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OSA No. 81 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21-07-2026

PRONOUNCED ON : 07.08.2026

CORAM

THE HON'BLE MR JUSTICE P. VELMURUGAN

AND

THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

OSA Nos. 81 & 82 of 2026

and

CMP Nos. 11924 and 11984 of 2026

O.S.A. No.81 of 2026

1. Arjun Santhanam
S/o.Mr.K.Santhanam,
Residing at C1,
Teeracotta Apartments,
10, 2nd Crescent Park Street,
Gandhinagar, Adyar,
Chennai 600 020.
2. Ashwin Santhanam,
S/o. K.Santhanam,
Residing at C1,
Teeracotta Apartments, 10,
2nd Crescent Park Street,
Gandhinagar, Adyar, Chennai 600 020.

..Appellants

Vs

1. C.R.Kumar
S/o.Late C.N.Prasad,
Residing at Chavali Nilayam,
No.68A, Greenways Road,
R.A.Puram,
Chennai - 600 028.



2. Malladi Leeleswari Devi,
D/o.Late C.N.Prasad,
Residing at Eswar Sadan,
Flat No. 303, C-49, D.D.Colony,
Hyderabad - 500 007.
3. Josyula Sivasankari,
D/o.Late C.N.Prasad,
Residing at Flat 1D, Srinivasa Terrace,
No.52, 2nd Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 020.
4. Malladi Lakshmi bhuvaneswari,
D/o.Late C.N.Prasad,
Residing at "Sanali Residency",
Flat No. 401, 6-3-1090/1/Q,
Raj Bhavan Road,
Somajiguda,
Hyderabad - 500 082.

..Respondents

OSA No. 82 of 2026

1. Malladi Leeleswari Devi,
D/O.Late C.N.Prasad,
Residing At 2-2-3/C,
Eswar Sadan Apartments,
Flat No. 303, C-49, D.D.Colony,
Secunderabad,
Hyderabad,Telangana - 500 007.
2. Malladi Lakshmi bhuvaneswari,
D/O.C.N.Prasad alias Narayana Prasad,
Residing At Sanali Residency,
Flat No. 401, 6-3-1090/1/Q,
Raj Bhavan Road,
Somajiguda,
Hyderabad, Telangana - 500 082.

..Appellants

Vs



1. C.R.Kumar
S/O.Late C.N.Prasad alias Narayana Prasad,
Residing At Chavali Nilayam,
No.68A, Greenways Road Extension,
R.A.Puram,
Chennai - 600 028.
2. Joysula Sivasankari
D/O.C.N.Prasad,
Residing at Flat 1D, Srinivasa Terrace,
No.52, 2nd Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 020.

..Respondents

OSA No. 81 of 2026

Prayer: Original Side Appeal filed under Order 36 Rule 9 of OS Rules read with Clause 15 of Letter Patent praying to set aside the Order dated 16.04.2026 made in A.No.823 of 2026 in OP.No.656 of 2023.

OSA No. 82 of 2026

Prayer: Original Side Appeal filed under Order 36 Rule 9 of OS Rules read with Clause 15 of Letter Patent praying to set aside the order dated 16.04.2026 passed in A.No.822 of 2026 in O.P.No.656 of 2023 and thus render justice.

For Appellants:

Mr. Srinath Sridevan, Senior Advocate
for Mr. S. Rajmakesh in OSA No.81/2026

Mr. K. Harishankar in O.S.A. No.82/2026

For Respondents:

Mr.S.R.Rajagopal, Senior Advocate
for Mr.S.Manoj for R1 in OSA No.81/2026

Mr. K. Harishankar for R2 to R4
in O.S.A.No.81/2026

Mr.S.R. Rajagopal,Senior Advocate



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for Mr.S. Manoj for R1 in O.S.A.No.82/2026

R2 – No appearance in O.S.A.No.82/2026

Common Judgment

(Judgment of the Court was delivered by K.Govindarajan Thilakavadi J.)

Challenging the order passed by the learned Single Judge, dated 16.04.2026, in A.Nos.822 & 823 of 2026, the present Original Side appeals are preferred.

