on the estate being taken by escheat unless the essential conditions for escheat are fully and completely satisfied. Further, before the plea of escheat can be entertained, there must be a public notice

given by the Government so that if there is any claimant anywhere in the country or for that matter in the world, he may come forward to contest the claim of the State. In the instant case, the States of Bihar and Uttar Pradesh merely satisfied themselves by appearing to oppose the claims of the plaintiffs-respondents. Even if they succeed in showing that the plaintiffs were not the nearest reversioners of the late Maharaja, it does not follow as a logical corollary that the failure of the plaintiffs' claim would lead to the irresistible inference that there is no other heir who could at any time come forward to claim the properties."

14. In ***Mulla's Hindu Law*** *(22nd Edition at 1260-1261), it was succinctly summarised the position as follows:-*

"Where the Crown or Government claims by escheat, the onus (1992) Suppl (3) SCC 108, 4th Ed. Vol 17, para 1439 7 (1983) 3 SCC 118, Twenty second edition, pp. 1260-1261 lies on it to show that the owner of the estate died without heirs. An estate taken by escheat is subject to the trusts, charges and legal obligations (if any) previously affecting the estate, e.g., mortgages and other encumbrances. This section rules that in case of failure of all the heirs recognised under the Act, on the death of the owner intestate, his or her property devolves on the Government. The Government takes the property subject to all legal obligations and liabilities to which an heir would have been subject if the property had devolved upon the heir by succession. The word failure used in the section is very clear and indicative of the fact that there must be a absence of heirs of the intestate."

15. In ***Rambir Das v Kalyan Das (1997 4 SCC 102)****, a Bench of two learned Judges of the Honourable Supreme Court dealt with a case*

of Shebaitship. The Court took note of the position of law elucidated in the lectures. It was held as under:-

"As there is always an ultimate reversion to the founder or his heirs, in case the line of Shebaits is extinct, strictly speaking no question of escheat arises so far as the devolution of Shebaitship is concerned. But cases may be imagined where the founder also has left no heirs, and in such cases the founder's properties may escheat to the State together with the endowed property. In circumstances like these, the rights of the State would possibly be the same as those of the founder himself, and it would be for it to appoint a Shebait for the debutter property. It cannot be said that the State receiving a dedicated property by escheat can put an end to the trust and treat it as secular property.

In other words, even in a situation where a founder or his line of heirs is extinct, and the properties escheat to the state, the state which receives a dedicated property is subject to the trust and cannot treat it in the manner of a secular property. In fact, we may note, Section 29 expressly stipulates that the state shall take the property subject to all the obligations and liabilities to which an heir would have been subject."

16. In the present case, the Petitioners have not clearly stated about Class II heirs of Dr.J.Jayalalitha. They have usurped to themselves the rights to seek Letters of Administration. If it is the clear case that Dr.J.Jayalalitha had no legal heirs at all, then it is for the State to step in and it is not for two individuals to seek Letters of Administration. The entire position itself is misguided and the only silver lining is that just two persons have come forward to seek Letters of Administration."

24.As the appellants invoked the provisions of Administrator General Act, 1963 to grant Letters of Administration either to the Administrator General or to the appellants, the learned Single Judge dealt with the Administrator General Act in extenso relying upon the judgment of the Hon'ble Apex Court reported in ***CDJ 2017 SC 1095, Kutchi Lal Rameshwar Ashram Trust Evam Anna Kshetra Trust Vs. Collector*** which clearly explained under what circumstances the said Act can be invoked. Only when there is no application for probate or Letter of Administration to the appropriate Court in case of death of a person, after coming to know about the aforesaid fact and the estate of the deceased is in imminent danger and requires to be safeguarded, the Administrator General can approach the High Court for Letters of Administration for the estate of the said deceased person. The relevant paragraph of the Apex Court order reads as follows:

> *"The above provisions enacted by Parliament define the ambit of the powers vested in the Administrator General and the circumstances in which he can move the High Court. Essentially, the Administrator General steps in to protect the estate of a person who has died and no person to whom any court would have jurisdiction to commit the administration of the estate has come forth. The Administrator General is authorised by law to move the High Court to obtain letters of administration. Where the property or estate of the deceased is in imminent danger, the Administrator General can be empowered by the High Court to take immediate steps to safeguard the estate. While permitting the Administrator General to apply to the High Court for the grant of letters of administration, the law allows any other individual to*

appear and establish a claim before the High Court. Where a claim to probate or letters of administration in preference to the Administrator General is established, an order of revocation can be passed by the High Court. Such adjudicatory functions are entrusted to the High Court. The Administrator General, as a public official, is conferred with duties and obligations to secure and safeguard the administration of the estate left behind by a deceased individual in the circumstances adverted to in the statute. The legislation has not reserved a judicial power to the Administrator General. Parliament in its wisdom has made provisions to ensure that estates are not frittered away upon the death of persons who do not leave behind legal heirs, by allowing the Administrator General to invoke the jurisdiction of the High Court to safeguard such estates. The conferment of adjudicatory functions upon the High Court safeguards against an abuse of power and facilitates an adjudication of private claims."

