



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2026

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CORAM

**THE HONOURABLE MR JUSTICE N. SATHISH KUMAR
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**AS Nos.385 & 151 of 2022
and CMP Nos. 5465, 5468, 13658 & 13660 OF 2022**

A.S.No.358 of 2022

S.Bhakthavatchalam

Appellant(s)

Vs

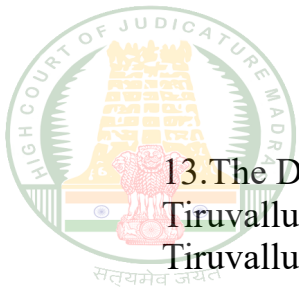
1. Visalakshi
- 2.Kamalakshi
- 3.Thanigainathan
- 4.Selvi.N.Nilayadatchi
- 5.Selvi.Kamatchi
- S.Shanmugham (Died)
- 6.S.Kalathi
- K.Gowrishankar (Died)
- 7.C.Vijayakumari
- 8.C.Bharanidharan

9.The Sub Registrar
Tiruvallur, Taluk Office Compound and Post,
Tiruvallur 602 001.

10.The Sub Registrar
Perambakkam, Office at Perambakkam
Village and post,Tiruvallur Taluk & District

11.The Sub Registrar
Kancheepuram Vanigar Street,
Kancheepuram Town and Taluk,
Kancheepuram Dist.

12.The Tahsildar
Tiruvallur Taluk J.N.Road, Tiruvallur Town
and Tk, Tiruvallur Dist.



13.The Dist. Collector
Tiruvallur Dist. Master Plan Complex,
Tiruvallur.

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14.K.Rathinabai
AS No. 151 of 2022
Bhakthavatchalam

Respondent(s)

Appellant(s)

Vs

Egambaram (Died)

1.Kalathi

2.Vijayakumari

3.Vishalakshi

4.Kamalakshi

5.Thanigainathan

6.Nilaya Thatchi

7.Kamatchi

8.The Special Tahsildar

Adi Dravidar Welfare Department,

R.D.O.Campus, J.N.Road, Tiruvallur

Town, Tiruvallur Tk and Dist.

Respondent(s)

PRAYER in A.S.No.385 of 2022: Appeal Suit filed under Section 96 read with Order 41 Rule 1 of CPC, against the Judgment and Decree dated 12.04.2019 made in O.S.No.134 of 2009 on the file of I Additional District Judge, Tiruvallur.

PRAYER in AS No. 151 of 2022: Appeal Suit filed under Section 96 read with Order 41 Rule 1 of CPC, against the Judgement and Decree dated made in OS.No.118 of 2005 on the file of I Additional District Judge, Tiruvalur dated 12.04.2019.

AS No. 385 of 2022

For Appellant(s): Mr.N.Manokaran

For Respondent(s): Ms.R.V.Gayathri for R3 & R6
Mr.P.B.Ramanujam
Mr.A.Palaniappan for R7 & R8
Mr.M.Hemanth Kumar for R9 to R13
Government Counsel
No appearance for R1, 2, 4, 5 & 14

AS No. 151 of 2022

For Appellant(s): Mr.S.Vinod

For Respondent(s): Ms.R.V.Gayathri for R1,3 to 7
Mr.P.B.Ramanujam



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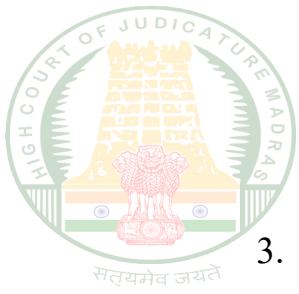
Mr.A.Palaniappan for R2
Mr.M.Hemanth Kumar for R8
Government Counsel

COMMON JUDGMENT
(Judgment delivered by N.Sathish Kumar J.)

(i) Aggrieved by the judgement and decree of the Trial Court granting preliminary decree of 1/5th share in the suit properties to the plaintiff and dismissing the suit in respect of other reliefs in O.S.No.134 of 2009, the plaintiff/appellant has come up with the Appeal Suit in A.S.No.385 of 2022.

(ii) Aggrieved by the judgement and decree of the Trial Court declaring the plaintiffs to claim shares in the compensation amount awarded in LAOP.No.361/1991, the first defendant in the suit in O.S.No.118 of 2005 has come up with the Appeal Suit in A.S.No.151 of 2022.

2.The private parties in both the appeal suits are brothers and sisters. The core issue in the both the suits is with regard to the validity of the will relied upon by the appellant in A.S.No.385 of 2022. If the appeal in A.S.No.385 of 2022 arising out of the suit in O.S.No.134 of 2009 is disposed off, it will address the issue arising in the other connected appeal suit in A.S.No.151 of 2022. Though two suits were disposed of by the Trial Court by way of separate judgements, since the issues are inter-connected, we are inclined to dispose of both the appeal suits by way of this common judgement.