2. The brief facts leading to filing the present appeals are as follows:

2.1. The 1st respondent herein filed a petition in O.P. No.656 of 2023 for issuance of Probate of a Will and testament dated 12.04.1990 said to have been executed by Mr.C.N. Prasad, father of the 1st respondent herein and respondents in the probate O.P., who died on 16.10.1990. The respondents in the said petition are the sisters of the 1st respondent herein. Service was effected through substituted mode. Due to non appearance of respondents 2 to 4, they were set ex parte. The learned Single Judge, after analysing the oral and documentary evidence, by order dated 23.07.2025, allowed the said petition and granted probate of the Will and testament dated 12.04.1990 in favour of the 1st respondent.



2.2. Seeking revocation of the probate granted in favour of the first respondent, the daughters of the deceased, C.N. Prasad, filed an application in A.No. 822 of 2026, while the subsequent purchasers of the property covered under the Will, claiming title through the legal heirs of late C.N. Prasad, filed an application in A.No. 823 of 2026, before this Court. The revocation was sought mainly on the ground that the 1st respondent obtained the probate by suppressing the compromise decree passed in C.S. No.73 of 2022 dated 17.11.2023 and the subsequent sale executed by his sisters.

2.3. The learned Single Judge dismissed the said applications on the ground that the reasons stated by the applicants for revocation of probate do not fall within the “just cause” contemplated under Section 263 of the Indian Successions Act, 1925, nor do they satisfy any of the illustrations appended thereto and that such issues cannot be decided in testamentary proceedings.

2.4. Assailing the same, the subsequent purchasers (Applicants in A.No.823 of 2026), namely, Arjun Santhanam and Ashwin Santhanam, have filed O.S.A.No.81 of 2026 and the 1st and 3rd applicants in A.No.822 of 2026 (sisters of the 1st respondent herein) have filed O.S.A. No.82 of 2026.

3. Mr. Srinath Sridevan, the learned Senior Advocate appearing for the appellants in O.S.A. No.81 of 2026 would contend that the learned Single Judge



failed to appreciate that the Probate order, dated 23.07.2025, in O.P.No. 656 of 2023 was obtained by the 1st Respondent by fraudulent, suppression of material facts including the Joint Compromise Decree, dated 17.11.2023 passed in C.S No.73 of 2022 and the subsequent alienations effected pursuant thereto in favour of Appellants. The deliberate non-disclosure of these vital facts vitiates the entire proceedings and renders the grant liable to be revoked under Section 263 of the Indian Succession Act, 1925. He would further submit that the learned Single Judge failed to appreciate that, though all legal heirs were impleaded in O.P No.656 of 2023, the appellants herein, being bona fide purchasers, who had acquired valid title and possession of the suit property, were deliberately not impleaded or put on notice. Their caveatable interest was known to the 1st Respondent. Yet, he proceeded to obtain the order dated 23.07.2025, without the presence of the persons having caveatable interest, which is bad in law. In support of his contentions, he relied on the judgment dated 05.09.2018 of the Hon'ble Bombay High Court in the case of ***Virendra Palsingh vs. Narendra*** in Testamentary Suit No.44 of 2006. Further, it is submitted by the learned counsel that in ***Gopal vs. Bhaskar*** reported in (2008) Vol. 10 SCC 489, the Hon'ble Supreme Court held thus, in relation to persons having caveatable interest:

"That being the position, we must hold that the respondents had caveatable interest in the estate of the testator and, therefore, they are



entitled to be served before the final order is passed. It is well settled that if a person who has even a slight interest in the estate of the testator is entitled to file caveat and contest the grant of probate of the will of the testator."

In this regard, he also relied on the latest judgment of Hon'ble Supreme Court in ***Leorex v Sarojine (Neutral citation 2026 INSC 400)***, wherein it is laid down as under:

14. From the aforesaid decision rendered by this Court, it can be said that if a party has a caveatable interest in the estate of the deceased, it is entitled to be served before the final order is passed. Further, if a person who has even a slight interest in the estate of the testator, he is entitled to file a caveat and contest the grant of the probate of the will of the testator.

