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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.06.2026
PRONOUNCED ON : 29.07.2026

CORAM:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

O.P.No.459 of 2025

E.Paramasivan

..Petitioner

PRAYER: Original Petition filed under Sections 222 and 276 of Indian Succession Act XXXIX of 1925 read with Order XXV Rule 5 of the Original Side Rules, praying to permit to prove the Will in common form and that Probate thereof having effect limited to the State of Tamil Nadu.

For Petitioner: Mr.K.Harishankar
For M/s.Mithreyi Kasthurirangan

***

O R D E R

The present Original Petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925, seeking the grant of probate in respect of the alleged last will of the late Mrs.Rani Ravindran @ Rani Puspalatha Ravindran (hereinafter referred to as "the testatrix"), who is stated to have died in Chennai on 02.05.2025.

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2. The petitioner, an Advocate by profession, claims to have been appointed the sole executor under the alleged Will and has instituted the present petition for probate. The sole beneficiary under the alleged Will is Mr.S.Dilip Kumar, who is admitted not to be a member of the testatrix's family. According to the petitioner, the beneficiary cared for the testatrix in her last days.

3. In the petition, the respondent column is shown as "Nil"; consequently, the proceedings have been treated as non-contentious. The depositions of the petitioner and one of the attesting witnesses were recorded before the learned Master. During the course of the evidence, Exhibits P-1 to P-14 were marked with Ex. P-1 being the alleged Will undated March 2025.

4. After hearing the learned counsel for the petitioner and carefully examining the pleadings and the documents on record, this Court found several circumstances that cast suspicion on the due execution and genuineness of the alleged Will. Accordingly, by order dated 09.06.2026, this Court raised detailed queries. It directed the petitioner to file an additional affidavit, together with the relevant supporting documents, to clarify the suspicious circumstances and satisfy the judicial conscience of the Court.

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5. Pursuant thereto, the petitioner filed an additional affidavit along with a typed set of documents. However, on careful consideration of the additional affidavit, the explanations offered therein do not satisfactorily answer the queries raised by this Court, nor do they dispel the suspicious circumstances surrounding the alleged Will. On the contrary, the additional affidavit and the accompanying documents have given rise to further doubts regarding the authenticity and genuineness of the alleged Will.

6. It is also pertinent to note that the Will bears no signature of the testatrix anywhere; only a thumb impression appears on each page. No contemporaneous document, admitted or proved to contain the testatrix's admitted left thumb impression, has been produced before this Court to enable a comparison with the impression found on the alleged Will, or otherwise to satisfy the Court regarding its genuineness. In a case where several suspicious circumstances surround the Will, the absence of such a proved contemporaneous specimen assumes considerable significance when assessing whether the propounder has discharged the burden cast upon him under law.

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7. The Will is undated. However, the attesting witness examined before the learned Master, and the petitioner in his subsequent additional affidavit, have stated that the Will was executed by the testatrix on her birthday — a fact not averred anywhere in the petition itself — namely 25.03.2025. Apart from the petitioner's bare assertion, there is no evidence to establish that the date and month in question were, in fact, the testatrix's birthday.

8. The petitioner has further deposed that, on the testatrix's instructions, he prepared the draft Will and handed it to her. However, he has categorically admitted that he was not present at the execution. Thus, he has no personal knowledge of the Will's execution.

9. According to the petitioner, he was the testatrix's advocate and had known her for the past ten years. However, in his additional affidavit, he admitted that he had never appeared on her behalf in any judicial proceeding. His own evidence shows that he knew the testatrix only in his professional capacity as an advocate and not in any other capacity.

10. The petitioner further stated that, particularly from 2018 onwards, he had been providing legal advice to the testatrix in respect of her

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immovable properties, tenancy matters, documentation, and the Padur property. However, he has not explained the nature of the legal disputes for which such advice was allegedly rendered. He has not identified any document he prepared for the testatrix, nor has he produced any material to substantiate the professional relationship he claims. On the contrary, he admitted that the testatrix had no litigation pending before any Court in Chennai and that he had never represented her in any legal proceedings.

