

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(TESTAMENTARY AND INTESTATE JURISDICTION)

WEDNESDAY, THE 06TH DAY OF FEBRUARY 2019

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A.No.589 of 2019
in
T.O.S.No.36 of 2010

In the matter of the
Indian Succession Act
XXXIX of 1925
and
In the matter of LAST WILL
AND TESTAMENT of
E.Kuppusamy Naicker
-deceased.

1.Smt.K.Kamala Ammal
W/o.Kothandaraman
No.49, Jagannathapuram
1st Main Road, Vellahery
Chennai - 600 042.

2.G.Madhan Kumar
S/o.Kothandaraman
No.49, Jagannathapuram
1st Main Road, Vellahery
Chennai - 600 042.

3.P.Parimala Ammal alias P.Mala
W/o.Paramasivam
Keelkalvai Village and Post
Kanchipuram District - 603 108

...Petitioners/Plaintiffs

-Vs-

1.Smt.K.Rani Ammal
W/o.Kathirvel Naicker
Chattamangalam Village
Panangkottur PO Katangkolattur (Via)
Kanchipuram District 603 202.

2.Smt.K.Yashoda Ammal
Wife of Kanniyappa Naicker
No.30-F, 3rd Cross Street
C.I.T.Nagar, Nandanam
Chennai - 600 035.

3.Sri.K.Senthamarai
S/o.Late Kuppusamy Naicker
Kannivakkam Village and post
Kanchipuram District - 603 202.

4.Sri K.Devarajan
S/o.Late Kuppusamy Naicker
Kannivakkam Village and Post
Kanchipuram District - 603 202

...Respondents/Defendants

(3rd and 4th Defendants were impleaded
as parties vide App.No's. 3468 & 3469/2014
by order dated 23.09.2014)
and extended on 04.08.2015.

A.No.589 of 2019:

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

In the matter of LAST WILL
AND TESTAMENT of
E.Kuppusamy Naicker
-deceased.

1.Sri K.Devarajan @ Dilli
S/o.Late Kuppusamy Naicker
Kannivakkam Village and Post
Kanchipuram District - 603 202

...Applicant/4th Defendant

-Vs-

1.Smt.K.Kamala Ammal
W/o.Kothandaraman
No.49, Jagannathapuram
1st Main Road, Vellahery
Chennai - 600 042.

2.G.Madhan Kumar
S/o.Kothandaraman
No.49, Jagannathapuram
1st Main Road, Vellahery
Chennai - 600 042.

3.P.Parimala Ammal alias P.Mala
W/o.Paramasivam
Keelkalvai Village and Post
Kanchipuram District - 603 108

...Respondents 1 to 3/Plaintiffs

4.Smt.K.Rani Ammal
W/o.Kathirvel Naicker
Chattamangalam Village
Panangkottur PO Katangkolattur (Via)
Kanchipuram District 603 202.

5.Smt.K.Yashoda Ammal
Wife of Kanniyappa Naicker
No.30-F, 3rd Cross Street
C.I.T.Nagar, Nandanam
Chennai - 600 035.

6.Sri.K.Senthamarai
S/o.Late Kuppusamy Naicker
Kannivakkam Village and post
Kanchipuram District - 603 202.

...Respondents 4 to 6/Defendants 1 to 3

Application praying that this Hon'ble Court be pleased to grant leave to the Applicant/4th Defendant to file the additional document viz.,

"Certified copy of Exhibit A6 and A7

Marked in O.S.No.144 of 2010 on the file of Additional Sub Court Chengalpattu which is signature and address of Kuppusamy Naicker in General Power of Attorney dated 28.09.1995.

and mark the same as Exhibit D-7 on the side of the 4th Defendant.

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

The learned Counsel for the applicant seeks time to produce the document viz., the certified copy of the Power of Attorney, admittedly, executed by the testator on 28.09.1995 and registered at the office of the Sub-Registrar, Virugambakkam, Chennai. The said document appears to have been produced by the 1st plaintiff in the

on the file of the Principal District Judge, Kanchipuram at Chengalpattu as Ex.A.7. Though the applicant has obtained the certified copy of the same on 07.10.2016, it is now claimed in the affidavit filed in support of the application that this document was omitted to be included in the list of documents which have been filed earlier.

2.This application is opposed by the respondents on the ground that the applicant was aware of the Power of Attorney and the delay in producing the same has not been properly explained.

3.Considering the rival submissions of the parties and the issues involved in the Testamentary Original Suit, I am of the opinion that the copy of the Power of Attorney which is now sought to be filed, will be of relevance to the issue regarding the execution and registration of the will which is the subject matter of this proceeding.

4.I am of the considered opinion that the delay that had occurred in filing the document has been properly explained by the applicant. Hence, this application is allowed. The document is received in evidence. The applicant shall file an additional proof affidavit for production of this document.

5. The registry is directed to post the Testamentary Original Suit before the learned Additional Master - I for continuation of evidence on 18.02.2019.

Sd/-R.S.M.J.

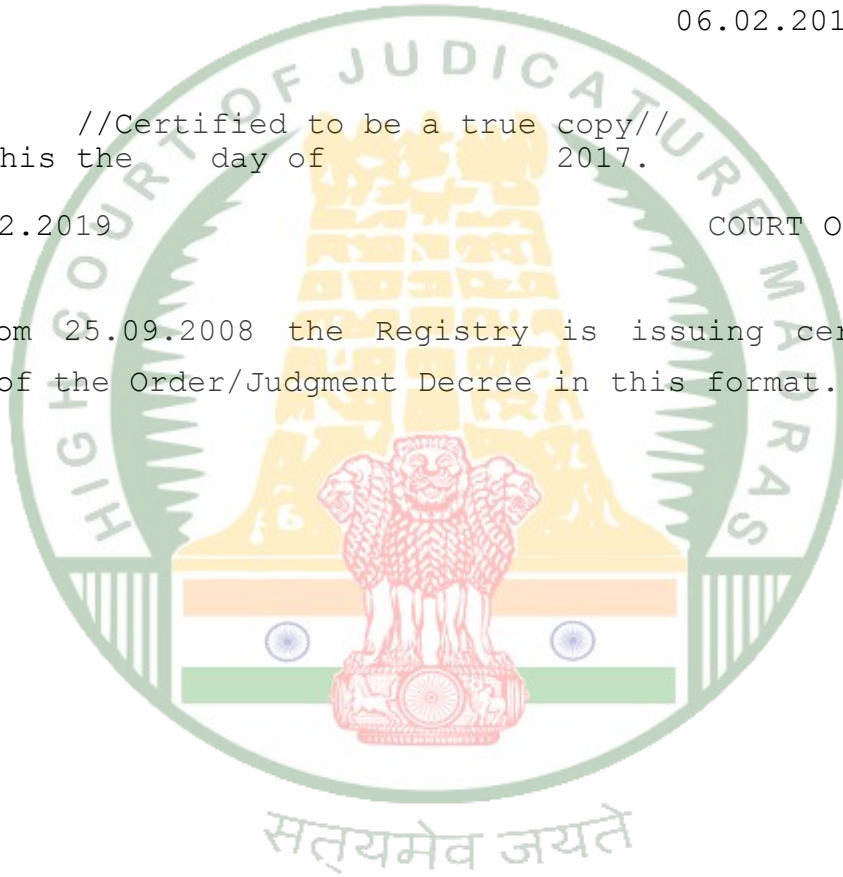
06.02.2019

//Certified to be a true copy//
Dated this the day of 2017.

DL/28.02.2019

COURT OFFICER

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



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