

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMENTARY AND INTESTATE JURISDICTION)

TUESDAY, THE 09th DAY OF JULY 2019

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A.No.4178 of 2019
in
T.O.S.No.29 of 1997

In the matter of Indian
Succession Act XXXIX of
1925

and
In the matter of the last
will and Testament of
S.S.Baggiammal (Deceased)

A.H.Krishnamoorthy,
S/o.A.R.Hanumanthier,
Old No.35, Salai Street,
Mylapore,
Chennai 600 004

...Plaintiff

-vs-

1.S.N.Balaraman (Deceased)
No.39, Manicka Chetty Street,
Choolai, Chennai 600 112

2.T.R.Saroja (Deceased)
No.2, Pillayar Koil Street,
Wall Tax Road,
Chennai 600 003

3.S.R.Sridhar,

4.S.R.Baskar,

5.S.R.Gnanesh,

6.S.R.Suresh

3 to 6 all are residing at
New No.15, Old No.26
Pillayar KoVil Street,
Walltax Road, Chennai 600 003

* D3 to D6 impleaded in the place of the deceased 1st Defendant and D7 to D9 brought on record L.R.s of the deceased 2nd Defendant as per order dated 04.09.2017 in A.No.2474 and 3596/2017

7.T.R.Mothilal,
Old No.18A,
Manicka Street,
Chennai 600 012

8.J.S.Girija,
No.176th Street,
Muthamil Nagar,
Kodugaiyur,
Chennai 600 118

9.N.P.Shanthi,
Srinivasa Nagar,
Madurai

...Defendants

A.No.4178/2019:

A.H.Krishnamoorthy,
S/o.A.R.Hanumanthier,
Old No.35, Salai Street,
Mylapore,
Chennai 600 004

...Plaintiff

-vs-

.S.N.Balaraman (Deceased)

.T.R.Saroja (Deceased)

1.S.R.Sridhar,

2.S.R.Baskar,

3.S.R.Gnanesh,

4.S.R.Suresh

1 to 4 sons of
S.S.Ramakoti, all are residing at
New No.15, Old No.26
Pillayar KoVil Street,
Walltax Road, Chennai 600 003

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5.T.R.Mothilal,
S/o.Ramamurthy,
Old No.18A,
Manicka Street,
Chennai 600 012

6.J.S.Girija,
W/o. Sridharan,
D/o.Ramamurthy,
No.176th Street,
Muthamil Nagar,
Kodugaiyur,
Chennai 600 118

7.N.P.Shanthi,
W/o.Premkumar,
D/o.Ramamurthy,
Srinivasa Nagar,
Madurai

...Defendants

This Application praying that this Honble Court be pleased to grant permission to the applicant to file the documents contained in the list of documents.

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

This application has been filed seeking to produce the document namely, a letter allegedly written by the 9th defendant in TOS No.29 of 1997 to her counsel, a copy of which is marked to the executor, who is the plaintiff in TOS 29 of 1997.

2. This application is resisted by the respondents contending that the document is not relevant for the purposes of determination of the issues involved in the

Testamentary Original Suit. The main proceedings are two Testamentary Original Suits, in TOS No.22 of 1992 and 29 of 1997. TOS No.22 of 1992, has been originally filed by the Executor seeking probate of the Will dated 10.04.1980, said to have been executed by Late S.S.Baggiammal, who died on 20.12.1981. Since the executor died pending the above Testamentary Original Suits, the beneficiaries had been transposed as the plaintiffs.

3. The Testamentary Original Suit in TOS No.29 of 1997 has been filed by the Executor seeking probate of the Will dated 20.12.1981 said to have been executed by the deceased S.S.Baggiammal, who died on 20.12.1981. Both the Testamentary Original Suits have been ordered to be tried together and the evidence is being recorded.

4. It is at this stage, the applicant, who is the plaintiff in TOS No.29 of 1997 has come forward with this application seeking leave to produce the document namely, a letter said to have been written by the 9th respondent in TOS No.29 of 1997 to her counsel, disowning of Signature in the written statement filed in the suit.

5. As already pointed out both the suits are Testamentary Original Suits where only the issue that can be gone into is as to whether the execution of the Will has been proved or not. The other questions are foreign to the

scope of the Testamentary Original Suit. The question as to whether the 9th defendant has signed or not signed the written statement, is wholly irrelevant to the issue involved in the original proceeding. Hence, I do not see any reason to receive the document. This application is therefore dismissed.

6. The Registry is directed to post the suit, before the learned Additional Master III, for continuation of evidence on 15.07.2019.

Sd/.R.S.M.J
09.07.2019

//Certified to be a true copy//
Dated this the day of 2019.

R.s/11.07.2019

COURT OFFICER

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

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