25.In the instant case, though there is a delay on the part of the II class legal heirs of Late Chief Minister Dr.J Jayalalithaa, nevertheless they have approached this Court for grant of Letters of Administration and therefore, the invocation of the provisions of the Administrator General Act, 1963 by the appellants is without any reason.

26.For the reasons stated above, this Court upholds the order of the learned Single Judge rejecting the petition filed by the appellants for grant of Letters of Administration on the ground that there is malafide action on the part of the

appellants and there is no locus standi on their part to seek for such relief. The appeal is liable to be rejected.

27.While upholding the order passed the learned Single Judge, this Court would like to go further into this matter, as it is necessary.

28.From the facts of the case and the affidavit of assets of the deceased filed by the appellants giving the list of properties, it is evident that the properties of the Late Chief Minister Dr.J Jayalalithaa is worth about a few hundred crores. The appellants had stated in paragraph 8 of the affidavit of assets that the assets given in the list filed by them are taken out from the judgment of the Special Court at Bangalore made in Spl.C.C.No.208 of 2004, dated 27.09.2014 and the judgment of the Hon'ble Apex Court made in Crl.Appeal Nos.300 to 319 of 2017, dated 14.02.2017, by which deceased Dr.J Jayalalithaa and 3 others were convicted. Though it is stated in the judgment of the Trial Court that the properties acquired during the check period viz., 01.07.1991 – 30.04.1996 are worth about Rs.58,02,48,215/-, the appellants have valued the properties at Rs.913,41,68,179.01 crores as on 09.10.2017. Annexure A of the affidavit of assets of the deceased is extracted as follows:-

ANNEXURE-A

S. NO.	NATURE OF ASSETS	ITEM/SL. NOS. VIDE JUDGMENT IN SPL.CC.NO.208 OF 2004	VALUE (IN RS.)
i)	Immovable properties (consideration, cost of registration & additions)	1 to 173, 175, 292, 297, 301, 302(i), 305 (Excluding item Nos. 24, 31, 33, 64, 66, 127, 145, 150, 159) Value of the item nos.1 to 17 included in the assets of the deceased as on 01.04.1991 is at	20,07,80,246.00
ii)	Cash paid over & above sale consideration	24, 31, 33, 64, 66, 127, 145, 150, 159	1,58,30,619.00
iii)	New or Additional construction of building	174, 176 -192, 301, 302 (Sl No. i – iii) Pages 448 to 635	22,53,92,344.00
		The value of the immovable property comprised in headings (i) to (iii) is increased 20 times value as on 30/04/2017 per annum and it is comes to	44,20,03,209.00 * 20 times approximately 884,00,64,180.00
iv)	Gold and Diamond Jewellery	21,280.300 grams as per affidavit dated 25.04.2016 valued at Rs.2500 per gram	5,32,00,750.00
v)	Silver wares	1250 Kilogram as per Affidavit dated 25.04.2016 estimated at 35,000/- per kilo gram as on date	4,36,50,000.00
vi)	F.Ds and Shares	258-277, 298, 303, 306 F.Ds and shares not disclosed in the affidavit	3,42,62,728.00
vii)	Cash balance in bank accounts and cash on hand	As per affidavit it is disclosed in the cash and the amount.	10,63,83,945.51 + 41,000.00 10,64,24,945.51
viii)	Vehicles	The value of the 41 vehicles mentioned in page 682-690 as items 230-257, 299 in para 80 of the judgment. The vehicles disclosed as per the affidavit dated 25/04/2016 namely Ambassador Car, Mahinra Jeep, Mahindra Bolero, Tempo Traveller, Swaraj Mazada Maxi, Contessa, Temp Trax, Toyoto (PRADO), Toyoto (PRADO)	1,29,94,033.05 + 42,25,000.00 1,72,19,033.05
ix)	Machinery	293, 294	2,24,11,000.00

S. NO.	NATURE OF ASSETS	ITEM/SL. NOS. VIDE JUDGMENT IN SPL.CC.NO.208 OF 2004	VALUE (IN RS.)
x)	Footwear	278	2,00,902.45
xi)	Sarees	279-281	92,44,290.00
xii)	Wrist Watches	282-283	15,90,350.00
xiii)	House Hold Goods		15,00,000.00
xiv)	Books		40,00,000.00
xv)	Plates, awards, citations, albums, videos, etc.,		5,00,000.00
		Total	913,42,68,179.01

However, according to the appellants, the actual value of the properties would be much more than Rs.1000 crores.