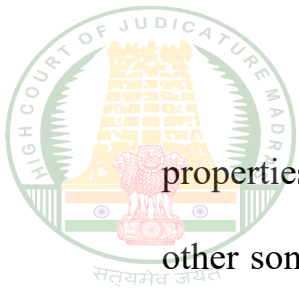


3. The suit in O.S.No.134 of 2009 is a comprehensive suit filed for partition and other reliefs by the appellant in A.S.No.385 of 2022 and the suit in O.S.No.118 of 2005 is filed by the defendants in the said suit as against the plaintiff in O.S.No.134 of 2009 for a declaration that they are entitled to receive the compensation in LAOP.No.361/1991. The suit in O.S.No.134 of 2009 was decreed granting preliminary decree of 1/5th share in the suit properties and the suit in O.S.No.118 of 2005 was partly decreed declaring the plaintiffs therein are entitled to claim share in the compensation amount awarded in LAOP. Challenging the said decree and judgments, the plaintiff and the first defendant in the suits in O.S.Nos.134 of 2009 and 118 of 2005 has come up with the instant appeal suits.

4. For the sake of convenience and clarity, the parties are arrayed to as per their own ranking before the Trial Court in O.S.No.134 of 2009.

5. The following are the brief facts in O.S.No.134 of 2009:-

5.a. Originally, partition deed was entered into between Subramania Mudaliar, his wife Sakunthala Ammal and their sons Ekambaram, Kalathi and Bakthavachalam on 21.06.1970, whereby, the 'A' schedule properties was allotted to Subramania Mudaliar and his wife Sankunthalama, The 'A' schedule



properties therein is the subject matter of the suit. The properties allotted to other sons are not the subject matter of the issue. The entire issue in the suit is relating to the properties allotted to the parents of the parties. The father namely Subramania Mudaliar died intestate on 29.07.1987 leaving behind his wife Sakunthala Ammal, Ekambaram, Shanmugam, Kalathi, plaintiff/Bakthavachalam and Vijayakumari as his legal heirs. It is the case of the plaintiff that after the death of his father, his mother Sakunthala Ammal was looked after by the plaintiff and they were residing in 'C' schedule property. The 'A' and 'B' schedule property was cultivated by the plaintiff. Sakunthala Ammal executed an unregistered will dated 02.01.2002 bequeathing her properties to the plaintiff. In the said will, his mother has clearly narrated the fact that the eldest son Ekambaram obtained signatures in certain blank papers when she was ill. Later, she has also executed another registered will dated 12.08.2002 bequeathing her properties in favour of the plaintiff. According to the plaintiff, the said will was executed while she was in sound state of mind. She died on 24.06.2003, therefore, the plaintiff become entitled to the entire properties of her mother by virtue of will dated 12.08.2002.

5.b. It is the further case of the plaintiff that on the 16th day of ceremony of Sakunthala Ammal, the plaintiff has informed about the will to the brothers and sister. Based on the will, the plaintiff got himself included as the legal representative of his mother in LAOP.No.361/1991 which was conducted by the



7th defendant as her power of attorney. The said LAOP was decided on merits and award was passed on 30.04.2004. Neither the 7th defendant nor the other

legal heirs of Sakunthala Ammal ever raised any objection or disputed the will in favour of the plaintiff. The first defendant chose to create a forged and fabricated document using the signatures already obtained from Sakunthala Ammal. Based on the will, the plaintiff is entitled to ½ share in the suit properties and remaining ½ share of the their father devolved upon his legal heirs. Hence, the suit.

5.c.Written statement filed by the 7th defendant was adopted by the other defendants 1,2,3,4,5,8,9 & 10, wherein, it was the contention of the defendants that their mother was not looked after by the plaintiff alone. The plaintiff is far away from the 'A' and 'B' schedule properties and therefore, only the defendants are cultivating the 'A' and 'B' schedule properties. According to them, Sakunthala Ammal executed a will dated 14.03.2003 bequeathing her share equally to all her children including the plaintiff. The defendants are in possession of the 'A' and 'B' schedule properties. The Wills relied upon by the plaintiff is forged, fabricated and the same has been created by the plaintiff. The 7th defendant Kalathi has executed a registered settlement deed on 06.08.2003 in favour of Gowri Shankar. Vijayakumar has executed a registered settlement deed dated 14.08.2003 in favour of Bharanidharan. All the settlees were issued patta in their favour. The last will of their mother is acted upon. Hence, it is the

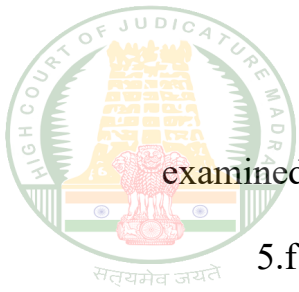


contention that based on the will, the plaintiff claimed compensation in LAOP.No.361/2001, in which, the defendants filed an application on 08.09.2004, however, the same was returned stating that the OP was already disposed. Hence, the defendant filed a suit in OS.No.118/2005 for declaration that they are also entitled to receive the compensation amount in the above LAOP. It is also the contention that their parents have already sold the suit item 11 in 'A' schedule and 7,8 & 11 of 'B' schedule. Hence, sought for dismissal of the suit.

5.d.The trial court framed the following issues for consideration:-

- a. Whether the suit properties are available for partition?
- b. Whether the Will dated 12.08.2002 has been proved in accordance with law?
- c. Whether the Will dated 14.03.2003 is the last Will of deceased Sakunthala Ammal?
- d. Whether the Will dated 14.03.2003 has been proved in accordance with law?
- e. Whether the plaintiff is entitled to the relief as claimed for?
- f. To what other reliefs?

