



WEB COPY

A No. 2775 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-08-2026

CORAM

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

A No. 2775 of 2026

in

TOS NO. 29 OF 2022

1. S.Suresh Kumar
S/o.Late Shri.A.Shanmugam,
Plot No.968, Z-Block, New Door No.2,
G Block, 19th Street, Anna Nagar,
Chennai - 600 040.
2. G.Sasikala
W/o.Late Mr.S.Govindaraj,
Plot No.968, Z-Block, New Door No.2,
G Block, 19th Street, Anna Nagar,
Chennai - 600 040.
3. G.Mukundan
S/o.Late Mr.S.Govindaraj,
Plot No.968, Z-Block, New Door No.2,
G Block, 19th Street, Anna Nagar,
Chennai - 600 040.
4. G.Tarageswari
D/o.Late Mr.S.Govindaraj,
Plot No.968, Z-Block, New Door No.2,
G Block, 19th Street, Anna Nagar,
Chennai - 600 040.

..Applicant(s)

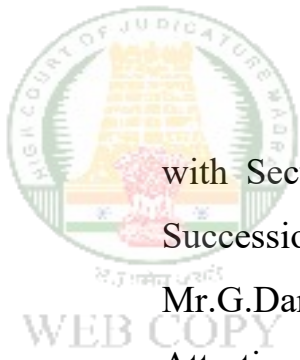
Vs

R.Indumathi
W/o.Mr.G.Ravikumar,
No.2, MIT Level Crossing Gate Road, Chromepet,
Chennai - 600 044.

..Respondent

Prayer in A No. 2775 of 2026

Petition filed under Order XIV Rule 8 of Original Side Rules read



with Section 69 of the Indian Evidence Act and Section 281 of the Indian Succession Act, praying to permit the Applicants to take the evidence of Mr.G.Damodaran, the Third Party, to identify the signatures of the First Attesting Witness Mr.R.Mohanakrishnan, and the Testator Shri A.Shanmugam in the Will dated 18th day of September 1996, Registered as Document No.39 of 1996 in the office of the Sub Registrar, Villivakkam, Chennai in T.O.S.No.29 of 2022.

A No. 2775 of 2026

For Applicant(s): M/s.M.Sampath Rajkumar

For Respondent(s): M/s.R.V.Gayathri for
M/s.P.B.Ramanujam

ORDER

Heard Both sides learned counsels.

2. This Application has been filed by the Applicants/Plaintiffs seeking permission to examine Mr. G. Damodaran, a third party witness, for identifying the signatures of the first attesting witness, Late Mr. R. Mohanakrishnan, and the Testator, Late Shri A. Shanmugam, in the Will dated 18.09.1996, registered as Document No.39 of 1996 on the file of the Sub-Registrar, Villivakkam, Chennai, and for letting in further evidence in T.O.S.No.29 of 2022.

3. Despite sufficient opportunity having been granted to the Respondent/Defendant to file a counter affidavit to the present Application, no counter affidavit has been filed till date. Hence, this Court proceeds to consider the Application on the basis of the affidavit filed in support thereof and the materials available on record.



4. T.O.S.No.29 of 2022 relates to the Will dated 18.09.1996 said to have been executed by Late Shri A. Shanmugam. The Applicants state that the evidence of PW-1, PW-2 and PW-3 has already been completed. It is further stated that the first attesting witness to the Will, Mr. R. Mohanakrishnan, is no more and his death certificate has already been marked.

5. It is also seen from the records that the Applicants had taken steps for examining the second attesting witness, Mr. K. Bashkaran. In A.No.3180 of 2025, this Court permitted issuance of summons to the said witness and directed him to appear before the learned Additional Master-III for recording his evidence. This Court also observed that in a Testamentary Original Suit, the witnesses have to be examined and their evidence tested during trial.

6. Thereafter, repeated steps appear to have been taken for securing the presence of the said attesting witness. On 28.04.2026, this Court granted time and directed issuance of fresh notice to the attesting witness and also permitted private notice by Speed Post/RPAD.

7. The affidavit filed in support of the present Application states that the Court summons could not be served since the second attesting witness was not available at the given address and that the private notice sent by Speed Post was returned with the endorsement "No such person in the address." The Applicants therefore seek to examine Mr. G. Damodaran, who is stated to have been the business partner of Late Mr. R. Mohanakrishnan, the first attesting witness, and



also a family friend of the Testator, Late Shri A. Shanmugam.

8. Mr. G. Damodaran has also filed an affidavit stating, inter alia, that he is acquainted with the signatures of the Testator and Late Mr. R. Mohanakrishnan and that he seeks to identify those signatures in the Will.

9. When the first attesting witness is stated to have died and the second attesting witness could not be secured despite repeated steps, this Court is of the view that an opportunity should be afforded to the Applicants to place before the Court such further evidence as is legally permissible.

10. No prejudice would be caused to the Respondent by permitting the said witness to be examined, since the Respondent shall have full opportunity to cross-examine the witness and to raise all objections regarding the admissibility, relevancy, mode of proof and evidentiary value of his testimony.

10. In the result, A.No.2775 of 2026 is allowed.

JRS

07-08-2026



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DR.A.D.MARIA CLETE J.

JRS

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