

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 21ST DAY OF MARCH 2018

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

A.No.1653 of 2018

in

TOS.No.20 of 2015

In the matter of the Indian
Succession Act XXXIX of 1925

And

In the matter of the law Will and
TESTAMENT of D.Govardhana Ram Naidu
(deceased)

1.D.Venkatraman (deceased)
s/o D.Govardhana Ram Naidu,
No.17, 1st Cross Street,
Trustpuram, Kodambakkam,
Chennai 600 024

2.Janakiram D.V
No.17, 1st Cross Street,
Trustpuram, Kodambakkam,
Chennai 600 024

3.Sathyanarayana Ram D.V
No.17, 1st Cross Street,
Trustpuram, Kodambakkam,
Chennai 600 024

4.Mrs.S.Vijayalakshmi
W/o Srinivasan,
62/45, Ragavan Street,
Choolai, Chennai 600 112

..Applicant/Plaintiff

Vs.

1.Mrs.D.G.Premalatha

@ C.N.Rajalakshmi

W/o Late C.V..Neelalochana

2B, Booblie Raja Street,

Kalinga Colony, K.K.Nagar,

Chennai 600 078

2.Mrs.C.V.Gangabai,

W/o C.V.Sanjeevi,

1598, 5th Cross Street,

J Block,

Anna Nagar, Chennai 600 040

3.Mrs.M.Lillykumari,

w/o K.V.Madhavan,

17, Sundaram Pillai Street,

Purasawalkam, Chennai 600 007

..Respondents/Defendants

Application praying that this Hon'ble Court be pleased to an order directing the Additional Master No.III of the original side of this Hon'ble Court should not be passed to allow the plaintiffs to examined Shri.P.Manirajan as P.W.3.

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

This Application No.1653 of 2018 has been filed by the plaintiff in TOS.No.20 of 2015 seeking to examine one further witness as P.W.3. The said witness is P.Manirajan. He is said to be the son of the 1st attesting witness. P.W2 was already examined is the wife of the 2nd attesting witness.

2. Heard the learned counsel for the defendant. Who has raised a serious objection for examining the witness, since the name of the witness was not disclosed in the list of witnesses to be filed by the plaintiff at that time of framing of issues. At any rate, I would

permit examination of the witness with the following conditions:

i) The evidence of P.W3 has to be only with respect to the signature if any of his father as an attesting witness.

ii) The evidence of the cross examination of P.W2 cannot be dilated by the evidence of P.W3.

iii) The defendants are at liberty to take advantage of the cross examination of P.W.2 and even if there is some contradiction with P.W3 by the evidence of P.W2, The evidence of P.W.2 alone can be considered.

iv) At the time of arguments, the defendants can point out to the Court that P.W.3 is a witness who had been introduced after the conclusion of cross examination of P.W2 and that a counter had been filed that he had been introduced only to fill up the lacuna in the evidence of the plaintiff.

3. P.W.3 is to speak as stated above only with the facts direct to his knowledge and cannot speak about anything which is not directly known to him. It is again made clear that at the time of analyzing the evidence, the evidence of P.W2 will take priority and thereafter the evidence of P.W3 can be looked into by the Court.

4. The Application No.1653 of 2018 is also allowed.

5. Post the matter before the Additional Master No.III, on 27.03.2018. P.W3 is to be examined orally in chief examination and he

is also to be cross examined by the defendant. Thereafter the evidence of the defendants is to be recorded and the suit is to be posted before this Court.

Sd/.C.V.K.J

21.03.2018

//Certified to be a true copy//

Dated this the day of 2018.

TR/31.05.2018

COURT OFFICER(O.S)

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