5.e.On the side of the plaintiffs, PW1 to PW3 were examined and Exs.A1 to A79 were marked. On the side of the defendants, DW1 and DW2 were

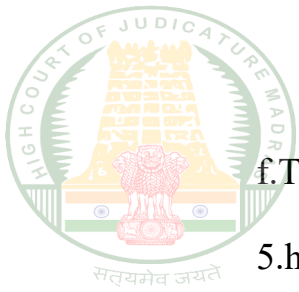


examined and Exs.B1 to B12 were marked.

5.f. Upon considering the oral and documentary evidence, the trial court decreed the suit in part granting preliminary decree of 1/5th share in the suit properties to the plaintiff and dismissed the suit in respect of other reliefs.

5.g. The other suit in O.S.No.118 of 2005 has been filed by the defendants in the above suit seeking for a declaration that the plaintiffs are also entitled to receive the compensation amount along with the first defendant/Bhaktavatchalam in Land Acquisition OP.No.361/1991. The first defendant in O.S.No.118 of 2005 has obtained award in the above LAOP based on the will dated 02.01.2002 and 02.08.2002. The Trial Court framed the following issues for consideration:-

- a. Whether the Will dated 14.03.2003 is the last Will of deceased Sakunthala Ammal?
- b. Whether the Will dated 14.03.2003 has been proved in accordance with law?
- c. Whether the first defendant is entitled to claim compensation amount as per the will dated 12.08.2002?
- d. Whether the Will dated 12.08.2002 has been proved in accordance with law?
- e. Whether the plaintiffs are entitled to the relief as claimed for?



f.To what other reliefs?

5.h.On the side of the plaintiffs, PW1 & PW2 were examined and Exs.A1 to A13 were marked. On the side of the defendants, DW1 to DW3 were examined and Exs.B1 to B11 were marked.

5.i. Upon considering the oral and documentary evidence, the trial court decreed the suit in part declaring the plaintiffs to claim share in the compensation amount and dismissed the suit in respect of other reliefs. Challenging the above decree and judgments, the plaintiff and the first defendant respectively has filed the instant appeal suits.

6. Mr.N.Manokaran, learned counsel for the appellant in AS.No.385 of 2022 submitted that the Trial Court has disbelieved the will merely on the the ground that the mother excluded the other legal heirs, whereas, the evidence of PW2 and PW3 clearly proves not only the execution but also the attestation of the wills. In the cross examination, nothing is elicited to discredit the document. In Ex.A15, first will dated 02.01.2002, though it is unregistered, the mother has clearly given a reason for writing the will in favour of the plaintiff, i.e., the eldest son has obtained signatures from her in a blank paper, thus, in order to avoid any fabrication of the document, mother has executed the will. When no suspicious circumstances whatsoever brought on record, the will has to be believed. It is the further contention that registered will in Ex.A16 dated



12.08.2002 also contains the same recitals as that of Ex.A15/unregistered will.

The registration has been made only to ensure that the will was executed by his mother. When the attesting witnesses have clearly spoken about the execution and attestation of the wills and the evidence has not been discredited and no circumstances was brought on record to suspect the will, mere disinheritance of some of the legal heirs is not a ground to disbelieve the will. The mother has clearly given evidence to the effect that only the younger son was looking after her and already, there are other properties allotted to others legal heirs. Such being the position, the wills ought to have been relied upon. The defendants has propounded the will dated 14.03.2003, the same has been registered only after the death of the testatrix. The plan appended to the will has seen the light only when the Ex.B4 was filed before the Court for the first time. Registration of the will after several years clearly indicate that Ex.B4 has been created to non-suit the wills relied upon by the plaintiff.

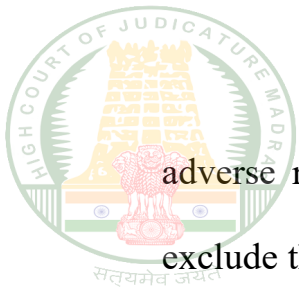
7. Further, when the plaintiff was prosecuting the land acquisition case based on the will relied upon by the plaintiff, the same has not been objected by the other legal heirs. Though, originally the LAOP was prosecuted by the 7th defendant as power of attorney to his mother, even after the plaintiff relied upon the wills in the said proceedings, the other legal heirs have not impleaded themselves, this itself clearly shows that they were aware of the will. This aspect was never considered by the Trial Court. That apart, merely, because the



attesting witnesses are close to the beneficiary, that cannot be a suspicious circumstances to disbelieve the will. In support of his submissions, he relied upon the following judgments:-

- a. *Sridevi & Ors v. Jayaraja Shetty* reported in (2005) 2 SCC 784
- b. *Pentakota Satyanarayana v. Pentakota Seetharatnam* reported in (2005) 8 SCC 67
- c. *Savithri & Ors v. Karthyayani Amma & Ors* reported in (2007) 11 SCC 621.

