



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

TUESDAY, THE 26th DAY OF APRIL 2022

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

A.No.1589 of 2022
in
T.O.S. No.2 of 2021

In the matter of the Indian
Succession Act XXXIX of 1925
and
In the matter of Last Will and
Testament of V.G.Ethirajan -
(Deceased)

M.Pon Vijaya
W/o.L.Manoharan,
No.49/24, Bazaar Road,
Saidapet, Chennai 600 015.

...Petitioner/ Plaintiff

VS

V.G.Jayaraman,
S/o.Late.V.T.Govindarajan,
No.49/24, Bazaar Road,
Saidapet,
Chennai 600 015.

...Caveator/ Defendant

A.No.1589 of 2022:-

Mr.V.G.Jayaraman,
S/o.Late.V.T.Govindarajan,
No.49/24, Bazaar Road,
Saidapet,
Chennai 600 015.

... Applicant



M.Pon Vijaya
W/o.L.Manoharan,
No.49/24, Bazaar Road,
Saidapet, Chennai 600 015.

... Respondent

Application praying that this Hon'ble Court be pleased to pass an order to recast the issue by adding an issue, Whether Will dated 21/11/2013 was obtained under coercion and undue influence.

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

This application has been filed seeking an order to recast the issue by adding an additional issue in T.O.S. No.2 of 2021.

2. The learned counsel for the applicant/sole defendant would submit that this Court by its order dated 30.11.2021, the following issues were framed in the present Testamentary Original Suit.

"1. Whether the Will dated 21.11.2013 is genuine?

2. Whether the plaintiff is entitled to have the Will dated 21.11.2013 probated?"

3. It has been further submitted that while the testator was not in disposing state of mind on the date of execution of the Will dated 21.11.2013, the alleged Will has been obtained through undue influence and coercion by plaintiff/respondent herein and her husband taking into



account his infirmity. In order to prove the same, the applicant/defendant has filed this application praying for recasting of the aforesaid issues by adding the following issue along with the same.

"3. Whether the Will dated 21.11.2013 was obtained under coercion and undue influence?"

4. The learned counsel for the applicant/defendant would further submit that recasting the aforesaid issue would not be a detriment to the plaintiff in any manner, but if the same is not granted, it would cause great prejudice to the defendant.

5. The learned counsel for the respondent/plaintiff has not opposed to allow this application.

6. Heard, the learned counsel appearing for the applicant/defendant and perused the affidavit filed in support of this application.

7. Having satisfied with the reasons stated in the affidavit filed in support of the application and submissions of the learned counsel on either side, this application is allowed.

