



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Reserved on : 11.08.2025

Pronounced on : 29.08.2025

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

T.O.S.No.14 of 2008

1.K.Kamalakkannan
2.S.Selvi (Deceased)
3.B.Geetha (Deceased)
4.K.S.Suresh
5.K.S.Shankaranarayanan
6.K.Prema
7.K.Nithyanandham
8.K.Anand
9.S.Jothilakshmi

...Plaintiffs

Vs

1.K.Leelavathy
2.K.Mallika
3.Sudha
4.Kalavathy
5.Bhuvaneswari
6.Vijayalakshmi

...Defendants

Plaintiffs 4 and 5 and 3rd defendant brought on record as LR's of the deceased 2nd plaintiff and the 4th to 6th defendants brought on record as LR's of the deceased



3rd plaintiff and the amendment carried out as per order dated 21.02.2024 in A.No.922 of 2024 in T.O.S.No.14 of 2008.

Plaintiff 6 to 9 brought on record as legal representatives of the deceased 1st plaintiff and the amendment carried out as per order 04.06.2025 in A.No.1591/2025 in T.O.S.No.14 of 2008

Prayer: This Testamentary Original Suit filed under Sections 232 & 276 of the Indian Succession Act XXXIX of 1925, praying to grant Letters of Administration to the plaintiffs.

For Plaintiffs : Mr.V.P.Raju

For D1 and D2 : Mr.T.K.S.Gandhi

For D3 : Ms.P.C.Nirmala

For D4 to D6 : Mr.B.Eswaran

JUDGMENT

O.P.No.937 of 2007 had been filed by petitioners herein under Sections 232 and 276 of the Indian Succession Act , 1925 seeking Letters of Administration with Will annexed relating to the Will dated 12.08.1996 registered as Document No.11 of 1996 in the Office of the Sub-Registrar, Thousand Lights said to have been executed by their mother

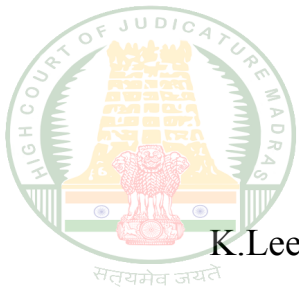


Mrs.K.Shenbagavalli Ammal @ Shenbagammal who died on 22.01.2004.

WEB COPY

Her husband had predeceased her and had died on 05.09.1965. Among the respondents, the 1st and 2nd respondents, K.Leelavathy and K.Mallika filed caveat and consequently O.P.No.937 of 2007 was converted as T.O.S.No.14 of 2008. Pending the Testamentary Original Suit, all the three plaintiffs K.Kamalakkannan, S.Selvi and B.Geetha died and their legal representatives were brought on record as 4th and 5th plaintiffs. The 3rd defendant, Sudha was brought on record as another legal representatives of the deceased 2nd plaintiff and the 4th to 6th defendants, namely, Kalavathy, Bhuvaneswari and Vijayalakshmi, were brought on record as legal representatives of the deceased 3rd plaintiff.

2.In the plaint, it had been contended that late Mrs.K.Shenbagavalli Ammal @ Shenbagammal died on 22.01.2004 and had executed a Will dated 12.08.1996 registered as Document No.11 of 1996 in the Office of the Sub-Registrar, Thousand Lights. It had been stated that the Will had been executed in the presence of the witnesses. It had been further stated that the testatrix had appointed her son K.Selvaraj as executor of the Will but he had died on 30.11.1996. It had been contended that the two daughters



WEB COPY

K.Leelavathy and K.Mallika had entered caveat raising objections to grant Letter of Administration. It had been sought that Letters of Administration must however to be granted to the plaintiffs.

