



IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 16.03.2022

PRONOUNCING ORDERS ON : 24.03.2022

CORAM:

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

SECOND APPEAL NO.81 OF 2014

AND

M.P.NO.1 OF 2014

Tmt.Renuka Subbu Singh

... Appellant/
1st Respondent/Plaintiff

..Vs..

1. Kannaiyan @ Lakshmi Narayanan
2. Sri hari
3. Palanisamy

... 1 to 3 Respondents/
Appellants/1 to 3 Defendants

4. The Singanallur Co-operative House
Building Society Ltd.,
Rep. by its Secretary
No.K 2163,Singanallur,
Coimbatore-5.

... 4th Respondent/
2nd Respondent/4th Defendant

Prayer: Second Appeal filed Under Section 100 of the Code of Civil Procedure against the Judgment and Decree dt.30.07.2012 in A.S.No.43/2012 on the file of the Principal Subordinate Judge's Court, Coimbatore, reversing the judgments and the decree dated 17.08.2009 in O.S.No.358/2005 on the file of the II Additional District Munsif's Court, Coimbatore.

For Appellant : Mr.C.R.Prasanan

For Respondents : Mrs.D.Prabavathi
for R1
Mrs.Elizabeth Ravi
for R2
For R3 No Appearance
Mr.P.Kannan for R4



J U D G M E N T

The plaintiff is the appellant in this Second Appeal.

2.The case of the plaintiff is that her mother Sundari Bai purchased the subject property with a larger extent of 4104 Sq., feet through registered sale deed dated 19.5.1978, marked as Ex.A1. Through a registered settlement deed dated 16.6.1980, marked as Ex.A2, the plaintiff's mother settled an extent of 2052 Sq., feet out of the total extent of 4104 Sq., feet. After this settlement, the plaintiff's mother constructed a house in the remaining extent of 2052 Sq., feet and she was in possession and enjoyment of the same.

3.The further case of the plaintiff is that her mother, out of her own free will and volition and while possessed of a sound disposing state of mind, executed a registered Will dated 20.5.2003, marked as Ex.A11 and bequeathed the remaining portion along with the house constructed therein, in favour of the plaintiff. It is further stated that by virtue of this Will, the plaintiff's mother revoked the earlier Will dated 28.2.1991. Thereafter, the plaintiff's mother died on 21.3.2004 and on her demise, the plaintiff became entitled to the property and this property has been described as the suit property.

4.The further case of the plaintiff is that her mother had executed a mortgage over the suit property in favour of the 4th defendant on 9.10.1991 and according to the plaintiff, this mortgage was also discharged on 30.10.1998. Once again, the mother of the plaintiff executed a mortgage on 16.4.1999 in favour of the 4th defendant and according to the plaintiff, the money that was borrowed was taken by the 1st and 2nd defendants and it was utilised for their own purpose. After the demise of the plaintiff's mother, there was some misunderstanding with the 1st and 2nd defendants and the 2nd defendant inducted the 3rd defendant in possession of a portion of the suit property.

5.The plaintiff issued a legal notice dated 25.10.2005 and called upon defendants 1 to 3 to vacate the suit property and handover possession to the plaintiff. In spite of receipt of the legal notice, it was neither complied with nor any reply notice was sent to the plaintiff. Hence, the plaintiff filed this suit seeking for the relief of delivery of possession against defendants 1 to 3.

6.The defendants 1 to 3 filed a written statement. The 1st defendant is the brother of the plaintiff and the 2nd defendant



is the son of the 1st defendant. They took a stand that the Will dated 20.5.2003 is a fabricated document and this Will could not have been executed by the mother since she was suffering from cancer for nearly 3 years and she was undergoing regular treatment in the hospital and she was not in a position to take any clear decision on her own. That apart, she was under the care of the 1st and 2nd defendants. The further defence taken by them is that the mother had already executed a Will on 28.2.1991 and there was no requirement for her to execute yet another Will after 12 years, more particularly when the property was under mortgage and the borrowed money was utilised for her treatment. That apart, already half of the property was settled in favour of the plaintiff and that is the reason why the earlier Will was executed in favour of the 1st defendant. They also took a stand that there was no reason for denying a share in the property for all the other legal heirs and to exclusively give the property in favour of the plaintiff. It is stated that the suit itself was filed only to harass the defendants and hence the defendants sought for the dismissal of the suit.