29.The second and third respondents have already been declared as Class II legal heirs of Late Chief Minister Dr.J Jayalalithaa by this Court in O.P.No.630 of 2018, being the children of late brother J.Jayakumar and the third respondent herein had already given the details of the properties of late Dr.J Jayalalithaa in the Affidavit of Assets and Valuation/Ex.P10 in the said Original Petition. This Court in O.P.No.630 of 2018 analyzed in detail as to how the second and third respondents are declared as Class II legal heirs of Late Chief Minister Dr.J Jayalalithaa and they are entitled to Letters of Administration of the properties.

30.As pointed out by Mr.Vijay Narayan, learned Advocate General, the Government has already taken steps to acquire the residence of Late Chief Minister

Dr.J Jayalalithaa at No.36, Poes Garden, Chennai comprising of 10 grounds in R.S.No.1567 of 1950 to make it as a "Memorial" and now the said property is in the possession of the District Collector, Chennai.

31.It is stated across the Bar that the Poes Garden property of Late Chief Minister Dr.J Jayalalithaa is worth about more than Rs.100/- Crores. The Government as per law, has to issue notice to the legal heirs and hear them during acquisition proceedings. The compensation payable for acquiring the properties has to be determined and the said amount has to be paid to the Legal Heir's in case of land acquisition. Instead of acquiring the said property, and paying heavy compensation, the said amount could be utilized for developmental purposes such as building infrastructures, providing potable drinking water, cleaning of water bodies etc., When there are so many essential amenities which are yet to be provided by the welfare State, public money cannot be wasted for the purpose of constructing memorials. The real tribute to any leader should be paid by following his/her principles and working for benefit of the people and development of the society.

32.If the Government intends to make the residence of the Late Chief Minister's as a memorial, there will not be any end for such proposals. Every Government would like to make the residence of their leaders who were chief minister's as memorials and unnecessarily, the public money would be utilized for

setting up memorials alone.

33.The Poes Garden property consists of 10 grounds and it was used for more than 15 years as Chief Minister's Residence-cum-Office. It is also common knowledge that the "Poes Garden residence" of Late Chief Minister Dr.J Jayalalithaa is a vast property with all facilities and infrastructures required for using as ***"Official Residence-cum-Office of the Chief Minister of the State".*** In view of the above, this Court would suggest to the State Government to consider making the above property as ***"Official Residence-cum-Office of the Chief Minister of the State"*** instead of converting the property as a "memorial" as desired by the Government.

34.If the State Government is particular that the property should be made as a memorial, instead of making the entire property as "***memorial***," the Government may consider making use of a portion of the property to set up memorial and the rest of the property as "***Official Residence-cum-Office of the Chief Minister of the State***" so that the property could be put to better use.

35.Since this Court in O.P.No.630 of 2018 has ***declared the second and third respondents herein viz., J.Deepa and J.Deepak as class-II legal heirs of Late Chief Minister Dr.J Jayalalithaa and they are entitled to inherit her estate***, there will be a security threat to them and hence, the State Government is directed to forthwith

provide round the clock security to both J.Deepa and J.Deepak, at their own cost. For the purpose of payment of security charges, the second and third respondents are directed to liquidate any one of the properties and deposit the same in any of the nationalized banks so that the interest accrued therein could be utilized for paying the security charges regularly, in case they are unable to pay the charges.

36.While confirming the order of the learned Single Judge rejecting original petition filed by the Appellants at SR stage itself, this Court suo motu invoking Article 226 and Section 151 of CPC passes the following order:

(a)The State Government shall consider and decide the suggestion of this Court to avoid making Poes Garden property "VEDA NILAYAM" as "***memorial***" by acquiring the property, as it would incur huge expenses to the public exchequer.

(b)The State Government shall consider the suggestion that Poes Garden property "VEDA NILAYAM" be made as "***Official Residence-cum-Office of the Chief Minister of the State***", after acquiring the property as per law, after issuing notice and hearing the second and third respondents viz., J.Deepa and J.Deepak.

(c)The State Government may consider the suggestion of this Court to convert a portion of the property as "***memorial***" in the memory of late Chief Minister J Jayalalitha and rest of the property as ***"Official Residence-cum-Office of the Chief Minister of the State"***.

(d)There shall be a direction to the State to provide round the clock security to the

second and third respondents, viz., Mrs.J.Deepa and Mr.J.Deepak forthwith at their cost.

(e)The legal heirs viz., the second and third respondents herein are directed to liquidate any one of the properties of deceased J Jayalalitha and deposit the amount in a fixed deposit in any one of the nationalised bank and and pay for expenses incurred towards security to be provided by the State, as per this order.

37.With the above directions, the Appeal is disposed of. No costs.

For reporting compliance, regarding provision of security, call the matter after two weeks.

(N.K.K.,J) (A.Q.,J)
27.05.2020

pgp

N.KIRUBAKARAN, J

and

ABDUL QUDDHOSE, J

O.S.A.No.445 of 2018

Dated : 27.05.2020