3.A written statement had been filed by the 1st and 2nd defendants, K.Leelavathy and K.Mallika stating that the testatrix Mrs.K.Shenbagavalli Ammal was very affectionate towards all her children and grand children. It had been stated that they had sought partition of the property but there was no reply from the plaintiffs. They then received summons from the Court informing about the filing of O.P.No.937 of 2007. They contended that the Will is invalid and had been created by the plaintiffs in an illegal manner in collusion with other defendants. It had been further stated that Mrs.K.Shenbagavalli Ammal was bedridden for nearly 10 years before her death and partly blind and deaf. It had been stated that she was an uneducated and that the Will had been written down in English which could not be either understood or read by Mrs.K.Shenbagavalli Ammal. It had been stated that the plaintiffs had obtained her left thumb impression instead of her signature. It had been further stated that the plaintiffs had created the Will to ensure that the two defendants / daughters of the testatrix were not



provided with any share in the property. It had been stated that the Will is a forgery and created with intention to grab the property. It had thus been stated that the plaint should be dismissed.

4. On the basis of the pleadings, the following issues were framed for trial:

“1. Whether the Will dated 12.08.1996 was executed by the testatrix Mrs. K. Shenbagavalli Ammal alias Shenbagammal in the presence of two or more attesting witnesses in a sound and disposing state of mind and is it a true and valid document ?

2. If so, whether the Will dated 12.08.1996 is the last Will and testament of the said Shenbagavalli Ammal alias Shenbagammal ?

3. Whether the Will dated 12.08.1996 was a created and forged document by the plaintiffs with the help of respondents 3 to 8 for unlawful gains ?

4. Whether the plaintiffs are entitled for a grant of letters of administration of the Will and testament of the Shenbagavalli Ammai alias Shenbagammal ?

5. To what reliefs, the parties are entitled to ?”



WEB COPY

5. During trial, the 1st plaintiff K.Kamalakkannan examined himself as PW-1 and marked Exs.P1 to P13. Ex.P1 is the registered Will dated 12.08.1996. Ex.P2 is the Death Certificate of the testatrix, K.Shenbagavalli Ammal. Ex.P3 is the Death Certificate of the father of PW-1 Kannappan who died on 05.09.1965. Ex.P4 is the extract from the Permanent Land Register dated 17.01.2006 giving the names of the owners of the property. Exs.P7 to P10 are the Death Certificate and Legal Heirship Certificate of K.Selvaraj and Balu @ Balakrishnan, the other two brothers of PW-1. Ex.P11 are the consent affidavits filed by the 3rd to 5th defendants and Ex.P12 are the consent affidavits filed by the 5th to 8th defendants. Ex.P13 is the affidavit of one of the attesting witness T.Munusamy.

6. The plaintiff also examined PW-2, M.Venkatesan, son of one of the attesting witnesses, T.Munusamy. He filed his proof affidavit but did not mark any documents.

7. On the side of the defendants, the 1st defendant K.Leelavathi examined herself as DW-1. She also filed her proof affidavit but did not mark any documents. The 2nd defendant K.Mallika was examined as DW-2. She filed her proof affidavit and marked Exs.D1 to D4



WEB COPY 8. Heard arguments advanced by Mr.V.P.Raju, learned counsel for the plaintiffs and Mr.T.K.S.Gandhi, the learned counsel for the 1st and 2nd defendant and Ms.P.C.Nirmala for the 3rd defendant and Mr.P.Eswaran, learned counsel for the 4th to 6th defendants.

9. Mr.V.P.Raju, learned counsel for the plaintiffs took the Court through the facts of the case. The learned counsel stated that initially O.P.No.937 of 2007 had been filed seeking Letters of Administration with respect to a registered Will dated 12.08.1996 executed by Mrs.K.Shenbagavalli Ammal who died on 22.01.2004. The learned counsel stated that she had three sons and two daughters. The 1st son K.Kamalakkannan was the 1st plaintiff and her other two sons, K.Selvaraj and K.Balakrishnan had died and their legal representatives had therefore been impleaded as parties to the suit. The 1st and 2nd defendants, K.Leelavathy and K.Mallika are her daughters. The learned counsel stated that K.Mallika had married a person of her choice and left the home and therefore, the testatrix had not even mentioned her name in the Will. The learned counsel stated that the Will had been executed when the testatrix



was in a sound and disposing state of mind. He pointed out that it had also been attested by two witness. The 1st attesting witness Munusamy unfortunately died and to prove his signature his son Venkatesan had been examined as PW-2.