11. In the absence of any evidence regarding the nature of the legal services rendered by the petitioner, it remains unexplained how he came to be appointed as the sole executor under the Will. Ordinarily, the appointment of an executor reflects a relationship of confidence, trust, or close association between the testator and the executor. The appointment of an advocate as executor is not, by itself, a suspicious circumstance, since a testator is free to repose confidence in a professional adviser of her choosing. In the present case, the petitioner has unequivocally admitted that, apart from his alleged professional relationship as an advocate, he had no personal, familial, or other close association with the testatrix. This circumstance assumes significance and constitutes a suspicious circumstance surrounding the execution of the Will, particularly given that no satisfactory explanation has been offered as to why the testatrix chose to appoint the petitioner as the executor of her estate.

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12. On the last page of the Will, the words "Drafted by Self" appear. Notably, this endorsement bears neither the testatrix's signature nor any identifying mark. When questioned, the petitioner explained that it is the usual practice to include "Drafted by Self" in Wills, as the registering authorities require such an endorsement before registration. According to him, in other documents the name of the advocate or document writer is ordinarily mentioned, whereas in the case of a Will, since it is prepared on the instructions of the testator or testatrix, the endorsement "Drafted by Self" is used.

13. The above explanation is unconvincing. There is no legal provision or established practice that prohibits an advocate or a licensed document writer from mentioning their name in a Will they have drafted. On the contrary, it is common for the scribe of a Will, whether an advocate or a document writer, to disclose their identity and sign the document. The fact that a Will is prepared at the testator's or testatrix's instructions does not require it to be described as "Drafted by Self." In fact, every document, including a Will, is ordinarily prepared at the executant's instructions.

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14. In the present case, the endorsement "Drafted by Self" naturally indicates that the testatrix herself prepared the Will. However, the petitioner has categorically deposed that he drafted the Will at the testatrix's instructions. His evidence is therefore directly inconsistent with the endorsement in the Will. The absence of the testatrix's signature or mark beneath the endorsement "Drafted by Self" further casts doubt on its authenticity. This unexplained inconsistency constitutes yet another suspicious circumstance surrounding the execution of the Will.

15. It is pertinent to note that the petitioner has not sought probate in respect of the entire estate covered by the Will. On the contrary, the prayer in the petition is for the grant of probate, limited in effect to the State of Tamil Nadu. The Will, however, admittedly includes a second item of property, namely, a residential flat situated in New Delhi.

16. Ordinarily, a probate granted by a competent Court takes effect in accordance with Sections 227 and 273 of the Indian Succession Act, 1925. It is not confined to a particular State unless the law permits or the facts justify such a restriction. The petitioner has neither pleaded nor proved any legal or factual necessity for restricting the probate's operation to the State of Tamil

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Nadu. There is no explanation whatsoever as to why the New Delhi property, which is admittedly part of the same Will, has been excluded from the scope of the present proceedings.

17. An executor is expected to seek probate for the due administration of the testator's estate in accordance with the Will. The omission to include one of the properties covered by the Will, coupled with a specific prayer restricting the operation of probate to Tamil Nadu, without assigning any reason, is an unusual circumstance. The unexplained territorial restriction raises a legitimate doubt regarding the bona fides of the petitioner. It constitutes one of the suspicious circumstances which the Court is bound to consider when examining whether the Will has been proved in the manner known to law.

18. The petitioner's case is that the impression in the Will is the left thumb impression of the testatrix. However, no endorsement or recital appears beneath or adjacent to the impression identifying it as the left thumb impression of the testatrix. Further, the impression itself is unclear and smudged, and appears to have been made with excessive ink, rendering its ridges and characteristics indistinct. In the absence of any identifying

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endorsement, and having regard to the poor quality of the impression, it is difficult to ascertain from the face of the document whether the impression is in fact that of the testatrix. This circumstance also assumes significance when assessing the genuineness of the Will's execution.

