

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 28th DAY OF MARCH 2019

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A.NO.7876 OF 2018

IN

TOS.No.51 of 2001

Tos.No.51 of 2001:-

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

In the matter of the Last Will
and Testament of -
C.G.Nataraja Mudaliar
deceased.

N.Palani : Petitioner/Plaintiff
S/o C.G.Nataraja Mudaliar,
residing at No.265, Thiruvottiyur,
High Road, Thiruvottiyur,
Chennai - 19.

-Vs-

1.Thamarai Kani (Deceased)

2.Jayalakshmi (Deceased)

3.O.M.Subramanian (*)
S/o M.Madhava Mudaliar

4. S.M.Meenakumari (*)
D/o O.M.Subramanian

5. R.Sornalatha (*)
D/o M.Subramanian

6.V.Visalatchi (*)
D/o M.Subramanian

all are residing at No.50, Singama Chetty Street,
Chindatripet, Chennai - 600 002.

and further order dated 05.09.2012 in Applin.Nos.2992 to 2994 of 2012.

A.7876 of 2018:-

N.Palani,
No.265, Thiruvottiyur,
High Road, Thiruvottiyur,
Chennai - 19

: Applicant/Plaintiff

-Vs-

1.Thamaraikanni (Deceased)

2.Jayalakshmi (Deceased)

3.O.M.Subramanian
S/o S.Madhava Mudaliar

4.S.M.Meenakumari
D/o O.M.Subramanian

5.R.Sornalatha
D/o O.M.Subramanian

6.V.Visalatchi
D/o O.M.Subramanian

All are residing at
No.50, Singanna Chetty Street,
Chindatripet,
Chennai - 600 002.

..Respondents/ Defendants

Application praying that this Hon'ble Court be pleased to forward Ex.P1, the original will dated 29.04.1983, executed by Late C.G.Nataraja Mudaliar and Ex.P3, the original mortgage deed dated 10.02.1960 executed by Late C.G.Nataraja Mudaliar, Jayalakshmi and Palani, registered as Document No.306 of 1960 on the file of SRO, Thiruvottriyur, to the opinion of the Director of Forensic Science, Santhome High Road, Mylapore, Chennai - 600 004, for comparison of signatures and handwritings found therein in the manner as prescribed.

This Application comin?/g on this day before this court for hearing and the court made the following order:-

This application has been filed seeking to refer the document namely, the original Will dated 29.04.1983 to the

Director of Forensic Science for comparison of signature found in the Will.

2. The original petition is of the year 2001. The written statement was filed by the defendants as early as on 21.01.2002, disputing the genuineness of the Will. After several dead locks, the matter has been posted for evidence before learned Master. Now after 17 years from the date of written statement, the plaintiffs in the suit have come forward with this application for comparison of the signature.

3. I am of the considered opinion that the application is highly belated. Apart from the above, the comparison is sought for with the signature in a original mortgage deed said to have been executed by the testator on 10.02.1960 i.e., 23 years prior to the execution of the Will in question. Comparison of signature can only be made with contemporaneous documents and not with documents which are anterior in the point of time over 23 years.

4. In view of the same, I do not see any merits in this application. Hence, this application is dismissed.

5. Registry is directed to post the matter before learned Additional Master - II for continuation of evidence on 04.04.2019.

Sd/-R.S.M.J.
28/03/2019

//Certified to be true copy//

Dated at Madras this the day of 2019.
COURT OFFICER(O.S.)

GJM-2.4.2019.

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.