7. The Trial Court on consideration of the facts and circumstances of the case and on appreciation of the oral and documentary evidence, through a judgment and decree dated 17.8.2009, decreed the suit as prayed for and directed defendants 1 to 3 to vacate and deliver possession of the suit property to the plaintiff within four months.

8. Aggrieved by the same, the defendants 1 to 3 filed an appeal before the Principal Sub-Judge, Coimbatore in A.S.No. 43 of 2012. The Lower Appellate Court on re-appreciation of the oral and documentary evidence and after considering the findings of the Trial Court was pleased to allow the appeal through judgment and decree dated 30.7.2012 and thereby, the judgment and decree of the Trial Court was set aside and the suit was dismissed. Aggrieved by the same, the plaintiff has filed the Second Appeal before this Court.

9. When the Second Appeal was admitted, the following substantial questions of law were framed by this Court:

i) Whether in law the finding of the lower appellate court that Ex.A11 Will is not proved is not perverse?

ii) Whether in law the lower appellate court erred in reversing the finding of the trial court that the Will was genuine and executed by the testator, when the oral and documentary evidence along with other attendant circumstances placed on record would constitute proving of the Will as required under Section 68 of the Evidence Act?



iii) Whether in law the lower appellate court was right in holding that Ex.A15 letter is not proved by the plaintiff, when onus of proof shifted on the defendant once the custody of the document is proved by examination of P.W.3?

iv) Whether in law the lower appellate court is right in overlooking that when the signature found in the Will its genuineness and endorsements made by the Sub Registrar are proved through P.W.1 and P.W.2 discharging the initial onus, the onus shifted on the defendant to prove their case of fabrication, genuineness under influence and coercion as held that in the judgment reported in 2005 8 SCC 67?

v) Whether in law the lower appellate court erred in not even framing issues with regard to the validity of the Will in question and about the Ex.A15 resulting in non compliance of Order 41 Rule 31 of the Code of Civil Procedure?

10. Heard Mr.C.R.Prasanan, learned counsel for the appellant, Mrs.D.Prabavathi, learned counsel for R1, Mrs.Eesbeth Ravi, learned Counsel for R2 and Mr.P.Kannan, learned Counsel for R4. This Court also carefully perused the materials available on record and the findings of both the Courts below.

11. The learned counsel for the appellant submitted that the Will executed by Late Sundari Bai, marked as Ex.A11 clearly shows that it was executed by her in a sound and disposing state of mind and infact the testator died nearly after 1 year after the execution of the Will. The Learned Counsel further submitted that there was a clear mention about the earlier Will that was executed in the year 1991 which according to the testator was executed under coercion and sufficient reasons were assigned as to why that Will is cancelled. The learned counsel further submitted that there was a mention about the names of the other legal heirs and a clear statement as to why they are not given any share in the property. It was submitted that the Will was proved in accordance with S.68 of the Indian Evidence Act by examining the attester of the Will as PW2.

12. The learned counsel for the appellants further developed his argument by submitting that the so called suspicious circumstances surrounding the Will is not a matter of presumption and it requires to be pleaded and proved. It was submitted that Ex.A15 letter which was signed by the 1st defendant informing the 4th defendant that he had no objection to handover the title deed to the plaintiff after the repayment of the loan and the mortgage is redeemed, has been sufficiently proved by examining PW3. If the signature found in Ex.A15 is denied by the 1st defendant, he should have taken steps to send it for expert opinion and in the absence of the same, the said



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document had to be acted upon. The Learned Counsel concluded his arguments by submitting that the Lower Appellate Court erroneously interfered with the well considered judgment of the Trial Court and the same requires the interference of this Court.