19. The petitioner has pleaded that, although the testatrix was mentally alert and fully capable of understanding her affairs at the time of execution of the Will, she experienced considerable difficulty affixing her usual signature due to weakness, lack of steadiness, and tremors affecting her hands and fingers. However, the Will contains no endorsement or recital explaining why the testatrix, instead of signing the document, affixed her thumb impression. In the absence of such an explanation in the Will itself, the petitioner's subsequent assertion assumes significance.

20. The petitioner has further stated that, in the last phase of her life, the testatrix used to affix her left thumb impression on important documents. However, he has neither specified any such document nor produced any contemporaneous document bearing the admitted left thumb impression of the testatrix to enable the Court to compare or verify whether the thumb impression found in the Will is that of the testatrix. The failure to identify or

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produce even a single such document, despite making a specific assertion, renders the explanation unsubstantiated and gives rise to a legitimate doubt regarding the genuineness of the thumb impression found in the Will.

21. On the petitioner's side, reliance has been placed on an alleged draft sale deed, said to have been executed by the testatrix, in support of his contention that, during the last phase of her life, she used to affix her left thumb impression on important documents. A careful perusal of the said document, however, creates further suspicion rather than lending support to the petitioner's case.

22. The document is engrossed on non-judicial stamp paper of Rs.1,000/-, purchased on 28.04.2025, and relates to Plot No. 21, measuring three grounds, situated at Saraswathi Nagar, Neelankarai Village, Sholinganallur, Chennai. In the additional affidavit, the petitioner has stated that the testatrix had been receiving amounts periodically from one Mr.Chinnappan and had agreed to execute a sale deed in respect of the said property to the proposed purchaser. However, the draft sale deed itself shows Mr.Chinnappan as the power agent of the testatrix, whereas his wife is shown as the proposed purchaser.

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23. The document is conspicuously incomplete. It is undated. The sale consideration and the market value of the property have both been left blank. The particulars of the power of attorney have not been completed. Significantly, the petitioner is shown as the person who drafted the document. These features unmistakably indicate that the transaction had not been completed and that the document remained only a draft.

24. If the stamp paper was purchased only on 28.04.2025, any execution could only have taken place thereafter. Nevertheless, the property covered by the said draft sale deed does not appear in the Will. On the contrary, the Will contains a residuary clause bequeathing all properties not specifically mentioned therein to the beneficiary. If, as claimed by the petitioner, the testatrix had already decided to alienate the property by way of sale, there ought to have been a corresponding reference either in the Will or in the pleadings explaining the omission. No such explanation has been offered.

25. Equally significant is the petitioner's reliance on this incomplete draft sale deed solely to establish that the testatrix affixed her left thumb

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impression. However, the petitioner has not offered any satisfactory explanation for why he, who admittedly drafted the document, permitted the testatrix to affix her left thumb impression to an incomplete draft sale deed containing several material blanks relating to the sale consideration, market value, particulars of the power of attorney, and other essential terms. More importantly, no attesting witness has signed the document, and there is no evidence that any independent person was present when the testatrix allegedly affixed her left thumb impression. In the absence of any attestation or corroborative evidence regarding the affixture of the thumb impression, the document's evidentiary value is seriously impaired. These circumstances further raise suspicion about the document's authenticity and reliability.

26. Thus, the very document relied upon by the petitioner, rather than corroborating his version, gives rise to additional suspicious circumstances. Its incomplete nature, the unexplained thumb impression, the absence of attestation, the omission of the property from the Will despite the residuary clause, and the petitioner's role as the draftsman cumulatively cast serious doubt on the genuineness of both the document and the petitioner's explanation.