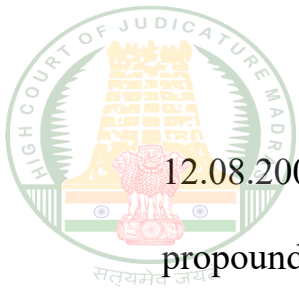
8. The learned counsel for the private respondents submitted that the will propounded by the plaintiff, viz., Exs.A15 & A16 is shrouded with serious suspicious circumstances. The wills have been prepared at the instance of the beneficiary and the attesting witnesses are his close friends and employee. In both the wills, the same attesting witnesses have attested the wills and there are serious of inconsistencies found in their evidences. This raises serious doubt about the wills. It is further contended that the evidence of DW1 would clearly show that mother was moving with all other sons. Even assuming that one of the sons obtained signatures on blank papers from the mother, only to avoid the same, will has been executed by the mother, there is no reasons as to why other legal heirs have been excluded from inheriting the properties and there was no



adverse report whatsoever established against any of the other legal heirs to exclude them in the will. Further, the will admittedly said to have been prepared on the basis of Ex.A10/partition deed dated 21.06.1970 which contains all the details of the properties allotted to the mother and father, whereas, conveniently in Exs.A15 & A16, details of the properties have not been given. This itself clearly shows that will has been prepared in an hurried manner, therefore, mere registration of the wills in Exs.A15 & A16 will not dispense with the proof of will and the plaintiff has not dispelled the suspicious circumstances attached to the will. According to the learned counsel, the documents itself contains inherent suspicious circumstances, hence, the Trial Court has rightly disbelieved the will and granted preliminary decree allotting 1/5th share to the plaintiff and held that all other defendants are Class I legal heirs and they are entitled to 1/5th share. Hence, seeks for dismissal of these appeal suits.

9. In light of the above submissions, the admitted facts are as follows:-

a. The parties are the legal heirs of one Subramania Mudaliar and Sakunthala Ammal. It is not disputed by both sides that the 'A' schedule properties in partition deed dated 21.06.1970 were allotted to both husband and wife. The suit is filed in respect of Sakunthala Ammal's share allotted under Ex.A10/partition deed by plaintiff/younger son of Sakunthala Ammal, who propounded the will dated 02.01.2002 under Ex.A15 and a registered will



12.08.2002 under Ex.A16 claiming to be the beneficiary. The eldest son propounded the will dated 14.03.2003 under Ex.B4, the same has been registered after the death of the testatrix. The Trial Court appreciating the evidence of both sides disbelieved the wills projected by both sides and held that the plaintiff being the legal heir is entitled to 1/5th share. Challenging the same, appeal suit in A.S.No.385 of 2022 has been filed.

b. As against the judgement and decree of the the Trial Court disbelieving the will dated 14.03.2003/Ex.B4 propounded by the defendants, no appeal or cross appeal whatsoever is filed by the defendants, therefore, now, the issue revolves around in these appeal suits is only with regard to Exs.A15 and A16 alone.

10. In light of the above submissions, now the following points arise for consideration:-

(i) Whether the will dated 02.01.2002 is true, valid and proved in accordance with law?

(ii) Whether the will dated 12.08.2002 is true, valid and proved in accordance with law?

(iii) Are there any suspicious circumstances attached to the will and if so, the same has been dispelled by the propounder?



Points (i) to (iii)

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11. As already indicated, parties are contesting the matter only in respect of the properties allotted to their mother namely Sakunthala Ammal under Ex.A10 dated 21.06.1970. The 'A' schedule properties were jointly allotted to Subramania Mudaliar and Sakunthala Ammal, therefore, from the said allotment, it is clear that both Subramania Mudaliar and Sakunthala Ammal were jointly entitled to $\frac{1}{2}$ share each in the 'A' schedule property allotted under Ex.A10. Now, the dispute is only with regard to the share of Sakunthala Ammal. Admittedly, Subramania Mudaliar and Sakunthala Ammal had four sons and one daughter. The plaintiff is the younger son and the first defendant is the eldest son. According to the plaintiff, mother was living with him, he was looking after her, therefore, she has left the will under Ex.A15 and Ex.A16/wills, since the eldest son Ekambaram has obtained signatures in certain blank papers and to avoid fabrication of the same, the will has been executed out of love and affection in favour of the plaintiff, since, the plaintiff was looking after her. Ex.A15 will dated 02.01.2002 was freely executed by her while she was in sound state of mind, later another registered will/Ex.A16 dated 12.08.2002 was executed bequeathing her entire share in favour of the plaintiff.

12. It is well-settled that the propounder must prove due execution and



attestation in terms of Section 63 of the Indian Succession Act and Section 68 of Evidence Act, i.e., that the testatrix executed the Will voluntarily, in a sound and disposing state of mind, and that it was attested by two competent witnesses. In cases, where the circumstances attendant upon the execution of the document give rise to suspicion, the propounder must remove all legitimate suspicions before the document can be accepted as the last will of the testator. The Court while assessing the will has to assess the same sitting in the arm chair of the testatrix. The Hon'ble Supreme Court in the case of *Venkatachala Iyengar vs. B.N.Thimmajamma*, reported in *AIR 1959 SC 443*, has reiterated that, while examining the validity and naturalness of a testamentary disposition, the Court must place itself in the “armchair of the testator” and consider the surrounding circumstances as they would have appeared to the executant.