3.1. His further contention is that, the order of the Hon'ble Single Judge is contrary to the judgment of the Hon'ble Supreme Court in ***Leorex v Sarojini (Neutral Citation 2026 INSC 400)***. In that case, the Hon'ble Supreme Court has held thus:

"Thus, a transferee from heirs at-law, acquiring an interest in the testator's estate, by reason of a mortgage or sale, can, when a will is



set up in opposition of his interest, apply for revocation of the probate of the will. It has been held that a purchaser who acquires an interest in the estate of the testator, by reason of a transfer by the heirs at-law after his death, is, therefore, entitled to citation, because he is a person "who ought to have been cited as contemplated in Illustration (u) to Section 263 of the ISA.

The Appellant has a caveatable interest and hence, non-issuance of citations to them in the OP renders the order passed in the OP unsustainable in law. The Hon'ble Single Judge, when informed that the appellants had not been heard by the probate court, ought to have instantly revoked the probate on that ground. The failure to do so, vitiates the order entirely.

3.2. He would further submit that in ***Ramanandi v Kalawati (reported in (1928) Vol. 30 Bom.L.R.p.227)***, the Hon'ble Privy Council held as under:

"If citations were not served, i e., properly and effectively served, on Thakurani, the daughter is entitled to ask that probate which was obtained in her absence should be recalled and the executor or his representative called upon to prove the will in the present proceeding."

It is further submitted that the learned Judge erred in holding that the revocation of probate has no bearing on the validity of the Sale Deed executed in favour of the Appellants without considering the fact that the 1st Respondent is now



claiming title over the suit property solely under alleged Will and the probate granted thereon in the present suit filed by the 1st Respondent in OS No: 123 of 2026. The Learned Single Judge failed to appreciate that the compromise decree in C.S.No. 73 of 2022 arose in the backdrop of the dispute regarding the genuineness of the alleged Will, which was never proved in accordance with Law. In such circumstances, the learned Single Judge erred in holding that the Will continues to operate notwithstanding the compromise, as its very validity remained in issue. The 1st Respondent, having not established the Will and having acted upon the compromise, could not subsequently revive the same and obtain probate order, rendering the impugned finding erroneous and untenable in law. He would submit that the learned Single Judge failed to appreciate that permitting the probate to stand would effectively validate a claim found on inconsistent and inequitable conduct, thereby conferring an undue advantage on the 1st Respondent over the suit property. The revocation of the probate is necessary to ensure that the process of this Court is not used to defeat concluded proceedings and lawful transactions, and to restore the position arising out of the binding compromise decree, dated 17.11.2023 under which the Appellants derive title.

3.3. The learned counsel would further contend that the learned Single Judge failed to see that the application was one for revocation of probate on the grounds of fraud and suppression. The persons who had sought revocation were



persons with caveatable interest. Unfortunately, the Hon'ble Single Judge decided the case on a point which nobody had argued, namely, that the probate had no impact on title. On the other hand, the suit filed by the 1st Respondent, relying on the probate order to mischievously impugn the Appellants' title had been placed before the Court. The Hon'ble Judge failed to appreciate Section 263 of the Indian Successions Act, 1925, from its correct perspective. The Hon'ble Single Judge failed to see that a probate obtained by suppression of material facts results in the requirement to revoke such probate, as it was the law laid down in ***Leorex v Sarojine (neutral citation 2026 INSC 400)*** wherein it was laid down as under:

Thus, it can be said that the respondent no. 1 herein obtained the order of grant of probate in her favour by suppressing material facts, and no citations were issued to the brothers of the respondent no. 1/their legal heirs and the present appellants, before the grant of probate. Hence, the District Court was justified in revoking the order of grant of probate in favour of respondent no. 1.

Hence, he prayed to set aside the order of the Single judge and allow the Application in A.No.823 of 2026.

4. Mr. K. Harishankar, the learned counsel for the appellants in O.S.A.No.82/2026 would contend that the learned Single Judge wrongly



interpreted Section 263 of the Indian Succession Act and that the 1st respondent's suppression of material fact, particularly the compromise decree dated 17.11.2023 and subsequent property transactions, amounts to "just cause" for revoking probate, even if the Will itself is not challenged. The learned Single Judge incorrectly held that a probate revocation petition must challenge the genuineness or execution of the Will, whereas, the issue is fraudulent procurement of probate through concealment of material facts, which independently justifies revocation. The learned Single Judge failed to consider that the 1st respondent accepted and benefited from the compromise decree, thereby waiving or abandoning reliance on the alleged Will. This subsequent conduct undermines the 1st respondent's entitlement to continue relying on the probate.