13. Per contra, the learned counsel for the respondents submitted that the Will marked as Ex.A11 was surrounded with the following suspicious circumstances:

a) It is clear from the evidence that the Will was prepared by the propounder and not by the testator.

b) There was no reason for the exclusion of the other two daughters from any share in the property, more particularly when they were not well settled in life and which is evident from the deposition of PW2.

c) Already half of the property was settled in favour of the plaintiff and it is unnatural that the remaining half is also given exclusively to the plaintiff by completely discarding all the other legal heirs.

d) The testator was suffering from serious health condition and she was not even in a position to move and under such circumstances, it is too unnatural for her to get in touch with PW2 who was an auto driver and to go along with him to the registration office and also make him as one of the attesting witness.

e) There was absolutely no mention about the pending loan with the 4th defendant and which was specifically mentioned in the earlier Will and

f) The Will itself came to be revealed by the plaintiff after nearly six months after the death of Sundari Bai.

14. The learned counsel submitted that these suspicious circumstances were taken into account by the Lower Appellate Court and proper reasons were assigned and it does not warrant the interference of this Court.

15. Before considering the arguments put forth by either side and dealing with the substantial questions of law framed by this Court, it is important to keep in mind the principles governing the adjudicatory process concerning proof of Wills. It will also be beneficial to cull out the various circumstances that have been considered to be suspicious circumstances in various judgments of the Apex Court and various High Courts.



17. The principles governing the adjudicatory process concerning proof of Will is summarised as follows:

7. The question whether any particular feature or a set of features qualify as suspicious would depend on the facts and circumstances of each case. Circumstances like shaky or doubtful signature, unjust exclusion of legal heirs, particularly dependents, active or leading by a beneficiary in execution of a Will are some circumstances which may give rise to suspicion. However, these circumstances are only illustrative and not exhaustive. Such circumstances could be legitimately explained by the propounder. However, suspicion or suspicions cannot be removed by mere proof of sound and disposing state of mind of the



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Testator and his signature coupled with proof of attestation.

8. When a Will is surrounded by suspicious circumstance/s, the test of satisfaction of judicial conscience comes into operation.

9. Where execution of a Will is, shrouded in suspicion the party setting up the Will has to offer cogent and convincing Explanation of the suspicious circumstances surrounding the Will.

18. The Courts have considered the following circumstances to be suspicious circumstances while dealing with the facts of the case on hand. By no means, this list can be said to be exhaustive and it is more illustrative to get a fair idea while dealing with a case concerning suspicious circumstances at the time of execution of the will. The illustrative list of suspicious circumstances culled out from various judgments are extracted hereunder:

1. Doubt with regard to mental condition of the Testator despite his signature or mark found in the Will.

2. Bequest appears to be unnatural or unfair in the light of surrounding circumstances.

3. Propounder taking an active part in execution of Will which confers substantial benefit on him.

4. Inordinate delay in disclosing the Will, may also amount to suspicious circumstance, provided such delay is coupled with some doubt regarding due execution itself.

5. Presence of beneficiary and his or her taking part in execution of Will.

6. Doubt with regard to signature or mark of the Testator.

7. Glaring discrepancies and anomalies, like irregular spacing between lines, placing of signatures etc.

8. Ill health or advanced age of the Testator.

9. No reasons assigned for bequests in favour of third parties or distant relatives.

10. Material interpolations and over writings.

11. Incorrect description of properties.

12. Wrong description of persons/beneficiaries.

19. There is no straight jacket formula to ascertain suspicious circumstances. Suspicious circumstances may arise differently in different sets of facts concerning the Will. Mere suspicion also does not ordinarily affect a Will which is otherwise natural. Equally, suspicion can be dispelled by strong



and positive evidence by examining concerned persons including the attesting witnesses. In any event, only such suspicion that is inherent in the transaction itself would amount to a suspicious circumstance which would be required to be reasonably explained to the satisfaction of the Court. In other words, the suspicion should be surrounding the due execution of Will itself and not something that arises subsequently or by a result of conflicting testimony of witnesses. A circumstance can be said to be suspicious when it is not normal or not normally expected in a normal situation or is not expected of a normal person.

