

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

TUESDAY, THE 30TH DAY OF NOVEMBER 2021

THE HON'BLE MR. JUSTICE N.SESHASAYEE

A.No.2760 of 2021

in

C.S.No. 475 of 2015

&

A.Nos. 4040 to 4043 & 4300 to 4303 of 2021

in

TOS.No.83 of 2013

C.S.No. 475 of 2015:-

1.T.Padma @ Pattu,
No. 6/36, Murugesan Street,
Chennai – 600 017.

2. P.Mythili
No.10, 2nd Street,
Vadhyar Thottam,
Rangarajapuram,
Chennai – 600 024.

... Plaintiffs

Vs.

1.P.Srinivasan,
No.145, 6th Cross, SRS Nagar,
Bilekhalhi,
Bangalore – 560 076.

2.P.Govindarajan
No.35/14, Sarojini Street,
T.Nagar,
Chennai – 600 017.

3. P.Ramanujam,
No.38/7, Rukmani Street,
West Mambalam,
Chennai – 600 033.

4.P.Narayanan
No.3/2, Ram Colony,
Chennai – 600 033.

... Defendants

A.No.2760 of 2021:-

1.P.Srinivasan,
No.145, 6th Cross, SRS Nagar,
Bilekhalhi,
Bangalore – 560 076.

2.P.Govindarajan
No.35/14, Sarojini Street,
T.Nagar,
Chennai – 600 017.

3. P.Ramanujam,
No.38/7, Rukmani Street,
West Mambalam,
Chennai – 600 033.

4.P.Narayanan
No.3/2, Ram Colony,
Chennai – 600 033.

... Applicants / Defendants

Vs.

1.T.Padma @ Pattu,
No. 6/36, Murugesan Street,
Chennai – 600 017.

2. P.Mythili
No.10, 2nd Street,
Vadhyar Thottam,
Chennai – 600 024.

... Respondents / Plaintiffs

Application praying that this Hon'ble Court be pleased to stay all proceedings in the present suit in C.S.NO.475 of 2015 pending before this Hon'ble court in view of the bar under Section 10 of the Code of Civil Procedure, 1908.

TOS.No.83 of 2013:-

In the matter of the Indian Succession Act
XXXIX of 1925, and
In the matter of Last Will and Testament of
R.Parthasarathy - Deceased

P.Narayanan
No.3/2, Ram Colony,
Chennai – 600 033.

: Petitioner/Plaintiff

Vs.

1. T.Padma @ pattu
No.6/36, Murugesan Street,
Chennai 600 017.

2. P.Mythili
No.10, 2nd Street,
Vadhyar Thottam,
Chennai – 600 024.

: Caveators/Defendants

A.No.4040 to 4043 of 2021:-

T.Padma @ Pattu
No.6/36, Murugesan Street,
Chennai 600 017.

..1st Defendant / Applicant in all
Applications

vs

P.Narayanan
No.3/2, Ram Colony,
Chennai – 600 033.

.. Plaintiff / Respondent in all
Applications

A.No.4040 of 2021:

Application praying that this Hon'ble Court be pleased to reopen the evidence on the side of the 1st Defendant.

A.No.4041 of 2021:

Application praying that this Hon'ble Court be pleased to grant leave to the Applicant herein to file (i) Report bearing File No.TLC/QD/013/2019 dated 16.02.2019 given by Truth Labs Forensic Services and (ii) Report bearing Report No.10/ERF/2019 dated 15.05.2019 given by Elite Report Forensic Document Examination as additional evidence and receive the same.

A.No.4042 of 2021:

Application praying that this Hon'ble Court be pleased to issue subpoena to Mr.George Thomas, Forensic Document Expert, Elite Report Forensic Forensics, No.166, Patel Road, Perambur, Chennai 600 011 to speak about the signatures contained in Ex.P1 and to give evidence in the above suit on a date to be fixed by this Honble Court.

A.No.4043 of 2021:

Application praying that this Hon'ble Court be pleased to issue subpoena to Prof. Mr.K.Ramakrishnan, Director, Documents Division at 'Truth Labs', Flat No.19, Dev Apartments, No.15, 1st Main Road, Kasturba Nagar, Adyar, Chennai 600 020 to speak about the signatures contained in Ex.P1 and give evidence in the above suit on a date to be fixed by this Honble Court.

A.No.4300 to 4303 of 2021:-

P.Narayanan
No.3/2, Ram Colony,
West Mambalam,
Chennai – 600 033.

: Petitioner/Applicant in all
Applications

Vs.

1. T.Padma @ pattu
No.6/36, Murugesan Street,
Chennai 600 017.

2. P.Mythili
No.10, 2nd Street,
Vadhyar Thottam,
Chennai – 600 024.

: Caveators/ Respondents in all
Applications

A.No.4300 of 2021:

Application praying that this Hon'ble Court be pleased to recall the Plaintiff

Witness PW1.

A.No.4301 of 2021:

Application praying that this Hon'ble Court be pleased to reopen the evidence of Plaintiff Witness PW1.

A.No.4302 of 2021:

Application praying that this Hon'ble Court be pleased to receive the additional documents listed in the Schedule to the Judges Summons filed herewith.