10.The learned counsel contended that the Will had been proved in manner known to law and that the witness had withstood cross examination. He further pointed out that the testatrix had made provision for the 1st defendant by stipulating that K.Selvaraj, K.Kamalakkannan and Geetha wife of her other son K.Balakrishnan should pay a sum of Rs.25,000/- each to the 1st defendant K.Leelavathy and only then they would be entitled to the property bequeathed to them. The learned counsel therefore stated that the testatrix had placed sufficient safeguards to ensure that all her children are provided for under the Will. He also pointed out that the Will had been registered and stated that this is a significant factor relating to the execution of the Will. The learned counsel therefore contended that the Will had been proved in manner known to law and urged that Letters of Administration should be granted to the plaintiffs as prayed for.



11.Mr.T.K.S.Gandhi, learned counsel for the 1st and 2nd defendants

however seriously contested the genuinity of the Will and also asserted that the plaintiffs and the 3rd to 6th defendants had created the Will with intention to grab the property. In this connection, the learned counsel pointed out that Ex.P4 the Permanent Land Register relating to the property in which the names of the 1st to 5th plaintiffs and the 3rd to 6th defendants alone are shown as owners overlooking the status of the 1st and 2nd defendants who are also the legal representatives of the deceased K.Shenbagavalli Ammal. The learned counsel stated that mutation of records show the intention to grab the property by the plaintiffs to the disadvantage of the 1st and 2nd defendnats. He also stated that the Will had not even probated but still the revenue records had been mutated.

12.The learned counsel then took the Court through the Will wherein, the name of the testatrix had been given as Mrs.Champakammal and not either K.Shenbagavalli Ammal or Shenbagammal. He pointed out that this fact itself shown that there has been non application of mind in the preparation of the Will. Even in the Will, the testatrix had stated that she had three sons and one daughter completely overlooking the existence of



her own other daughter K.Mallika. He pointed out that there will be differences between the family, but the relationship a mother has towards the children remains and continues to remain till the end. The testatrix could not simply disown a daughter. She cannot even ignore a daughter. She can never say that a daughter was never born to her. The learned counsel stated that these are suspicious circumstances surrounding the execution of the Will.

13. He further pointed out that the testatrix is said to have affixed her left thumb impression. He contended that this would necessarily meant that she does not know English and does not know how to read, write and understand English in which language the Will had been written. She does not even know how to put her signature. If that be the case, there should have been clause in the Will that it had been read over to her and explained to her, which clause was significantly absent. Even if the scribe to the Will and the witnesses to the Will had not done so, an obligation was placed on the Sub-Registrar to have explained the nature of the document and make necessary endorsement that it had been so explained to her.



14.The learned counsel further stated that the evidence of PW-2 is extremely unconvincing. He was not a direct witness to the execution of the Will or to the attestation of the Will. His role was limited only to identify the signature of his father, T.Munusamy, one of the attesting witnesses to the Will. The learned counsel stated that T.Munusamy had filed an affidavit before the Court that the Will was signed in the residence and later everybody went to the Sub-Registrar Office. The learned counsel stated that there were contradictions even between the evidence of PW-2 and the proof affidavit of T.Munusamy. The learned counsel therefore contended that it should be held that the Will had not been properly proved and that the suspicious circumstances surrounding its execution had not been properly explained and urged that therefore the suit should be dismissed.

15.Ms.P.C.Nirmala, learned counsel for the 3rd defendant, however contended that the Will had been executed in proper manner and registered in proper manner and therefore contended that the suit should be decreed.

16.Mr.B.Eswaran, learned counsel for the 4th to 6th defendants also contended that the Will had been registered and it had been registered only because it had been properly executed and since it had been properly executed, the suit should be decreed.