13. Similarly, the Hon'ble Supreme Court in the case of *Sridevi vs. Jayaraja Shetty* reported in *(2005) 2 SCC 784* has held as follows:-

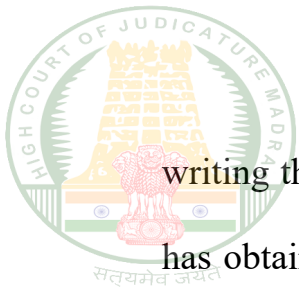
“ 11. It is well settled proposition of law that mode of proving the Will does not differ from that of proving any other document except as to the special requirement of attestation prescribed in the case of a Will by Section 63 of the Indian Succession Act, 1925. The onus to prove the Will is on the propounder and in the absence of suspicious circumstances surrounding the execution of the Will, proof of testamentary capacity and proof of the signature of the testator, as required by law, need be sufficient to discharge the onus. Where there are suspicious circumstances, the onus would again be on the propounder to explain them to the satisfaction of the court before



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the Will can be accepted as genuine. Proof in either case cannot be mathematically precise and certain and should be one of satisfaction of a prudent mind in such matters. In case the person contesting the Will alleges undue influence, fraud or coercion, the onus will be on him to prove the same. As to what are suspicious circumstances has to be judged in the facts and circumstances of each particular case.”

14. Applying these settled principles, when Exs.A15 and A16 carefully seen, Ex.A15 is a will written on the white paper said to have been prepared in the presence of one Krishnan, Advocate & Notary Public and attested by two witnesses, PW2 and PW3 and one Suresh and the document has been prepared by scribe namely Chidambaranadhan. The recitals in the will shows that the entire property belong to the testatrix namely the mother of the plaintiff, who bequeathed the same to her younger son. The reason for writing the will as per the recitals in the document is that the elder son has obtained signature in the blank papers while she was ill, therefore, there is every likelihood that he may create any other document and the reasons for excluding the other sons is that they have not extended any support to the testatrix. In the entire will, absolutely, there is no reason whatsoever assigned as to why she has excluded her daughter Vijayalakshmi. Be that as it may, another will under Ex.A16 is also executed and the entire recitals in Ex.A15 is incorporated and further, it is also recited that since for several years, she was residing with the beneficiary namely the plaintiff and he has been extending all the support to her, therefore, she is



writing the will in favour of the younger son and it is also stated that eldest son has obtained signature in blank papers and he may fabricate the same, in order to avoid the will, she is writing the will. The will of-course is registered and the three attesting witnesses who have signed the earlier will attested the will namely PW2 and PW3 and one Suresh; however, the will is said to have been prepared by another document writer namely Venkatachalam. On careful perusal of both the wills under Exs.A15 & A16, this Court is of the view that there was no reason whatsoever assigned to exclude the daughter though it is stated that other sons are not helping her. Though the first will was said to have been prepared in the presence of Advocate and Notary Public and prepared by one Chidambaranadhar, the second will is not prepared in the presence of an Advocate, whereas, a different writer has prepared and the same has been registered. Though the registration carries presumption that every official acts are done properly, mere registration of the will will not dispense the proof and validity of the will.

15. Now, in the light of the above, we have to analyse the evidences of PW2 and PW3, who are the attesting witnesses to both the wills. On careful perusal of the evidence of PW2/one of the attesting witness, his evidence in the chief affidavit clearly shows that he and beneficiary namely the plaintiff were close friends from the young age and both of them are also running medical



shop. On 02.01.2002, the scribe brought the will, after reading out the will,

Sakunthala Ammal has signed the will in the presence of Advocate and Notary

and all the witnesses signed at the directions of the Sakunthala Ammal.

Similarly, on 12.08.2002, one Venkatachalam/scribe brought typed copy of

Ex.A16 and the said document is also read out later in the Sub Registrar Office

and Sakunthala Ammal signed the document in their presence. It is also stated in

the chief examination that while executing both the wills, she was in sound state

of mind; later on 03.07.2003, the execution of the will has been informed to all

other legal heirs. In the cross examination of PW2 when carefully seen, he

stated that he had gone at the instruction of the plaintiff and the will was

prepared by the scribe in the house. The first will was executed at about 7 pm

and he had signed as the first attesting witness and later one Suresh signed.

Ex.A16 was prepared by one Venkatachalam and he has also seen the testatrix

signing the document. On careful perusal of his evidence, though the cross

examination is very short, the fact remains that all the attesting witnesses are

close aid of beneficiary and in fact, PW2 is friend and partner with the

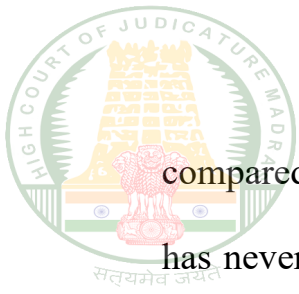
beneficiary namely the plaintiff. In the chief examination, it is the specific

evidence of PW2 that typed will was brought to the house by the scribe

Chidambaranadhar, whereas, in the cross examination, his evidence is to the

effect that the will was prepared in the house itself. Though the contradictions

appear to be small in nature, it has relevance to assess the entire matter



compared with the evidence of PW3. In the entire cross examination of PW2, he has never stated about the presence of another attesting witness namely Suresh and Notary Public. Similarly, when the evidence of PW3/another attesting witness is carefully seen, it clearly indicates that he was working as representative under the beneficiary for more than 7 years. His evidence also clearly show that the scribe has typed both the wills in the house. In the cross examination, he has clearly stated that the first will/Ex.A15 was prepared by Paramasivam, whereas, it is the specific case of the plaintiff and the PW2 that it was prepared by Chidambaranadhar. In his entire cross examination, he has never whispered about the presence of another witness.