20. It is a trite law that the Court that deals with the proof of Will is a court of conscience and not a court of suspicion. It is now well settled that the propounder has to satisfy the conscience of the court and the court while dealing with the Will should start with the presumption that the Will is genuine and it should not be a Court of suspicion. Where the execution of the Will is surrounded by suspicious circumstances, it is for the propounder of the Will to remove that suspicion. This burden would be heavier when the propounder was involved in the execution of the Will and was also a beneficiary under the Will.

21. A Will is one of the most solemn document that is dealt with by a court since the executor of the Will is no more alive at the time when the Will is acted upon. Hence, the court is not merely confined to judge the credibility of the witnesses merely on their testimony and demeanour and it is the duty of the court to look into the surrounding circumstances as well. This additional burden is cast upon the court since the court has to ultimately fulfil the wishes of the testator who is no more alive. Keeping all these principles in mind, this court will now deal with the facts of the present case and the findings rendered by both the Courts below.

22. The defendants 1 to 3 in the written statement questioned the Will dated 20.5.2003 and its genuineness by pointing out to certain suspicious circumstances. The first circumstance pointed out by the defendant is that the testator was taken care by the 1st and 2nd defendants and she was suffering from cancer and was taking regular treatment in the hospital and due to her old age, she was not able to walk and make any decisions on her own. The second circumstance that was pointed out in the written statement is that the plaintiff did not reveal the execution of the Will for nearly six months even after the death of the testator and there was no proper explanation as to why it was not revealed. The third circumstance that was pointed out in the written statement was that the earlier Will was executed almost



12 years prior to the Will under question and it was also registered. There was no mention in the Will dated 20.5.2003 as to how she had lived her life for 12 years and as to how there was no mention about the money borrowed by creating a mortgage in favour of the 4th defendant in order to meet her medical expenses. The fourth circumstance that was pleaded in the written statement is that the Will dated 20.5.2003 had completely disregarded two other daughters and her grandchildren and they were not given any share and the entire property was given in favour of the plaintiff.

23. The Trial Court while dealing with the suspicious circumstances held that the defendant did not prove that the testator was in bad health and in poor mental condition and there was also no proof that the testator was taken care by the 1st and 2nd defendants. The Trial Court further held that the later registered Will dated 20.5.2003 has been proved in accordance with law by examining the attesting witness as PW2. That apart Ex.A15 letter given by the 1st defendant to the 4th defendant stating that he has no objection for the delivery of the title deed regarding the suit property to the plaintiff, was also taken note of. The Trial Court also took into consideration the fact that the plaintiff had repaid the mortgage amount to the 4th defendant substantiated through Ex. A12. The Trial Court therefore held that the 1st defendant was aware about the Will and since he did not chose to disprove Ex.A15 through expert opinion, the said document was relied upon by the Trial Court.

24. The Trial Court further held that the defendants failed to prove the suspicious circumstances and hence the Will dated 20.5.2003 was held to be valid and consequently the plaintiff was held entitled to the suit property and defendants 1 to 3 were directed to vacate and deliver vacant possession of the suit property.

25. The Lower Appellate Court took into consideration certain suspicious circumstances and held that the Will has not been proved by the plaintiff by satisfying the conscience of the Court. The Lower Appellate Court found that no reasons were assigned in the Will to exclude the two daughters and not grant them any share in the suit property. The Lower Appellate Court also took into consideration the fact that the testator had merely subscribed her thumb impression in the document which shows that she is an illiterate woman and there was absolutely no proof to show that the contents of the Will were read over and explained to her.