WEB COPY 17.I have carefully considered the arguments advanced and perused the material on records.

Issue No.1, 2 and 3:

18.All these three issues are taken up for discussion together since the first issue requires discussion on whether the testatrix was in a sound and disposing state of mind at the time of execution of the Will and whether the Will is a true and valid document and the second issue is whether the said Will dated 12.08.1996 was the last Will and testament of the testatrix and the third issue was whether it was created and a forged document by the plaintiffs with the help of the 3rd to 6th defendants.

19.Initially O.P.No.937 of 2007 had been filed seeking Letters of Administration with respect to the Will dated 12.08.1996 registered as Doc.No.11 of 1996 in the office of the Sub-Registrar, Thousand Lights, said to have been executed by Mrs.K.Shenbagavalli Ammal @ Shenbagammal who died on 22.01.2004. The 1st plaintiff, K.Kamalakkannan and the 1st and 2nd defendants K.Leelavathi and K.Malliga are her son and two



WEB COPY

daughters. The late husband of the 2nd and 3rd plaintiffs, K.Selvaraj and K.Balakrishnan are her other two sons. Since they were dead, their widows were impleaded as the 2nd and 3rd plaintiffs and their children have been impleaded as the 3rd to 6th defendants.

20.It is the contention of the plaintiffs that the property which had been bequeathed belonged absolutely to the testatrix. The property which was the subject matter of the Will, Ex.P1 was house and ground premises at Door No.98, Poes Road, Varadarajapuram, Vanniya Teynampet, Chennai - 600 018. The husband of K.Shenbagavalli Ammal had predeceased her and had died on 05.09.1965. In the Will, she had stated that she was bequeathing the entire property to her two sons K.Selvaraj and K.Kamalakkaannan and to her daughter-in-law B.Geetha wife of her predeceased son K.Balakrishnan. She placed a condition that each one of them should pay a sum of Rs.25,000/- to her other daughter K.Leelavathi. Very strangely and quite shockingly, the testatrix had not even acknowledged the existence of her second daughter K.Mallika. This circumstance had been very strongly pointed out by the learned counsel for the 1st and 2nd defendants who stated that the testatrix could have taken a



decision to disinherit K.Mallika but should have atleast stated her as a daughter and then disinherited her. The very fact that the testatrix had not even whispered about the birth of K.Mallika, according to the learned counsel for the 1st and 2nd defendants gives room for strong suspicion whether the testatrix was in a position to exercise her free Will while giving instructions for the preparation of the Will.

21.The learned counsel had further pointed out one further factor namely, Ex.P4 which was the extract from the Permanent Land Register with respect to the suit schedule property. A perusal of the document shows that the property is shown to be owned by the three plaintiffs and by the legal representatives of the 2nd and 3rd plaintiffs who had been impleaded as 3rd to 6th defendants. The names of the 1st and 2nd defendants are missing in the said documents. Unless and until the Will had been granted recognition and approval by a Court of law, it must be held that the testatrix died intestate. The learned counsel pointed out that this mutation of revenue records had been done with oblique motive to totally disinherit the 1st and 2nd defendants. The learned counsel therefore argued that there was a strong possibility of influence being exerted on the testatrix.

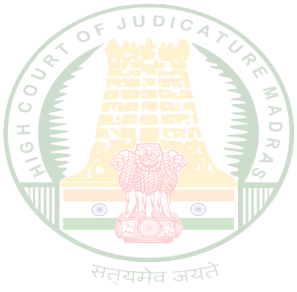


22.He further pointed out that a doubt had been raised even over the place where the Will had been executed. In the affidavit of T.Munusamy, one of the attesting witnesses it had been stated that the Will was executed in the house of the testatrix. However, PW-2, Venkatesan, son of T.Munusamy who was examined since T.Munusamy had died, stated that the Will was executed in the Office of the Sub-Registrar. Thus, there were contradictions within the witnesses of the plaintiffs themselves. It is also to be noted that the evidence of PW-2 is also not convincing. It is also the contention of the learned counsel for the defendants that in Ex.P14, Mortgage Deed all the legal representatives have signed holding that the property was a joint family property.