4.1. It is his further contention that the court failed to recognize that probate proceedings require complete honesty and full disclosure. The court wrongly held that the compromise decree and later property alienations were irrelevant. These were material facts that reflected on the 1st respondent's conduct and bona fides, especially since they occurred before the probate was granted. The court overlooked that the appellants were not properly served or given a meaningful opportunity to contest the probate. Alleged substituted service could not cure the 1st respondent's deliberate suppression and denial of natural justice. The court failed to consider that the 1st respondent also



concealed earlier criminal proceedings and a court-recorded settlement, revealing a pattern of misleading the Court and obtaining orders through fraud.

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4.2. He would further contend that the learned Single Judge adopted an unduly narrow interpretation of "just cause" under Section 263 of the Indian Succession Act, 1925, by ignoring that fraud, suppression of material facts, and abuse of process are independent grounds for revocation of probate. The 1st respondent is misusing the probate to disturb possession, reopen settled transactions, and initiate coercive proceedings, causing serious prejudice. He would further submit that the court wrongly treated the dispute as one of title instead of addressing the core issue of fraudulent procurement of probate, contrary to the settled principle that orders obtained by fraud are void and liable to be set aside.

5. *Per contra*, Mr.S.R. Rajagopal, learned Senior Advocate appearing for the 1st respondent would contend that the sisters of the 1st respondent were duly served in O.P. No.656 of 2023 through substituted service and that they deliberately absented themselves, leading to the order dated 23.07.2025, granting probate after due proof, which estops them from challenging the same now. He would further submit that the compromise decree dated 17.11.2023 relates to specific disputes and not binding and enforceable and that the



execution of the Will dated 12.04.1990 had been duly proved and that no fraud was played, He would further submit that revocation on vague fraud allegations without merit or timely caveat is impermissible under Sections 222, 276 of the Indian Succession Act, 1925, and Order XXV Rule 4 OS rules. The appellants in O.S.A. No.81 of 2026 are subsequent purchasers claiming under the sisters of the 1st respondent, long after the Will's execution and probate grant. According to him, probate bindings being *in rem*, bind all the World including subsequent alienees. He would further submit that the compromise entered in the partition suit was voluntary and will not affect the rights of the 1st respondent under the probate, as the Will granted him absolute title after his mother's life interest ended and that the Will prevails over the subsequent family arrangement. Mutation and sales by post compromise cannot override the right granted by the probate, which relates back to testator's wishes at the time of death i.e., 16.10.1990. Hence, the appellants in O.S.A.No.81 of 2026 are bound by the probate and cannot impeach it on grounds of being subsequent purchasers. No grounds exist under Section 263 of the Indian Succession Act, 1925, for revocation on the grounds of jurisdictional error, unless ex-facie fraud, collusion or unlawful acquisition of grant has been proved. His further contention is that, the subsequent purchasers acquired interest in the property only after initiation of probate proceedings, does not acquire caveatable interest. His further contention is that, the probate proceedings does not operate as previous suit under Section 10 CPC and therefore, the terms of civil



compromise are beyond the scope of a probate court and cannot invalidate a grant. His further contention is that a probate court is a court of conscience that grants probate solely on the Will's validly independent of private settlements. Any inter-se compromise among heirs is legally beyond the scope of a probate court. Further, he would submit that compromise agreement if not respected by the parties, then, a separate suit has to be filed and the parties are not entitled to claim for revocation of probate. Therefore, dismissal of probate proceedings cannot be done on the basis of compromise decree. To support his contentions, he has relied upon the following judgments.

- i. S. Leorex Sebastian & Anr vs. Sarojini & Others reported in 2026 SCC Online SC 649.
- ii. Krishna Kumar Birla vs. Rajendra Singh Lodha & Others reported in (2008) 4 SCC 300.
- iii. Praveer Chandra vs. Aprajita & others reported in 2019 SCC Online Del 10820.
- iv. Secretary of State & Anr vs. Srimutty Parijat Debi & Anr (Vol. 43 LW 16 (Privy Council))
- v. A.E.G. Carapiet vs. A.Y. Derderian reported in 1960 SCC Online Cal 44.
- vi. Paresh Chandra Majhi & Ors vs. Biswanath Majhi & Ors reported in 2009 SCC Online Cal 1641.



vii.

