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

THURSDAY, THE 09TH DAY OF JANUARY 2020

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.9393 of 2019
in
T.O.S.No.52 of 2016

In the matter of the Indian
Succession Act XXXIX of 1925,
and
In the matter of Last Will and
Testament of V.K.P.Sunkavally-
deceased.

1.S.Vijayakumar

2.S.Rajalakshmi

Both the Plaintiffs residing at
New No.7, Mohan Kumaramangalam Street,
Nungambakkam, Chennai - 600 034. : ... Plaintiffs

Vs.

Uma Sarguru,
No.2N, 537, Pearl Avenue,
Glen Ellyn, Illinois,
USA.
Temporarily residing at: No.51-A,
Mount Poonamallee Road,
Saint Thoams Mount,
Chennai - 600 106.

: Defendant

A.No.9393 of 2019:

Uma Sarguru,
No.2N, 537, Pearl Avenue,
Glen Ellyn, Illinois,
USA.
Temporarily residing at: No.51-A,
Mount Poonamallee Road,
Saint Thoams Mount,
Chennai - 600 106.

Rep.by Poa.Pethi T.Sarguru

: Applicant/Defendant



1.S.Vijayakumar

2.S.Rajalakshmi

Both the Plaintiffs residing at
New No.7, Mohan Kumaramangalam Street,
Nungambakkam,
Chennai - 600 034. : ...Respondent/Plaintiffs

Application praying that this Hon'ble Court be pleased
An order to set aside the ex parte order dated 03/10/2019.

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

This application is filed to set aside the ex-parte
order dated 03.10.2019.

2. I heard the learned counsel for the
applicant/defendant and the learned counsel for the
respondents/plaintiffs.

3. The learned counsel for the applicant submitted
that the applicant was unable to defend the proceedings in
view of the change in counsel and the difficulty in
obtaining necessary papers from the erstwhile counsel.
Therefore, he submits that he was set ex-parte by order
dated 03.10.2019 on account of being unable to file the
written statement.

4. The learned counsel for the respondents/plaintiffs
submits that she has no objection to this application being
allowed subject to the condition that the applicant should
bear the expense of the Advocate Commissioner for the
purpose of cross examination of PW1 and PW2 who are both
of advanced age and cannot come to court for the purpose of
cross-examination.



5. The learned counsel for the applicant submits that, at the relevant juncture, the applicant would bear the expenditure in this regard.

6. Upon considering the above submissions and on perusing the affidavit in support of the application, the applicant has made out a case to set aside the ex parte order dated 03.10.2019. Accordingly, this application is allowed and the said order dated 03.10.2019 is set aside.

Sd/.S.K.R.J.
09.01.2020

//Certified to be a true copy//
Dated this the day of 2020.

S.U./20.01.2020

COURT OFFICER

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