23. Viewed from in the background of the above narration of facts, the evidence adduced will have to be examined.

24.During the cross examination of PW-1, he had stated as follows:

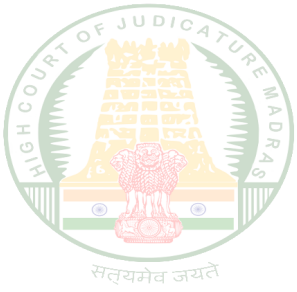
“I do not know the name of the builder to whom the title documents relating to Door No.98, Poes Road are given. It is correct to state that the name of the builder is M.R.Badri Narayana and Ashok Kumar Maheswari.”



WEB COPY 25. It is thus seen that the plaintiffs and the 3rd to 6th defendants have entered into an agreement with a builder with respect to the suit property. They have also totally disinherited the 1st and 2nd defendants even before this Court had granted a stamp of approval over the Will.

26. PW-1 further admitted as follows with respect to the agreement with the builder:

“I have given to the builder the legal heirship certificates of my mother and father, the death certificates of my parents, the electricity consumption card, ration card and the document under which my mother had purchased the property. Those documents were given to the builder for sale of the suit property. I have not informed to the defendants 1 and 2 about my proposal to sell the suit property. An agreement of sale was executed and the builder has given a small chit. The agreement for sale was executed for sale of the suit property at Rs.1,35,00,000/-. I have received an advance of Rs.6 lakhs from the builder. I have received the advance two years back. Even before filing of the present suit, the agreement for sale was entered into. In the agreement for sale, no time limit is fixed. Excepting the advance of Rs.6 lakhs, I have not received



WEB COPY



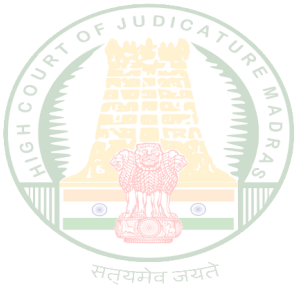
any other amount from the builder. The builder has not taken any legal action for enforcing the agreement of sale even though 4 years had lapsed.”

27.It is thus seen that the filing of the petition seeking Letters of Administration was only a formality and the plaintiffs and the 3rd to 6th defendants have claimed to be the owners and whether the Letters of Administration is granted or not they would anyway deal with the property to the disadvantage of the 1st and 2nd defendants. This attitude cannot be condoned by the Court.

28.On the date when the agreement had been executed and advance amount had been received, the 1st plaintiff can never claim to be the exclusive title holder nor can he claim that the 1st and 2nd defendants had no right or title over the property.

29.PW-1 went a step further in the subsequent cross examination on the same aspect and stated as follows:

“Before entering into the agreement with the builder, I



WEB COPY

did not consult the defendants. Before selling the property to the builder, I did not give those details to the defendants. My mother K.Shenbagavalli Ammal and my father Kannappa Mudaliar are illiterates”

30.The reading of the above statement made by him under the oath shows that the property had already been sold to the builder. He further admitted that both his *mother K.Shenbagavalli Ammal* and his *father Kannappa Mudaliar are illiterates”*.

31.When that be the case, there should have been a declaration made in the Will that the contents of the Will had been read over and explained to the testatrix, who also understood the same and the person who so read and explained the contents should have affixed his/her signature confirming to that fact.

32.The burden is on the propounder of the Will to prove that the testatrix understood what had been written in the Will, the contents of the Will and the nature of bequeath. Very strangely in the Will, the testatrix



had stated that she has one daughter when as a fact she had two daughters.