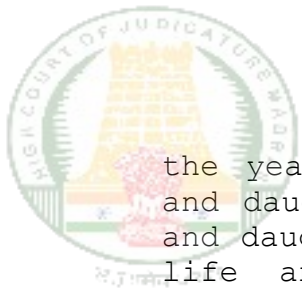


26. The Lower Appellate Court also took into consideration the very presence of PW2, as an attesting witness, as a suspicious circumstance after analysing his evidence. The Lower Appellate Court also took note of the fact the suit property was under mortgage as on the date of execution of the Will and there was not even any mention about the same in Ex.A11 Will and that was also taken as a suspicious circumstance. While dealing with the Ex.A15, the Lower Appellate Court found that it did not contain the signature of the officer who received this letter and there was no bank seal available in that letter. The Lower Appellate Court also doubted the genuineness of Ex.A15 since the plaintiff produced the original letter and if really this letter had been given by the 1st defendant to the 4th defendant, there was no reason as to how the plaintiff was in possession of the original letter. The Lower Appellate Court also was not satisfied about the evidence of PW3 who was the officer working in the 4th defendant with regard to the receipt of Ex.A15 letter. By taking into consideration all these circumstances, the Lower Appellate Court held that the plaintiff failed to disprove the suspicious circumstances and therefore Ex.A11 will was held to be not proved.

27. This Court while exercising jurisdiction under Section 100 of C.P.C. cannot undertake the exercise of re-appreciation of evidence and what has to be seen by this Court is as to whether the findings rendered by the Appellate Court is perverse. In other words, this Court has to see if the circumstances that have been pointed out by the Lower Appellate Court is sufficient enough to hold that Ex.A11 Will cannot be acted upon and the plaintiff has not dispelled the suspicion that pricked the conscience of the Court.

28. The testator viz., Sundari Bai was originally owning the larger extent of property measuring 4104 Sq.ft., and she had already settled an extent of 2052 Sq. feet in favour of the plaintiff in the year 1980, through Ex.A2 settlement deed. With respect to the remaining portion, she continued to be the owner and she created a mortgage in favour of the 4th defendant in the year 1991. This mortgage was discharged in the year 1998. Once again a mortgage was created in favour of the 4th defendant in the year 1999. In the meantime, she had executed a registered Will dated 28.2.1991 with respect to the remaining property that she owned. This Will was cancelled through the subsequent Will dated 20.5.2003 which was also registered and marked as Ex.A11.

29. A careful reading of Ex.A11 shows that the testator had mentioned the names of all her children viz. three daughters and one son. She has also mentioned that the Will executed by her in



the year 1991 was extracted from her through force by her son and daughter-in-law. Thereafter, she was driven away by her son and daughter-in-law from her own property and she feared for her life and hence decided to cancel the earlier Will dated 28.2.1991. It has been further mentioned in the Will that she was taken care by the plaintiff and she was provided with all the comforts by the plaintiff. Hence she decided to bequeath the property in favour of the plaintiff after her lifetime. It is also mentioned that it will be left open to the plaintiff to pay some amount to the other daughter Sarojini at the time when the property is sold by the plaintiff. This was only given as an option to the plaintiff and the Will did not compel the plaintiff to make any such payment. The testator specifically mentions the name of the other two daughters and her son and states that they will not get any share in the property. No specific reasons have been assigned by the testator as to why the two daughters have not been given any share in the property. The testator merely states that she had done all her duties to her three daughters and she is giving the property to the plaintiff only by taking into consideration the fact that the plaintiff and her husband and their children took care of her well and were spending for her medical expenses and were maintaining her properly during her lifetime. Accordingly, the testator gives a specific reason in the Will as to why she is giving the property in favour of the plaintiff and wants the plaintiff and her family members to enjoy the property after her lifetime.

