

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY AND INTESTATE JURISDICTION)

TUESDAY, THE 14TH DAY OF NOVEMBER 2017

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

A.No.7107 of 2017
in
T.O.S.No.24 of 2008

T.O.S.No.24 of 2008:

In the matter of the Indian
Succession Act XXXIX of 1925;
and

In the matter of Last Will and
Testament of Dr.S.K.Srinivasan
-deceased.

K.S.Varadharajan
#34, New NO.28,
Srinivasa Iyengar Street,
West Mambalam, Chennai-33.

...Petitioner/Plaintiff

Vs

S.K.Venkatesan
(*)G-3, Kala flats,
No.18/28, Perumal Koil Street,
Mettupalayam, West Mambalam,
Chennai- 600 033

...Caveator/Defendant

(*)Address of the defendant amended as per order dated
14.09.2012 in A.No.4057/2012 and the delay in amendment is
condoned by the order dated 05.07.2013 in A.No.2783/2013.

A.No.7107 of 2017:

K.S.Varadharajan
No.34, New No.28,
Srinivasa Iyangara Street,
West Mambalam, Chennai -33

..Applicant

vs

S.K.Venkatesan
S/o.Dr.S.K.Srinivasan,
G3, Kala Flats, No.18/28 Perumal Koil Street,
Mettupalayam,
West Mambalam, Chennai- 600 033

..Respondent

Application praying that this Hon'ble Court be pleased to recall PW2 for the purpose of identifying the signatures of the testator, the other attesting witness and that of himself in the WILL dated 22.11.2000 executed by Prof.S.K.Srinivasan.

This application coming on this day before this court for hearing the court made the following order:

This application has been filed to recall P.W.2.

2. The matter arises out of a testamentary and original suit proceedings. P.W.1 is the executor under the Will, P.W.2 is one of the attesting witnesses. He filed his proof affidavit. Subsequently, he was also examined in-Chief, wherein he affirmed to the proof affidavit filed by him. Thereafter he was cross examined on behalf of the defendant. Evidence was closed.

3. Now, the grievance of the learned counsel for the plaintiff is that the original Will was not shown to P.W.2 to establish the signature found in the original Will.

4. Since the trial is in progress and since it would be highly inappropriate for this court to comment over the

merits and demerits of both the parties, I refrain from stating any further on that aspect.

5. It is seen, as a matter on record that the witness had answered to the questions raised in the cross examination and thereafter, the Additional Master had thought it fit to close the evidence. The matter rests at that. Neither party can be granted an opportunity to improve their case either in chief or in cross, after the examination of the particular witness have been completed.

6. It is also to be mentioned that there is yet another attesting witness and the learned counsel for the plaintiff can examine him or take any other steps, he thinks fit.

7. In such circumstances, this application is dismissed. Post this matter before the learned Additional Master -I on 07.12.2017

Sd/C.V.K.J.
14.11.2017

//Certified to be a true copy//

Dated this the day of 2017.

DL/29.11.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.