16. In the wills under Exs.A15 and A16, there are three attesting witnesses, in the normal circumstances, only two attesting witnesses will sign the will, whereas, unusually, in the subject wills, three attesting witnesses have signed. It is further to be noted that three attesting witnesses had signed in different inks in both the wills. In the registered will, only serial number 1 and 2 is typed in the place of attesting witnesses, whereas, No.3 has been written in hand. If really all the witnesses were present on the same day and it was prepared in the presence of the three attesting witnesses, in the normal course, Serial No.3 would have been typed as typed in Ex.A15. This also gives raise to some doubt. Further, it is to be noted that though the evidence of the PW2 and



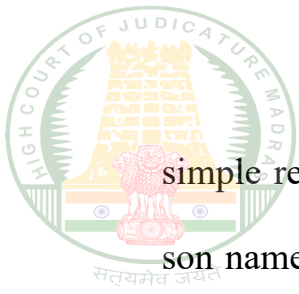
PW3 with regard to the execution and attestation is not fully challenged that itself is not sufficient to dispel the suspicions which are inherent in the documents.

17. Admittedly, both the attesting witnesses are close friends and employee of the beneficiary. PW1 evidence, when carefully seen in this regard, clearly show that PW2 and PW3 are close associates of the beneficiary. PW1 evidence further clear show that at the time of the first will, Ex.A15, only PW2, PW3, scribe and Suresh were present and he clearly deposed that Will was brought by the scribe. In his cross examination, it does not show that the will was signed in the presence of Advocate and Notary Public. Whereas, PW2 and PW3 evidences in chief examination clearly indicate that Advocate was present at the relevant point of time, whereas, PW1 in his evidence never stated anything about the presence of the Advocate and Notary at the relevant point of time. In the entire PW1 evidence show that Ex.A15 was signed by the PW1 in the Notary Public Office. His evidence clearly indicate that all of them went to the office in Auto and the will has been signed by the testatrix before the Notary and he has admitted that PW2 is a partner and PW3 is a employee and another attesting witness is also the employee of PW1. His entire evidence clearly show that from the very beginning till the second will was registered, PW1 was actively participating in preparing the will and calling all the attesting witnesses,



who are either employees or friend, therefore, the evidence of PW1 to PW3 when carefully scanned together makes it clear that there are serious inconsistencies with regard to the place of the execution of the document. PW2 and PW3 in the chief examination deposed that the first will was executed in the presence of Notary Public, whereas, in the cross examination of PW1, the presence of Notary Public during the execution of the will in the house of PW1 is totally absent. PW1 stated that Ex.A15 was executed in the presence of the Notary Public in his office. Whereas, the evidence of PW2 and PW3 asserted that the will was executed in the house itself. According to them, Notary Public was present in the house. All these facts creates serious doubt about the very execution of the will namely Ex.A15. Therefore, merely because some of the interested witnesses namely employees and partner of the beneficiary have verbatim stated in the chief examination about the execution of the will and their evidence is also not properly cross-examined by the Mofussil lawyers, that itself cannot be a ground to believe that the document was validly executed as the last testament of the testatrix.

18. It is relevant to note that the reasons assigned to exclude the other legal heirs is that one of the legal heir namely eldest son obtained signature of the testatrix in blank papers, therefore, the same may be misused by him later, therefore, the Will has been written. Such reason is highly improbable for the



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simple reason that even if such allegations are taken to be true that one of the son namely the elder son has taken signature in certain blank papers, therefore, she executed the will in favour of younger son, there was no reason whatsoever to exclude the other legal heirs in entirety, particularly, there is no circumstances whatsoever established on record to show that other legal heirs are not maintaining the good relationship with the testatrix and the relationship with the testatrix became rancour at any point of time. PW1 evidence also clearly show that he and 9th defendant were partners in Vijay Medicals for some time and the said partnership was conducted in the same house and 9th defendant also used to come to house. His evidence further shows that both the wills right from the preparations and arranging the witnesses and registration, he was actively participating. In the entire will, absolutely there is no details about the properties except stating that the properties of the mother is bequeathed, but the fact remains that Item No.11 of 'A' schedule and Item Nos.7,8 and 11 of 'B' schedule properties are already sold by the mother during her lifetime, but the same is also included in the suit.