30. A careful reading of the Ex.A11 Will does not anywhere indicate that the propounder was not in a sound and disposing state of mind. That apart, this Will was also registered before the concerned Sub-Registrar office.

31. The next issue that has to be taken note of is the evidence of PW2 who was the attesting witness to the Will. A careful reading of his evidence shows that he was an auto driver who had taken the testator to the Sub-Registrar office and till he reached the office, he was not aware as to why Sundari Bai was going to the Sub-Registrar office and he was made to sign as an attesting witness since no one else was available except the other attesting witness viz. Ganesh Kumar. The overall evidence of PW2 is quite convincing as it has not been discredited in the cross-examination. Hence the Ex.A11 Will has been proved in accordance with S.68 of the Indian Evidence Act. The execution of this Will cannot be doubted for yet another reason which is that, it was registered and the signature was made in the presence of the concerned Sub-Registrar. Hence, this Court is not able to find any undue influence or coercion in the execution of the Will from the reading of the Will and the

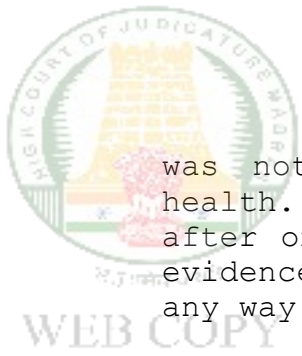


evidence of PW2 coupled with the fact that it was a registered document. The 1st and the 4th substantial questions of law are answered accordingly.

32. One more document which has a lot of significance in the present case is Ex.A15. It is clear from Ex.A12 that the plaintiff had repaid back the entire mortgage amount to the 4th defendant. This fact has been spoken to by PW3 also. This witness was working as a Secretary in the 4th defendant society. Ex.A13 was a letter from the husband of the plaintiff to the 4th defendant requesting for handing over the original document on settlement of the loan amount. This document has also been spoken to by PW3. It is seen from this document that the amount was repaid back to the 4th defendant by way of cheque. Ex.A15 is the crucial letter which was given by the 1st defendant to the 4th defendant stating that the loan amount is settled by plaintiff and she is redeeming the title deeds of the property. PW3 has also spoken about this document and during cross examination, he has stated that they had only retained the photocopy of the letter given by the 1st defendant. Even though the 1st defendant had questioned the genuineness of this letter, he never took steps to send this document for expert opinion and substantiate his allegation. The Trial Court rightly rendered its findings while relying upon Ex.A15 and this document was dealt along with Ex.A12 and Ex.A13. The reasons given by the Appellate Court for not relying upon Ex.A15 and reversing the findings of the Trial Court are not convincing. The third and the fifth substantial questions of law are answered accordingly.

33. This Court will now deal with the suspicious circumstances that were raised and considered by the Lower Appellate Court. For this purpose, it is necessary to take into account the evidence of PW1. The overall evidence of PW1 shows that not a single question was put to her on the sound and disposing state of mind of the testator at the time of execution of the Will. Her evidence has not been discredited during cross-examination to the extent that it cannot be relied upon by the Court.

34. It is also relevant to take note of the evidence of DW1, who was the son of the testator. He takes a new stand during the course of cross-examination to the effect that the suit property was purchased out of his own earnings and that is why a Will was executed in his favour in the year 1991. This stand was never taken at any point of time except in the course of cross-examination. During the entire evidence, there was nothing substantial to prove that the testator was immobile and that she



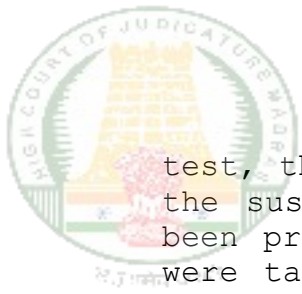
was not capable of taking her own decision due to her ill health. It must be borne in mind that the testator died nearly after one year after the execution of the Ex.A11 Will. Even the evidence of DW2 who was the sister of the plaintiff does not in any way discredit Ex.A11 Will.