WEB COPY

33. In *H. Venkatachala Iyengar v. B.N. Thimmajamma and Others*,

AIR 1959 SC 443, it had been held as follows:

“19. However, there is one important feature which distinguishes will from other documents. Unlike other documents the will speaks from the death of the testator, and so, when it is propounded or produced before a Court, the testator who has already departed the world cannot say whether it is his Will or not; and this aspect naturally introduces an element of solemnity in the decision of the question as to whether the document propounded is proved to be the last Will and testament of the departed testator. Even so, in dealing with the proof of Wills the Court will start on the same enquiry as in the case of the proof of documents. The propounder would be called upon to show by satisfactory evidence that the will was signed by the testator, that the testator at the relevant time was in a sound and disposing state of mind, that he understood the nature and effect of the dispositions and put his signature to the document of his own free Will. Ordinarily when the evidence adduced in support of the Will is disinterested, satisfactory and sufficient to prove the sound and disposing state of the testator's mind and his signature as required by law, Courts would be justified in making a finding in favour of the propounder. In



other words the onus on the propounder can be taken to be discharged on proof of the essential facts just indicated.”

34. In ***Rani Purnima Debi and another v. Kumar Khagendra Narayan Deb and another***, AIR 1962 SC 567, it had been held as follows

“23. There is no doubt that if a Will has been registered, that is a circumstance which may, having regard to the circumstances, prove its genuineness. But the mere fact that a Will is registered will not by itself be sufficient to dispel all suspicion regarding it where suspicion exists, without submitting the evidence of registration to a close examination. If the evidence as to registration on a close examination reveals that the registration was made in such a manner that it was brought home to the testator that the document of which he was admitting execution was a Will disposing of his property and thereafter he admitted its execution and signed it in token thereof, the registration Will dispel the doubt as to the genuineness of the Will. But if the evidence as to registration shows that it was done in a perfunctory manner, that the officer registering the Will did not read it over to the testator or did not bring home to him that he was admitting the execution of a Will or did not satisfy himself in some other way (as, for example, by seeing the testator reading the Will) that the testator knew that it was a Will the execution of which he was admitting, the fact that the Will was



registered would not be of much value. It is not unknown that registration may take place without the executant really knowing what he was registering. Law reports are full of cases in which registered Wills have not been acted upon: (see, for example, Vellaswamy Servai v. Sivaraman Servai, ILR 8 Rang 179: AIR 1930 PC 24, Surendra Nath v. Jnanendra Nath, AIR 1932 Cal 574 and Girja Datt Singh v. Gangotri Datt Singh, AIR 1955 SC 346. Therefore, the mere fact of registration may not by itself be enough to dispel all suspicion that may attach to the execution and attestation of a Will; though the fact that there has been registration would be an important circumstance in favour of the Will being genuine if the evidence as to registration establishes that the testator admitted the execution of the Will after knowing that it was a Will the execution of which he was admitting.”

35.A Division Bench of this Court in a judgment reported in **(2007) 3 LW 916 : (2007) 5 Mad LJ 740, J.Mathew (died) and others v. Leela Joseph**, had held as follows:

“13. The mere fact that signature of a person is proved on a document does not necessarily mean that the person who has signed the document has done so after understanding the contents of the document. In our considered opinion, the expression “execution” does not merely means the signature,



but means that the Executant or the person who puts the signature has done so after understanding the contents of the document. In other words, it has to be proved said that the hand which had signed the document was with the mind.”

36.In the instant case, PW-2 had been examined to prove the Will, as a person who knew the signature of his father T.Munusamy. He stated during his cross examination as follows:

“The Advocate has prepared the proof affidavit and I put my signature.”

37.He is a third party to the proceedings and his chief examination should have been taken orally. He should have stated the facts known to him and not the facts presented to him by way of a proof affidavit which had been prepared by an Advocate and the contents of which he did not know and which affidavit he had not read before. Therefore, the credibility of the witness is highly doubtful and any statement made by him is only to assist the plaintiffs and not to assist the Court in coming to a just conclusion.

38.PW-2 further stated as follows in his cross examination.