19. DW1 evidence clearly shows his mother was prosecuting the LAOP in which the 7th defendant was appointed as power agent and he was prosecuting the case on behalf of his mother. It is suggested to the DW1 to the effect that



there was Panchayat in the year 2001 to divide the property of the mother, since, there was no resolution reached in the Pachayat, signature was obtained in the blank papers which was later used to create Ex.B4 propounded by the defendant. The very suggestion put to DW1 clearly show that in respect of the suit property, there was a Panchayat in the year 2001. Further, cross examination clearly show that mother has also executed rectification deed in respect of the plots sold by her. In the said document, DW1 has also signed as one of the witness. The fact that 7th defendant, one of the son prosecuting the LAOP filed by her mother and power of attorney was also given in his name was not disputed. That apart, DW1 has also signed as witness in the Rectification Deed dated 03.02.2003. These facts clearly show that the relationship with the 7th defendant namely one of the son with the mother is also cordial, there was no circumstances whatsoever available on record to show that other legal heirs acted adverse to the mother so that she has disinherited them in the will. The reasons for writing the Exs.A15 and A16 Wills is only on the ground that she has been looking after by only one son and since the elder son has obtained signature in some blank papers, he may misuse the same; but the evidence of DW1 when suggestion put to him clearly show that mother had a very good relationship and in fact, Power of Attorney is also given to the 7th defendant to prosecute the LAOP on her behalf, that apart, even on 03.02.2003, when the rectification deed was executed by the testatrix, the DW1 has



accompanied her and signed as witness. These facts shows that the relationship with the other legal heirs was very cordial with the mother.

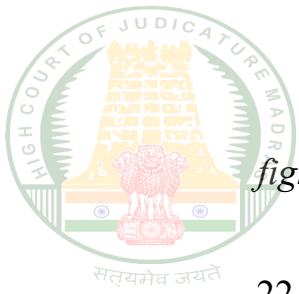
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20. The Hon'ble Supreme Court in Meena Pradhan vs. Kamla Pradhan reported in (2023) 9 SCC 734, in paragraph 10.11 has held as follows:-

“ 10.11. Suspicious circumstances must be “real, germane and valid” and not merely “the fantasy of the doubting mind [Shivakumar v. Sharanabasappa, (2021) 11 SCC 277]”. Whether a particular feature would qualify as “suspicious” would depend on the facts and circumstances of each case. Any circumstance raising suspicion legitimate in nature would qualify as a suspicious circumstance, for example, a shaky signature, a feeble mind, an unfair and unjust disposition of property, the propounder himself taking a leading part in the making of the will under which he receives a substantial benefit, etc.”

21. Recently, in Sardari Lal vs. Bishan Dass and others reported in 2026 SCC OnLine SC 1266, the Hon'ble Supreme Court has held as follows:-

“ 32. Survey of judicial precedents makes it clear that the burden to prove the Will lies on its propounder. Besides, the exercise of proving the Will is not confined to proving its execution in terms of Section 63 of the Succession Act by the mode prescribed by Section 68 of the Evidence Act. This is just the first step in that exercise. The exercise is complete when the propounder satisfies the Court's conscience that the testator had signed the Will with free will, being aware of its contents, and after understanding the nature and effect of the dispositions in the Will. And, if there are suspicious circumstances raising doubts about the Will, it is the duty of the propounder to explain those suspicious circumstances to dispel the doubts and satisfy the Court's conscience. As to what would be considered a 'suspicious circumstance' depends on the facts and circumstances of each case. Broadly, any circumstance, or set of circumstances, which gives rise to a legitimate suspicion about the valid execution of the Will could be considered a suspicious circumstance. However, those suspicions must not be a



figment of imagination or fantasy of a doubting mind.

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22. In light of the above, when there are no other circumstances whatsoever brought on record to show that the relationship between the other legal heirs and the mother so rancour that she has excluded them in entirety in huge properties, this creates serious doubt about the genuineness of the will. The beneficiary namely the plaintiff took active role from the very beginning in preparing the wills by the two document writers, got it attested in front of Advocate Notary and took her to the Registration Department and this has also been admitted in his evidence. These facts shows about his active participation for preparing the will. In this regard, the Hon'ble Supreme Court in the case of *H.Venkatachala Iyengar vs. B.N.Thimmajamma* reported in *AIR 1959 SC 443* has held as follows:-

“ 34... (i) when a doubt is created in regard to the condition of mind of the testator despite his signature on the will;

(ii) when the disposition appears to be unnatural or wholly unfair in the light of the relevant circumstances;

(iii) where propounder himself takes prominent part in the execution of will which confers on him substantial benefit”

23. Further, as already indicated, PW1 evidence shows that the first will was signed in the Office of the Notary Public Office, whereas, the attesting witnesses evidence indicates as the will was signed in the house of testatrix. These facts creates serious doubt. As already stated, in cross examination of



PW2 and PW3, the other witness name is not whispered and the third witness has signed in a different ink and in Ex.A16, serial number 3 is also written in

hand, this is also against the normal circumstance. If really, all the witnesses were present, the normal conduct of the scribe or document writer is to type the serial number in the machine, whereas, filling the serial number clearly gives an inference that the other attesting witness has been included later.

