



WEB COPY

A No. 1558 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-07-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

A.Nos.1558 and 1559 of 2026

in

T.O.S.No.50 of 2024

P.StalinS/o.K.Palanivel,
6 Canal Street, C B Road,
Washermanpet, Chennai - 600 021.

..Applicant in both
applications

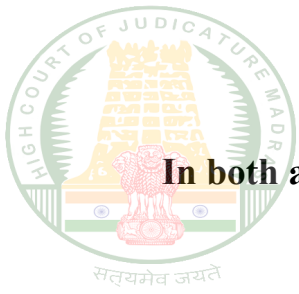
Vs

P.Sureshkumar
S/o.K.Palanivel,
16, Canal Street,
C B Road, Washermanpet,
Chennai 600 021.

..Respondent in both
applications

PRAYER in A No. 1558 of 2026: This petition is filed under Order XIV Rule -8 in O.S.Rules and Order XVI Rule 1 (2) read with Section 151 of CPC, praying to issue subpoena to the attesting witness, A.Elyanar, S/o.Anandan, Hindu, residing at No.13, PPAK Street, No.2, Basin Bridge, Washermanpet, Chennai 600 021.

PRAYER in A No. 1559 of 2026: This petition is filed under Order XIV Rule -8 in O.S.Rules and Order XVI Rule 1 (2) read with Section 151 of CPC, praying to issue subpoena to the attesting witness, Mr.M.Mugilan, S/o Murugason, No.19/6, Kathbada, 3rd Cross Lane, Labour Line Chennai-600 021.

**In both applications:**

For Applicant(s):

M/S.S. Ambalavanan R. Jayakumar

For Respondent(s):

Mr. C.P. Sasikumar

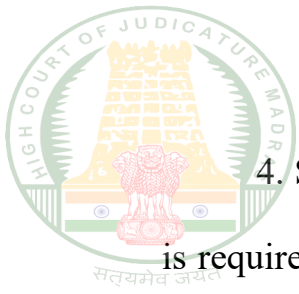
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COMMON ORDER

These applications have been filed by the plaintiff under Order XIV Rule 8 of the Original Side Rules read with Order XVI Rule 1(2) and Section 151 CPC, seeking issuance of subpoena to Mr. A. Elyanar and Mr. M. Mugilan, respectively, for their examination as attesting witnesses to the Will dated 26.10.1998.

2. The suit arises out of a petition for grant of Letters of Administration with the Will dated 26.10.1998 annexed. The defendant disputes the genuineness and due execution of the said Will. Issues have accordingly been framed, inter alia, as to whether the Will dated 26.10.1998 is the last Will of the deceased and whether its execution has been proved.

3. The plaintiff has already been examined as P.W.1 and his cross-examination has been completed. In his evidence, P.W.1 has identified Mr. A. Elyanar and Mr. M. Mugilan as the two attesting witnesses to the Will. The affidavit earlier sworn by Mr. A. Elyanar states that he and Mr. M. Mugilan witnessed the testator execute the Will and thereafter attested it in the presence of the testator and of each other.



4. Since the due execution of the Will is specifically in issue, the plaintiff is required to prove its execution in the manner known to law. The evidence of an attesting witness is therefore material for adjudication of the suit. The fact that an affidavit of an attesting witness was filed at the non-contentious stage does not dispense with his examination in the present contentious proceedings, where the defendant is entitled to cross-examine him.

5. Learned counsel for the defendant has endorsed that there is no objection to these applications.

6. Accordingly, **both applications are allowed**. The Registry shall issue separate subpoenas:

(i) in A.No.1558 of 2026, to Mr. A. Elyanar, S/o. Anandan, residing at No.13, PPAK Street, No.2, Basin Bridge, Washermanpet, Chennai-600 021; and

(ii) in A.No.1559 of 2026, to Mr. M. Mugilan, S/o. Murugason, residing at No.19/6, Kathbada 3rd Cross Lane, Labour Line, Chennai-21,

requiring them to appear before the learned Additional Master-III for recording their evidence.

7. The Applications in A.Nos.1558 and 1559 of 2026 in TOS.No.50 of 2024, are **allowed** accordingly. No costs.

JRS

27-07-2026



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DR.A.D.MARIA CLETE J.

JRS

**A.Nos.1558 and 1559 of 2026
in
T.O.S.No.50 of 2024**

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