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27. The petitioner has stated that the testatrix was an educated person conversant with English. He has further averred that, after the testatrix's death, the Will was recovered from among her personal papers and handed over to him, as he had been named as the executor therein, to take appropriate legal steps in accordance with law. However, the petitioner has not explained who actually discovered the Will among the deceased's personal belongings, who conducted the search of her belongings, who was present at the time of the search, or who handed the Will to him. The circumstances under which the Will allegedly came to light have thus been left completely unexplained. The absence of any evidence regarding the discovery and custody of the Will from the time of the testatrix's death until it came into the petitioner's possession creates a significant gap in the chain of custody. This gives rise to further suspicious circumstances regarding the Will's authenticity.

28. The sole beneficiary under the Will is Mr.S.Dilip Kumar. In the petition, the petitioner has stated that the said Dilip Kumar had been caring for the testatrix for the past ten years. However, the documents subsequently produced by the petitioner himself cast serious doubt on the correctness of this assertion.

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29. Along with the additional affidavit, the petitioner has filed a typed set containing a copy of a police complaint dated 06.06.2022, allegedly lodged by the testatrix in respect of the Padur property. In the complaint, the testatrix stated that she was receiving a family pension as the widow of the late Mr.Ravindran, a former I.P.S. Officer, and that she had become bedridden and was unable to walk due to a spinal cord ailment. She further stated that she had engaged three caretakers to look after her and specifically mentioned that she had nominated Mr.S.Dilip Kumar as her personal assistant only in 2021.

30. The statement made by the testatrix herself is inconsistent with the petitioner's assertion that Mr.S.Dilip Kumar had been taking care of her for the past ten years. In his chief proof affidavit, he stated specifically that this was from 2014 onwards. If, as stated by the testatrix, three caretakers had been engaged to attend to her needs and Mr.S.Dilip Kumar was nominated only as her personal assistant in 2021, the petitioner's version that the beneficiary had been exclusively looking after the testatrix for the preceding ten years appears to be incorrect. The petitioner has not offered any explanation to reconcile this material inconsistency.

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31. The petitioner has further stated that in the testatrix's final days, she was unable to operate her bank accounts, and therefore Mr.S.Dilip Kumar met her day-to-day expenses and the salaries, expenses payable to caretakers and attendants of the testatrix from his own resources. This assertion is equally unsupported by any acceptable evidence. Neither the financial capacity of Mr.S.Dilip Kumar to incur such expenditure, nor the approximate amount he spent, the period for which such expenditure was incurred, nor the nature of the expenses has been disclosed. Significantly, Mr.S.Dilip Kumar, being the sole beneficiary under the Will and the person alleged to have rendered such extensive assistance to the testatrix, has not entered the witness box to substantiate these facts. The non-examination of the principal beneficiary, coupled with the absence of any documentary or oral evidence supporting the alleged financial assistance, constitutes yet another suspicious circumstance surrounding the propounded Will.

32. The petitioner has stated that the property at Kotturpuram, Chennai, was occupied by a tenant and that, after the testatrix's demise, the tenant vacated the premises after adjustment of the advance amount. However, the petitioner has not disclosed the tenant's identity, the period of tenancy, the amount of advance allegedly adjusted, or the date on which possession was

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surrendered. No rental agreement, rent receipts, or any other document evidencing the tenancy or the adjustment of the advance amount has been produced.

33. The petitioner has further stated that the tenants occupying the flat in New Delhi have been evading payment of rent. If that were so, it would be expected of the petitioner, who claims to be the executor under the Will, to take appropriate legal steps to recover the arrears of rent or to enforce the rights of the estate. No material has been placed before the Court to show that any such action was initiated.

34. It is reasonable to expect that the testatrix would have executed rental agreements for both the Kotturpuram property and the flat in New Delhi, particularly as the properties are stated to have been let on rent. However, no tenancy agreements, rent receipts, correspondence with the tenants, or any other contemporaneous records have been produced. The failure to produce these primary documents, which would be expected to be available in the ordinary course, remains unexplained. These omissions assume significance, particularly when the petitioner seeks to establish that he came into possession of the testatrix's documents after her death and claims to have been managing the estate thereafter. The absence of such

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material creates yet another circumstance casting doubt on the credibility of the petitioner's version.