24. Further, it is also to be noted that inserting the clause in both the wills that blank paper is already left by the testatrix, the same may be misused, therefore, she is writing the will is quite unnatural, whereas, the suggestion put to DW1 clearly indicate that blank paper was given at the time of the Panchayat convened to divide the properties in the year 2001, therefore, inserting such clause is also attached with some artificiality to exclude all the legal heirs. As already stated even assuming that one of the legal heir had taken advantage of blank paper, there was no reason as to why the other legal heirs, particularly, DW1 in whose favour, Power of Attorney was executed and was all along accompanied his mother to the Register Office and signed as a witness in the rectification deed and still excluding all the other legal heirs without any circumstances of strained relationship established creates serious doubt about the genuineness of the Will. When there was no strained relationship with other legal heirs, it is highly improbable to comprehend that parent will discriminate

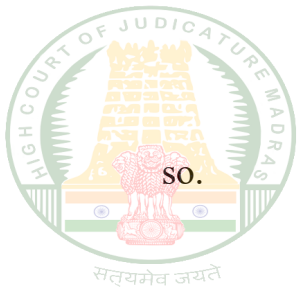


the other legal heirs and bequeath the entire huge property to one of the legal heir.

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25. In *Pentakota Satyanarayana v. Pentakota Seetharatnam* reported in (2005) 8 SCC 67, the Hon'ble Supreme Court has held that registration of the Will does not dispense with the need of proving, execution, and attestation of a document which is required by law to be proved in the manner as provided in Section 68 of the Evidence Act. Even the Will is duly proved, the onus is discharged by the propounder adducing prima facie evidence providing the competence of the testator and execution of the Will in the manner contemplated by law. In such circumstances, the onus shifts to the contestant opposing the Will to bring material on record meeting such prima facie case in which event the onus shifts back on the propounder to satisfy the court affirmatively that the testator did know well the contents of the Will and in sound disposing capacity executed the same.

26. Absolutely, there is no dispute with regard to the above proposition, mere proof of the will alone is not sufficient. When the suspicions are inherent as pointed above, it is again the onus shifts on the propounder to dispel the suspicious circumstances which has not been done in this case. Huge properties, more than 30 acres are sought to be deviated by way of succession each and every suspicions has to be dispelled by the propounder which has not been done

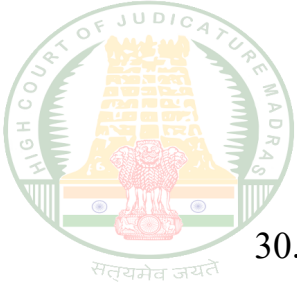


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27. Considering the above, we are of the view that Exs.A15 & 16 are not genuine, true and valid. Suspicions are inherent in the documents as discussed above. Accordingly, these points are answered in negative.

28. Though several documents have been filed by both sides, the same are not relevant to decide the issue since the entire issue and the right of the parties revolving around the Wills propounded by the plaintiff have been disbelieved by this Court. Therefore, we do not find any infirmity in the order passed by the Trial Court. Accordingly, the appeal suit in A.S.No.385 of 2022 is dismissed. The Trial Court granting preliminary decree and allotting 1/5th share to the plaintiff in view of this Court is correct.

29. Since, this Court also disbelieved the wills propounded by the plaintiff, we are inclined to concur with the judgement of the trial Court as discussed above and the appeal filed against the judgement and decree of the Trial Court in O.S.No.118 of 2005 and the appeal suit in A.S.No.151 of 2022 has to necessarily fail. Accordingly, all the legal heirs are certainly entitled to equal share in the compensation awarded in the Land Acquisition Proceedings in LAOP.No.361/1991 on the file of the learned Sub Court, Tiruvallur.



30. In the result, these appeal suits are dismissed. No costs. Consequently,

connected miscellaneous petitions stand closed.

(N.SATHISH KUMAR J.)(M.JOTHIRAMAN J.)

08-07-2026

dhk

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1.The I Additional District Judge
I Additional District Court, Tiruvallur.

2.The Sub Registrar
Tiruvallur, Taluk Office Compound and
Post, Tiruvallur 602 001.

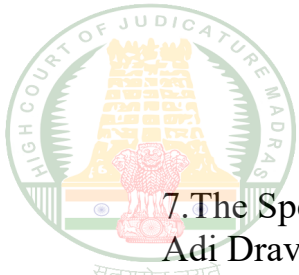
3.The Sub Registrar
Perambakkam, Office at Perambakkam
Village and post, Tiruvallur Tk and
Dist.

4.The Sub Registrar
Kancheepuram Vanigar Street,
Kancheepuram Town and Taluk,
Kancheepuram Dist.

5.The Tahsildar
Tiruvallur Taluk J.N.Road, Tiruvallur
Town and Tk, Tiruvallur Dist.

6.The Dist. Collector
Tiruvallur Dist. Master Plan Complex,
Tiruvallur.

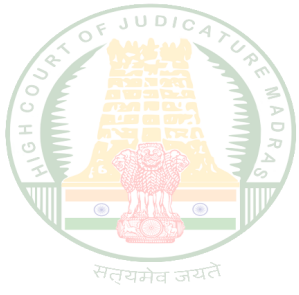
29/31



AS Nos.385 & 151 of 2



7. The Special Tahsildar
Adi Dravidar Welfare Department,
R.D.O.Campus, J.N.Road, Tiruvallur
Town, Tiruvallur Tk and Dist.



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AS Nos.385 & 151 of 2



**N.SATHISH KUMAR J.
AND
M.JOTHIRAMAN J.**

dhk

AS Nos. 385 & 151 of 2022

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