



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

THURSDAY, THE 17TH DAY OF MARCH 2022

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

T.O.S.No.23 of 2009

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

In the matter of Last Will and
Testament of Krishnappa Chowdry
- deceased.

K.Subramanian
No.62, Akbar Sahib Street,
Triplicane, Chennai- 600 005

.. Petitioner/Plaintiff

-Versus-

K.Selvaraj
No.112, Gandhi Road,
Sriperumbudur - 602 105

.. Caveator/Defendant

Testamentary Original Suit praying that this Hon'ble Court be pleased to pass an order that the Letters of Administration with the Will annexed may be granted to him as the legatee of the said deceased having effect throughout the State of Tamil Nadu.

This Testamentary Original Suit coming on this day before this court for hearing in the presence of Mr.G.Ramesh Kannan, Advocate for the defendant herein and the plaintiff herein not appearing in person or by advocate and upon reading the plaint filed herein and this Court having



observed that there is no representation on the side of the plaintiff and taking into consideration the submission made by the learned counsel for the plaintiff on earlier occasion viz., 14.03.2022 that he could not contact the plaintiff for recording evidence and that notice sent to him was also returned as 'No Such Person', and

it is ordered as follows:-

That the suit in T.O.S.No.23 of 2009 be and is hereby dismissed for non prosecution.

2. That there shall be no order as to costs of this suit.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 17th DAY OF MARCH 2022.

Sd./-

JOINT REGISTRAR(O.S.)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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



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29.03.2022

T.O.S.No.23 of 2009

ORDER:

DATED: 17.03.2022

THE HON'BLE MRS.JUSTICE
V.BHAVANI SUBBAROYAN

FOR APPROVAL:06.04.2022

APPROVED ON:07.04.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TOS.No.23 of 2009

K.Subramanian

...Plaintiff

Vs.

K.Selvaraj

...Defendant

Prayer: Petition filed under Sections 222 and 276 of the Indian Succession Act XXXIX of 1925 for the grant of Probate. Against this petition a Caveat above named. The supporting affidavit was filed on 3rd day of June 2002. As per order of court dated 19.08.09 in O.P.No.257 of 2022 the Original Petition is directed to be renumbered into Testamentary Original Suit.

For Plaintiff : No appearance

For Defendant : Mr.G.Ramesh Kannan

J U D G M E N T

When the matter was taken up for hearing on 14.03.2022, learned counsel for the plaintiff submitted that he could not contact the plaintiff for recording of evidence in this case and a letter has also been sent to him and the same has been returned as “no such person” and he further submitted

that the notice was served on the sole defendant on 16.12.2019, the



defendant counsel has not filed any Written Statement till date. Thereafter, this Court directed the Registry to verify and print the name of Mr.G.Perumal, learned counsel for the defendant and delete M/s.Sampathkumar & Associates, since it is reported before this Court that Mr.G.Perumal, learned counsel has filed vakalath.

2.Today, viz., 17.03.2022, when the present suit is taken up for hearing, there is no representation on the side of the plaintiff. Taking into consideration the submission made by the learned counsel for the plaintiff on earlier occasion, viz., 14.03.2022 that he could not contact the plaintiff for recording evidence and that notice sent to him was also returned as 'No Such Person', the present suit is dismissed for non prosecution. There shall be no order as to costs.

Sd./-V.B.S.J.
17.03.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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