Sudha Bala Dasi Hriday Chand Patra vs. Bhabarani Dasi & Ors.

Reported in 1976 SCC OnLine Cal 243.

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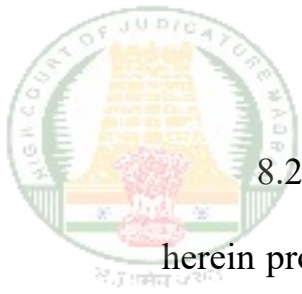
Hence, the learned Single Judge rightly dismissed the applications seeking revocation of the probate granted in favour of the first respondent, which warrants any interference.

6. Heard on both sides. Records perused.

7. This Original Side Appeals are directed against the order of the learned Single Judge dismissing the applications filed under Section 263 of the Indian Succession Act, 1925, seeking revocation of the probate granted in favour of the 1st respondent by order dated 23.07.2025.

8. Facts:

8.1. The suit property originally belonged to the deceased C.N. Prasad, father of the 1st respondent herein and respondents in probate O.P. After his demise, disputes arose among the legal heirs regarding succession to the estate. Hence, a partition suit was instituted by the sisters of the 1st respondent in C.S. No. 73/2022.



8.2. During the pendency of the partition proceedings, the 1st respondent herein propounded a Will allegedly executed by the deceased C.N. Prasad. The Will was seriously disputed by the remaining legal heirs, culminating in Criminal proceedings alleging fabrication and forgery. Subsequently, a compromise was entered into among the parties. On 27.11.2023, a Joint Compromise decree was recorded in C.S. No.73/2022 and was registered as document No. 3114/2024 on the file of SRO, Mylapore. As per the compromise decree, the 1st respondent herein retained only 6.25%, i.e., 840 sq. ft out of 13540 sq. ft. land at 4th Main Road, Gandhi Nagar, Adyar. The remaining was equally retained by the 3 sisters. In pursuant to the compromise decree, the FIR registered against the 1st respondent was closed by this Court by order dated 21.11.2023 in CrI.O.P. No.6638/2023. The above facts are not in dispute.

8.3. Thereafter, the sisters of the 1st respondent, respondents in the probate O.P., conveyed their respective interest in the property in favour of the appellants in O.S.A. No.81/2026 under registered sale deed in document No.1139 of 2025 on the file of SRO, Adyar. After such conveyance, the 1st respondent obtained probate of the alleged Will without proper service of notice to the respondents and without impleading the purchasers as contesting parties.



8.4. The appellants in O.S.A. No. 81/2026 and OSA No.82/2026 invoked Section 263 of the Indian Succession Act, 1925, seeking revocation of the probate on the ground that the grant had been obtained by suppression of material facts, by non issuance of proper citation and by concealment of the compromise decree, criminal proceedings and subsequent alienations.

8.5. The learned Single Judge dismissed the applications by holding that the grounds urged by the applicants would not constitute “just cause” within the meaning of Section 263 of the Indian Succession Act, 1925. Aggrieved by this, the present appeals have been preferred by the applicants.

9. Point for consideration:-

“Whether the learned Single judge was justified in holding that the grounds pleaded by the appellants do not constitute “just cause” for revocation under Section 263 of the Indian Succession Act?”

10. Discussions:

10.1. Section 263 of the Indian Succession Act, 1925, empowers the Court to revoke or annul a grant of probate for “just cause”, The Explanation appended to the Section is illustrative and not exhaustive. Clause (b)



specifically provides that where the grant has been obtained fraudulently by making a false suggestion or by concealing from the Court something material to the case, the grant is liable to be revoked.

10.2. The expression “just cause” has consistently received a liberal interpretation. Since probate is a judgment *in rem*, the Court granting probate owes a corresponding duty to ensure that every person having a legitimate caveatable interest has an opportunity to contest the Will.

10.3. In *Anil Behari Ghosh vs. Smt. Latika Bala Dassi and others* reported in *AIR 1955 SC 566*, the Hon’ble Supreme Court held that omission to issue citation to a person having caveatable interest constitutes sufficient ground for revocation if prejudice is established.

