



## IN THE HIGH COURT OF JUDICATURE AT MADRAS

|               |                   |
|---------------|-------------------|
| Reserved on   | <b>09.10.2025</b> |
| Pronounced on | <b>03.11.2025</b> |

CORAM

**THE HON'BLE DR.JUSTICE R.N.MANJULA****TOS No. 6 of 2020**

P.Bhavani  
D/o.Late B.V.Padmanabha Rao,  
Permanently residing at Nellore,  
Temporarily residing at 23/13 Sri Basavaraju  
Nilayam, Nagarjuna 1st ST, Rangarajapuram,  
Kodambakkam, Chennai-600 024

..Plaintiff(s)

Vs

1. P.RAJESWARI (Deceased)  
R/o.H.No.5-11, 692/7, Vidhyaranpuri, University  
Colony, Hanumakonda Warangal,  
Andhrapradesh - 506 009
2. P.Sridevi  
R/o. H.No.D2, 37, Sullurpeta, Pulicat Nagar,  
K.Rpalem, Nallore, Andhra Pradesh - 524 121
3. G.Vasanth Lakshmi  
R/o Gurudham, Jaggiapeta, Krishna District,  
Andhara Pradesh - 521 175
4. B.Sairam  
R/o. 234, Flat No.201, Road No.5, Alkapuri  
Colony, Saroornagar, Hyderabad,  
Andhrapradesh - 500 035



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5. P.Aruna  
No.19/8, Nagarjuna Nagar, Ii Street,  
Kodambakkam, Chennai - 600 024

6. P.Raghavendra  
S/o.P.Mallikarjuna Rao,  
R/o H No.5-11-692/7,  
Vidyanpur, University Colony,  
Hanumakonda, Warangal,  
Andhra Pradesh - 506 009.

7. P.Pranay  
S/o.P.Mallikarjuna Rao,  
R/o H No.5-11-692/7,  
Vidyanpur, University Colony,  
Hanumakonda, Warangal,  
Andhra Pradesh - 506 009.  
(Defendants 6 and 7 brought on record as legal  
heirs of deceased 1st defendant and amended as  
per order dated 08.02.2023 in A.No.4941/2022)

..Defendant(s)

**PRAYER :** Suit filed under Sections 232 and 276 of the Indian Succession Act  
r/w. Order XXV Rule 5 of Original Side Rules, for grant of Letters of  
Administration with the Will annexed to the plaintiff as daughter / beneficiary  
under the Will of the deceased B.V.Padmanabha Rao having effect throughout  
the State of Tamil Nadu.

For Plaintiff(s): M/s.O.Padmaprakash

For Defendants(s): M/s.K.Ramanatha Reddy



## **JUDGMENT**

WEB COPY This Testamentary Original Suit has been filed seeking Letters of Administration with the Will annexed to the plaintiff as daughter / beneficiary under the Will of the deceased B.V.Padmanabha Rao having effect throughout the State of Tamil Nadu.

2. Heard Mr.O.Padmaprakash, learned counsel for the plaintiff and Mr. K.Ramanatha Reddy, learned counsel for the defendants and perused the materials available on record.

3. **The averments pleaded in the plaint filed by the plaintiff are as follows:**

The plaintiff is the daughter of the deceased B.V.Padmanabha Rao. The father of the plaintiff had ordinarily resided at 23/13, Sri Basavaraju Nilayam, Nagarjuna 1st Street, Rangarajapuram, Kodambakkam, Chennai 600 024. He died on 20.02.2010. He left credit worth of Rs.3,50,000/- at the time of his death in Chennai. The deceased has also written a Will dated 22.02.2008 and through which, the plaintiff is entitled to claim the estates of the deceased. The Will was duly executed on 22.02.2008 and it is a registered Will. As per the



Will, she is entitled not only to the estate, but also the right of recovery of any debts payable to the deceased father. The plaintiff undertakes to duly administer the credits of the deceased in accordance with the undertaking given by her. Hence, it is prayed to issue Letters of Administration in favour of the plaintiff.

4. The defendants 1 to 4 are the children born to the deceased B.V.Padmanabha Rao through his first wife. The plaintiff born to the B.V.Padmanabha Rao through his second wife. The fifth defendant born to the B.V.Padmanabha Rao through his third wife.

5. During the pendency of the suit, D1 died and her legal heirs have been impleaded as D6 and D7.

**6. The averments made in the written statement filed by the defendants 1 to 5 are as follows:**

The deceased B.V.Padmanabha Rao had married Sarojamma, who is the mother of D1 to D4, in the year 1956. Subsequent to his marriage, he developed an extramarital affair with one Lakshmi and two children viz., Murali and P.Bhavani, the plaintiff herein, were born through her. In the year 1962,



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B.V.Padmanabha Rao had developed another extramarital affair with one Pramila and the fifth defendant was born through her. In the year 1992, the mother of the fifth defendant died and in the year 1994, the mother of the defendants 1 to 4 also died.