35. The reason why the testator had chosen to bequeath the property in favour of the plaintiff has been stated in the Will itself. The names of the other two daughters and one son is also mentioned in the Will and it is specifically mentioned that no share is given to them. This circumstance by itself does not create any suspicion since the testator had always been showing an extra affection on the plaintiff. This is evident from the fact that she already settled half of the property in favour of the plaintiff through Ex.A2 and towards the end of her life, the testator had chosen to give the other half also to the plaintiff through Ex.A11 Will. Why the testator was showing such extra affection to the plaintiff is something which cannot be explained in words. However, going by the conduct of the testator towards the plaintiff, it does not sound unnatural when Ex.A11 Will was executed in favour of the plaintiff.

36. The testator Sundari Bai had always affixed her thumb impression in all the documents. That by itself is not a suspicious circumstance to conclude that she had subscribed her thumb impression without understanding the contents of the document. Ex.A11 Will was a registered document and some authenticity must be ascribed to that document since the execution had taken place in the presence of a Sub-Registrar.

37. The non-mentioning of the property under mortgage in the Will does not really create any suspicion about the Will. Ultimately, the loan amount was settled by the plaintiff and the mortgage was redeemed. This was also within the knowledge of the 1st defendant which is evident from Ex.A15.

38. While considering the suspicious circumstances, the Court has to satisfy its own conscience to ensure that the testator really intended to bequeath the property in favour of the beneficiary. While undertaking this exercise, a Judge should not be applying his notions or opinions as to what he considers a conscientious act. A Judge should sit in the armchair of the executor of the Will and satisfy his conscience. There may be various reasons as to why a Will is written in a particular manner and a share is allotted to one of the daughters and others are not given any shares. While undertaking this exercise, the Court has to only look into the overall circumstances and arrive at a decision. While applying this



test, this Court finds that Ex.A11 Will has been duly proved and the suspicious circumstances raised by the defendants have not been properly established and the suspicious circumstances that were taken into account by the Lower Appellate Court, does not warrant a finding to the extent of discrediting the Will. Such findings rendered by the Lower Appellate Court is therefore held to be perverse and it deserves the interference of this Court. The second substantial question of law is answered accordingly.

39.The Lower Appellate Court while reversing the findings of the Trial Court is expected to assign cogent reasons as to why it is differing with the findings of the Trial Court. This is a mandate under Order 41 Rule 31 of C.P.C. In the present case, the Lower Appellate Court has not assigned any reasons as to why it is differing with the findings of the Trial Court while dealing with the issue regarding the suspicious circumstances surrounding the Will. This is yet another reason as to why the judgment and decree of the Lower Appellate Court requires the interference of this Court.

40.The conspectus of the above discussion leads to the conclusion that the judgment and decree of the Lower Appellate Court warrants the interference of this Court in this Second Appeal and the judgment and decree of the Trial Court has to be sustained. Thus, all the substantial questions of law are answered in favour of the appellants.

41. In the result, this Second Appeal is allowed and the judgment and decree of the Lower Appellate Court made in A.S. No. 43 of 2012 dated 30.7.2012 is hereby set aside and the judgment and decree of the Trial Court made in O.S. No. 358 of 2005, dated 17.8.2009 is hereby restored and as a result, the suit is decreed as prayed for. There shall be a direction to defendants 1 to 3 to vacate the suit property and deliver vacant possession to the plaintiff within a period of three months from today. Considering the facts and circumstances of the case, there shall be no order as to cost.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

KP



To

1. The Principal Subordinate Judge,
Coimbatore.

2. The II Additional District Munsif,
Coimbatore.

Copy To

The Section Officer
V.R.Section,
High Court, Madras.

+1cc to M/s.Elizabeth Ravi, Advocate, S.R.No.20454

+1cc to M/s.C.R.Prasanan, Advocate, S.R.No.20061

Second Appeal No.81 of 2014

RSI (CO)
RLP (18/04/2022)