10.4. In *Krishna Kumar Birla vs. Rajendra Singh Lodha and others* reported in *(2008) 4 SCC 300*, the Hon’le Supreme Court reiterated that the concept of caveatable interest must receive liberal construction, and persons whose proprietary rights are likely to be affected by the grant are entitled to oppose the probate.



10.5. Likewise in *G.Gopal Vs. C. Baskar and others* reported in (2008) **10 SCC 489**, reiterates that probate proceedings are proceedings *in rem* and strict adherence to statutory safeguards is indispensable.

10.6. In the present case, the materials placed before this Court disclose that the probate petition did not disclose the institution of the partition suit, the Criminal proceedings relating to the alleged fabrication of the Will, the compromise entered into between the parties and the alienations made by the sisters of the 1st respondent in favour of the appellants in O.S.A. No.81/2026. Each of these facts were undoubtedly material. The testamentary Court, had these facts been brought to its notice, would necessarily have examined whether the petition required conversion into a contentious testamentary proceeding.

10.7. The appellants in O.S.A. No.81/2026 admittedly acquired title under registered conveyance even before passing of the probate order. Consequently, they possessed a substantial caveatable interest in the estate. Failure to implead them and failure to issue citation deprived them of the opportunity of contesting the genuineness of the Will. Further, the appellants in O.S.A. No.82/2026 were not properly served or given a meaningful opportunity to contest the probate. The 1st respondent failed to establish that service was validly effected to the above appellants. The alleged substituted service will not cure the 1st

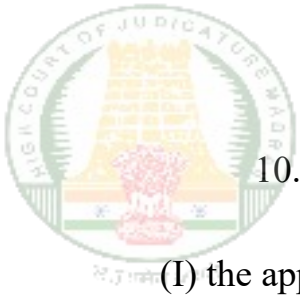


respondent's deliberate suppression and denial of natural justice.

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10.8. The learned Single judge appeared to have proceeded on the premise that since probate merely establishes the Will and not title, purchasers from the legal heirs cannot seek revocation. This approach, in the opinion of this Court, overlooks the distinction between adjudication of title and existence of caveatable interest. Though probate does not determine title, every person whose proprietary interest is directly affected by the declaration regarding the validity of the Will possesses a sufficient interest to oppose the grant.

10.9. Equally erroneous is the conclusion that suppression of pending civil and criminal proceedings does not constitute “just cause”. Explanation (b) to Section 263 of the Indian Succession Act, 1925, expressly recognises concealment of material facts as an independent ground for revocation. The expression “something material to the case” occurring in Section 263(b) cannot receive a narrow interpretation. Any circumstance, having bearing upon the genuineness of the Will, the existence of rival claims or the identity of interested parties is unquestionably material. Therefore, the findings recorded by the learned Single Judge cannot be sustained.



10.10. In view of the above discussions, this Court holds that -

(I) the appellants possessed caveatable interest;

(II) non issuance of citation / proper notice to the appellants vitiated the proceedings;

(III) suppression of the partition suit, Criminal proceedings, compromise and alienations constitutes concealment of material facts attracting Section 263 (b) of the Indian Succession Act, 1925; and

(IV) the learned Single Judge erred in holding that the above circumstances do not amount to “just cause”.

11. In the result,

(a) both the Original Side Appeals are allowed. There shall be no order as to cost. Consequently, connected miscellaneous petitions are closed.

(b) The order dated 16.04.2026 made in A.Nos.822 and 823 of 2026 in OP.No.656 of 2023 by the learned single Judge dismissing of the applications under Section 263 of the Indian Succession Act, 1925, is set aside.

(c) The applications for revocations are allowed.



(d) The probate granted in favour of the 1st respondent stands revoked under Section 263 of the Indian Succession Act, 1925.

(e) The Testamentary Original Petition shall stand restored to the file of the learned Single Judge and shall be converted into a contentious Testamentary Original Suit after impleading all persons having caveatable interest, including the present appellants.

(f) All issues relating to the due execution, attestation and genuineness of the alleged Will are left open for adjudication on the basis of evidence.

(P.V.,J.) (K.G.T.,J.)

07-08-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

The Sub Assistant Registrar,
Original Side, High Court, Madras.



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OSA No. 81 of 2



**P.VELMURUGAN J.
AND
K.GOVINDARAJAN THILAKAVADI J.**

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**Pre delivery common judgment in
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07-08-2026