“I accompanied with my father at the time of execution of the Will. My father had not stated in his affidavit that I accompanied with him to the Registrar office. I do not know whether the women in the photo in Ex.D1 attested in the Will as another witness. I deny the suggestion that the woman seen in Ex.D1 photo is one Rajam who alone attested as witness in Ex.P1 and since I had not accompanied with my father I did not know anything about the identity of the other witness and I am adducing false evidence that I accompanied with my father to the Registrar office. I never had seen one Rajam at any circumstances. I have studied upto 10th standard. I never had seen the said Rajam in our locality or near residence. ”

39.By the above admission he had not only discredited himself but also discredited the other witness to the Will, Rajam who had not been examined, but whose presence at the execution of the Will has now become doubtful.

40.PW-2 further stated as follows:

“The Will was made ready at the front hall of the Registrar office. At the time of execution of Will, Shenbagavalli Ammal @ Shenbaga Ammal, my father, Kamalakannan, totally



four persons were present.”

WEB COPY

41.This goes directly against the affidavit of T.Munusamy, his own father, which had been marked as Ex.P13, wherein T.Munusamy one of the attesting witnesses had stated as follows:

“2.On 12.08.1996, I was present together with Mrs.Rajam wife of Kanna Pillai at the house of the deceased Mrs.R.Shenbagavalli Ammal (alias) Shenbagammal and we did then and there see the said deceased set and subscribe her Left Thumb Impression at the foot of the testamentary paper hereunto annexed and marked with the letter “A” declare and publish the same for her last WILL and Testament.”

42.The attesting witness stated that the Will was signed in the house of the deceased K.Shenbagavalli Ammal, whereas PW-2 M.Venkatesan stated that it had been signed in the office of the Sub-Registrar. This contradiction is glaring.

43.Thereafter, PW-2 further complicated himself by stating as follows in his cross examination.

“I did not enter into the Sub-Registrar office. I do not



know what had actually happened inside the office of the Sub-Registrar on that date.”

44.He thus stated that he had not entered the Sub-Registrar Office and when it was suggested that he never accompanied his father to the Sub-Registrar Office, he denied that suggestion and denied that he did not know anything happened in the Office of the Sub-Registrar, which again contradicts his earlier statement that he never entered the Sub-Registrar Office.

45.The denial of PW-2 to those suggestions were as follows:

“I deny the suggestion that I never accompanied with my father to Sub-Registrar office and I do not know anything about the things happened in the Sub-Registrar office and I am adducing false evidence in support of the case of the petitioners / plaintiffs.”

46.It is thus seen that the following suspicious circumstances glare at the face of the plaintiffs:

i).K.Shenbagavalli Ammal @ Shenbagammal did not know English



and had affixed her thumb impression in the Will and there is no declaration that the Will was read over and explained to her by the attesting witnesses or by the Sub-Registrar.

ii).In the Will, she had stated that she had three sons and one daughter while the 2nd defendant is also another daughter and no mother can simply state that a daughter was never born to her when she was actually born. She could have disinherited the 2nd defendant but should have not denied her birth.

iii).The evidence of PW-2, the only witness who spoke about attestation, registration and execution is totally unconvincing. The witness has self-contradicted himself on the same day of cross examination and his evidence is unreliable and, cannot be the basis to hold that the Will had been proved in manner known to law.

47. There is one further fact which may not directly impinge the Will but which has to be stated since in the Will the testatrix has been called Mrs.Champakammal, whereas in the petition, plaint, written statement, death certificate and all other documents, she has been named as



Mrs.K.Shenbagavalli Ammal @ Shenbagammal. This one factor itself shows that the Will had been prepared elsewhere and later she had affixed her thumb impression without any knowledge of what had been written in the document. The one and only time when any person would definitely protest when asked to sign a document is when his or her name had been wrongly written. Normal psychology would indicate that the person would correct his or her name.

48.In the instant case, unfortunately, the testatrix had not done even that. She had not done that, because she did not know that she was called Mrs.Champakammal in the Will which is not her name. It could be a similar name but it was not her name.