35. From the averments in the petition and the materials placed on record, it appears that the testatrix acquired the immovable properties through her husband and her sister. According to the petitioner, the testatrix's husband was the only son of his parents, both of whom had predeceased him. It is further stated that the testatrix's sister predeceased her issueless, and that her brother also predeceased her as an unmarried bachelor. Based on these facts, the petitioner believes there are no surviving legal heirs of the testatrix.

36. Such a statement, however, is based solely on the petitioner's belief and not on any enquiry or acceptable material. When the Court specifically called upon the petitioner to furnish particulars of the collateral relatives of the testatrix and her deceased husband, such as the descendants of the brothers and sisters of the husband's father or mother, who may fall within the categories of heirs recognised under the Schedule to the Hindu Succession Act, 1956, the petitioner failed to furnish any particulars or to demonstrate that any diligent enquiry had been undertaken to ascertain the existence or otherwise of such relatives.

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37. The deceased husband of the testatrix was a retired I.P.S. Officer of the Tamil Nadu Police. In the ordinary course, his service records would be expected to contain particulars of his family and next of kin. No attempt appears to have been made by the petitioner to obtain or verify these records. Likewise, no material has been produced to show that enquiries were made of relatives, neighbours, or other persons acquainted with the family.

38. The petitioner's explanation that the testatrix had been living alone and had no contact with any of her own relatives or those of her husband is difficult to accept in the absence of supporting evidence. Before the Court can act upon the assertion that the testatrix died leaving no surviving legal heir, the propounder is expected to place before the Court satisfactory material demonstrating that a bona fide and diligent enquiry was conducted. The failure to do so renders the petitioner's assertion speculative and unsupported, thereby constituting yet another circumstance that casts doubt on the credibility of the petitioner's case.

39. The examination of the attester alone is insufficient to prove the will; the suspicious circumstances must be dispelled. In this regard, the Apex Court recently held in ***Sardari Lal v. Bishan Dass & Ors.***, 2026 INSC 669, decided on 06.07.2026, as follows:

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> *"38. Proof of will is not just an exercise to prove the signature of the testator on the Will and its attestation in terms of Section 63 of the Succession Act; rather it is an exercise to satisfy 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. Where there are suspicious circumstances regarding the execution of the Will, the propounder must explain those circumstances and dispel all reasonable doubts regarding its execution."*

40. In light of the foregoing discussion, this Court is not satisfied that the alleged Will has been proved in accordance with the law. The petitioner has failed to dispel the numerous suspicious circumstances surrounding the execution and genuineness of the alleged Will. Consequently, the petitioner is not entitled to the grant of probate. Accordingly, the Original Petition is dismissed. No order as to costs.

41. Having regard to the materials placed before this Court, which disclose that the deceased has left valuable movable and immovable property and that no person has, as on date, established any legal entitlement to administer the estate, the Registry is directed to forward a copy of this Order together with the inventory and other relevant records, to the Administrator

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General and Official Trustee, Tamil Nadu, for such action as may be considered appropriate in accordance with the provisions of the Administrator General's Act, 1963, the Indian Succession Act, 1925, and other applicable laws, for the protection and preservation of the estate, forthwith.

29.07.2026

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

Note: Issue Order Copy on 29.07.2026 itself

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To:

The Administrator General and Official Trustee,
Office of the Administrator General
and Official Trustee of Tamil Nadu,
Madras High Court Campus,
High Court Road, Parry's Corner,
George Town, Chennai - 600104, Tamil Nadu.

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DR.A.D.MARIA CLETE, J.

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Order made in
O.P.No.459 of 2025

Dated:
29.07.2026

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