A.No.4303 of 2021:

Application praying that this Hon'ble Court be pleased to appoint an expert Commissioner based outside Tamil Nadu to scientifically investigate the signatures of R.Parthasarathy, the Testator in his Will dated 30.08.1999 and submit a report to this Honble Court.

These applications coming on this day before this court for hearing, The court made the following order:-

Application No. 2760 of 2021 is filed for stay of C.S. No. 475 of 2015.

2. The suit is laid for partition and the defendants in the suit set up a Will and for probating the Will, they have filed T.O.S. No.83 of 2013. Since the outcome of T.O.S. No.83 of 2013 will have an impact on the outcome of C.S. No. 475 of 2015,

the defendants in the suit has filed Application No. 2760 of 2021 for stay of the suit.

3. While there is merit in that contention, it needs to be underscored that C.S. No. 475 of 2015 is only at the stage of framing of issues and the impact of the decision in T.O.S. No. 83 of 2013 can be assessed at any stage in C.S. No. 475 of 2015. Therefore, this Court considers not to keep alive this application and ***accordingly, application No. 2760 is closed.***

4. As far as application Nos. 4040 to 4043 of 2021 & 4300 to 4303 of 2021 in T.O.S. No. 83 of 2013 are concerned, these applications are filed both by the plaintiff as well as defendants in this case. The matter pertains to probating the Will of one Late R. Parthasarathy. The impugned Will is marked as Ex.P1 and it is dated 30.08.1999. It is an unregistered Will. The trial in the case is completed and the matter is posted for final arguments. At this stage, the 1st defendant has taken out four applications and they are tabulated below:

Application Nos.	Relief Sought
<i>Application No. 4040 of 2021</i>	<i>To re-open the evidence on the side of the 1st defendant</i>
<i>Application No. 4041 of 2021</i>	<i>To grant leave to the applicant herein to file</i>

Application Nos.	Relief Sought
	<i>(i) Report bearing File No. TLC/QD/013/2019 dated 16.02.2019 given by Truth Labs Forensic Services and</i> <i>(ii) Report bearing report No.10/ERF/2019 dated 15.05.2019 given by Elite Report Forensic Document Examination as additional evidence and receive the same.</i>
<i>Application No. 4042 of 2021</i>	<i>To issue subpoena to Mr.George Thomas, Forensic Document Expert, Elite Report Forensic Forensics, No. 166, Patel Road, Perambur, Chennai 600 011 to speak about the signatures contained in Ex.P1 and to give evidence in the above suit on a date to be fixed by this Hon'ble Court.</i>
<i>Application No. 4043 of 2021</i>	<i>To issue subpoena to Prof.Mr.K.Ramakrishnan, Director, Documents Division at Truth Labs, Flat No.19, Dev Apartments, No.15, 1st Main</i>

Application Nos.	Relief Sought
	<i>Road, Kasturba Nagar, Adyar, Chennai 600 020 to speak about the signatures contained in Ex.P1 and give evidence in the above suit on a date to be fixed by this Hon'ble Court.</i>

5. The plaintiff has filed his objections. Along with it, he has also produced the report/opinion of a private handwriting expert. He, therefore, has taken out three applications on his side. They are:

Application Nos.	Relief Sought
<i>Application No. 4300 of 2021</i>	<i>To recall plaintiff witness P.W.1</i>
<i>Application No. 4301 of 2021</i>	<i>To re-open the evidence of plaintiff witness P.W.1</i>
<i>Application No. 4302 of 2021</i>	<i>To receive additional documents listed in the schedule to the Judge's Summons filed herewith.</i>

6. The plaintiff has also taken out another application in Application No. 4303 of 2021 for appointing an independent handwriting expert by the Court under Order XXVI Rule 10(A) CPC. As there are conflicting reports of private handwriting experts, which make it imperative that neither can be necessarily be relied by the Court, application No. 4303 of 2021 where the plaintiff seeks appointment of an

independent handwriting expert by the Court becomes critical.

7. This Court, therefore, has decided to appoint an official handwriting expert to get his opinion as to the genuineness of the signature of the testator in Ex.P1 Will. ***In view of this, application Nos. 4041 to 4043 of 2021 are closed.***

8. ***So far as application Nos. 4300 to 4302 of 2021 are concerned, they are allowed*** inasmuch as the plaintiff seeks adducing fresh evidence regarding the admitted signatures or handwriting of the testator in certain documents.

9. Since the plaintiff is given an opportunity to adduce evidence, rebuttal evidence is also now required to be adduced. Therefore, ***application No. 4040 of 2021 is also allowed*** to enable the defendants to adduce rebuttal evidence once the plaintiff completes his side of evidence.

10. Once the trial process is over, this Court will take up Application No. 4303 of 2021 in order to ascertain the list of documents containing the admitted signatures of the testator to enable the forensic expert which the Court proposes to appoint for

comparing them with the impugned signature of the testator in Ex.P1.

11. Post the matter before the learned Additional Master IV on 16.12.2021.

Sd./-NSSJ.

30/11/2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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

EVK 09/11/2021