49.In view of these reasons, with respect to Issue No.1, I hold that the Will was not executed when the testatrix Shenbagavalli Ammal was in a sound and disposing state of mind and that definitely it is not a true and valid document. This issue is answered against the plaintiffs.

50.With respect to Issue No.2, I hold that there is no dispute that this



is the only Will in the hands of the plaintiffs and this issue is answered accordingly.

51. With respect to Issue No.3, I hold that the Will had been created for unlawful gains particularly since PW-1 had admitted that the property had already been entrusted with the builder and at one point had said that it had already been sold. He also admitted that he had received advance from the builder. Further in the Permanent Land Registrar in Ex.P4 even before the Will had been given the stamp of approval by this Court, the 1st and 2nd defendants have been ousted and the 1st to 5th plaintiffs and the 3rd to 6th defendants alone have been mentioned as owners of the property. This issue is answered against the plaintiffs and also against the 3rd to 6th defendants.

Issue No.4:

52. This issue is whether the plaintiffs are entitled for grant of Letters of Administration with respect to the Will of Mrs.K.Shenbagavalli Ammal @ Shenbagammal. Since Issue Nos.1 and 3 had been answered against the



plaintiffs, I hold that the plaintiffs are not entitled for grant of Letters of Administration. This issue is answered against the plaintiffs.

Issue No.5:

53.In answer to this issue, I hold that the Testamentary Original Suit will have to be necessarily dismissed.

54.In the result,

(i)T.O.S.No.14 of 2008 is dismissed.

(ii)The 1st and 2nd defendants are entitled for costs of the litigation.

29.08.2025

smv

Index : Yes/No

Neutral citation : Yes/No

Speaking order : Yes/No

List of witnesses on the side of plaintiffs:

P.W.1 – K.Kamalakkannan

P.W.2 – M.Venkatesan

List of witnesses on the side of defendants:



D.W.1 – K.Leelavathy

WEB COPY D.W.2 – K.Mallika

List of Exhibits on the side plaintiffs:

Ex.P1	12.08.1996	The registered Will executed by testatrix Chembagammal.
Ex.P2	05.03.2004	The death certificate of K.Shenbagavalli Ammal.
Ex.P3	28.07.2005	The death certificate of plaintiffs father Kannappan.
Ex.P4	17.01.2005	The extract from the Permanent Land Register issued by the Tahsildar, Mylapore-Triplicane Taluk.
Ex.P5	26.06.2007	The property tax collection receipt issued in the name of Shengabavalli Ammal.
Ex.P6	03.04.2007	The legal heirship certificate of the testatrix issued by Tahsildar, Mylapore-Triplicane Taluk.
Ex.P7	17.12.1996	The death certificate of K.Selvaraj.
Ex.P8	24.01.1997	Xerox copy of the legal heirship certificate of K.Selvaraj attested by Special Tahsildar, Triplicane Taluk.
Ex.P9	28.07.2005	Xerox copy of the death certificate of Balu alias Balakrishnan.
Ex.P10	16.01.2006	The legalheirship certificate of Balu alias Balakrishnan issued by Tahsildar, Mylapore-Triplicane Taluk.
Ex.P11 (series)		Consent affidavits.
Ex.P12 (series)		Consent affidavits .
Ex.P13		Affidavit of attesting witness (Mr.T.Munusamy).
Ex.P14	22.05.1974	The copy of equitable mortgage .



List of Exhibits on the side plaintiffs:

Ex.D1		Photograph with CD
Ex.D2	30.06.2007	Copy of the legal notice issued by the defendants counsel to the plaintiffs.
Ex.D3		Photocopy of the plaint filed in O.S.SR.No.6442 of 2008 on the file of the City Civil Court, Chennai.
Ex.D4	28.01.2011	Copy of the notice to produce documents sent by the plaintiff's counsel to the defendants counsel.

29.08.2025

C.V.KARTHIKEYAN,J.,

smv



WEB COPY

32



Pre-delivery Judgment
in
T.O.S.No.14 of 2008

29.08.2025