**6.1.** In the year 2004, the deceased B.V.Padmanabha Rao had entered into a joint development agreement with a builder on 50-50% share basis. Accordingly, out of 12 flats to be constructed, 6 flats will go to B.V.Padmanabha Rao and 6 flats to the builder. The brother of the plaintiff Murali forced B.V.Padmanabha Rao to settle three flats in favour of his family. Accordingly, two flats were jointly owned by Murali and his mother Lakshmi and one flat for the plaintiff herein. In the year 2008, the builder had handed over 4 flats to B.V.Padmanabha Rao and he had fraudulently sold two flats out of the share of the testator without his concern and later agreed to pay compensation of Rs.20,00,000/-. In the year 2010, B.V.Padmanabha Rao passed away. During that time, the builder has repaid only Rs.16,50,000/-. At this time, the brother of the plaintiff has been forcibly occupying one flat for himself and his mother and let out the rest of the 3 flats for lease to the tenants and collected several lakhs of rupees as lease amount and enjoyed all the



money by himself. Till his life time, he he did not allow any of the children born to the testator to enter into the flats.

**6.2.** The plaintiff has misrepresented and forced her father to cancel all the 3 settlement deeds of the year 2004 unilaterally and register 4 fresh settlement deeds in favour of the plaintiff and her mother and a Will on the same day. Totally 8 documents were registered and three settlement deeds were cancelled unilaterally and 4 fresh settlement deeds were executed, out of which, three settlement deeds were in favour of the plaintiff and Lakshmi and one Will is dated 22.02.2008. A civil suit has been filed against the plaintiff seeking for declaration that those transactions are null and void. The Will is not a genuine one. Late B.V.Padmanabha Rao had no knowledge of English and he can only sign in English and he could not have been aware of the contents of the Will. The Will does not speak about the builder's liability to the testator except the entitlement of recovery of Rs,3,50,000/- and hence, the suit should be dismissed.

**7.** On the basis of the above pleadings, the following issues are framed for consideration:



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*"(i) Whether the Will dated 22.02.2008 executed by B.V.Padmanabha Rao is true and valid?*

*(ii) Whether the Will dated 22.02.2008 has been executed by B.V.Padmanabha Rao, when he was in a sound disposing state of mind?*

*(ii) Whether the plaintiff is entitled to the grant of Letters of Administration as prayed for and what relief, if any?"*

8. During the course of the trial, on the side of the plaintiff, the plaintiff has been examined as P.W.1 and the scribe of the Will has been examined as P.W.2 and Exs.P1 to P5 were marked. On the side of the defendants, the fourth defendant has been examined as D.W.1 and Exs.D1 to D6 were marked.

9. The learned counsel for the plaintiff submitted that the attestors could not be examined, as the plaintiff could not trace them. During the cross examination of D.W.1, he has admitted the execution of the Will by his father. Hence, the non-examination of the attesting witnesses is not fatal to the case of the plaintiff. Reliance was placed on the judgment of this Court held in the case of **Boomathi Vs. Murugesan, reported in 2023 (2) CTC 273**. However, the plaintiff has examined the scribe of the Will who is an Advocate, as P.W.2. He has also stated in his evidence about how the Will has been executed. He has



given evidence supporting the execution of the Will. The attesting witnesses have also signed the Will. It is not correct on the part of the defendants to state that the attesting witnesses had simply written the name and not signed. The witnesses have signed the Will at the end of the Will and the back side of the first sheet at the time of registration. There is no suspicious circumstances surrounding the Will has been established by the defendants to claim that the Will is not genuine. The plaintiff never denied the existence of other children born to her father with his other wives. The testator had already executed a settlement deed in favour of Sarojamma. There is no exclusion of inheritance for any of the legal heirs, because, the other legal heirs have also been given with properties, even during the life time of B.V.Padmanabha Rao.

**10.** The learned counsel for the defendants submitted that the testator did not have English knowledge to know about the contents of the Will. The existence of the other children of the deceased was concealed by the plaintiff. The plaintiff has managed to get a false legal heir certificate by showing herself and her brother alone as the legal heirs of the deceased B.V.Padmanabha Rao. The plaintiff obtained legal heir certificate on 16.08.2010 and in which, the names of the other legal heirs were not mentioned. The plaintiff has not proved that at the time of executing the Will, the testator was in a sound disposing state



of mind and in good health. The evidence of P.W.2 is not reliable because he could speak only about the Will, though 8 documents have been registered on the same day. At the time of registering the Will, the testator had a dispute with the builder and he was supposed to receive monetary compensation from him. But P.W.2 did not know about the same. None of the attesting witnesses were examined. Hence, the suit should be dismissed.

### **Discussion:**

11. The fact that the plaintiff is a daughter of the testator B.V.Padmanabha Rao is not in dispute. In fact, the testator had first wife Sarojamma and the defendants 1 to 4 were born to B.V.Padmanabha Rao through Sarojamma. The said B.V.Padmanabha Rao developed extramarital relationship with the mother of the plaintiff by name Lakshmi and in view of that, the plaintiff and her deceased brother Murali were born to him through Lakshmi. The said B.V.Padmanabha Rao had also maintained companionship with one Pramila through whom, the fifth defendant was born. Before proceeding to the validity and genuineness of the Will, the defendants 1 to 4 raised the allegation of falsity of relationship between the deceased B.V.Padmanabha Rao and Lakshmi. It is claimed by the defendants 1 to 4 that B.V.Padmanabha Rao had married their mother only and the plaintiff's mother



Lakshmi cannot be a legally wedded wife of B.V.Padmanabha Rao and hence, the reference of Lakshmi as his wife in the Will itself would cause doubt about its genuineness.

**12.** The Will is a registered Will and it has been executed on 22.02.2008. It is submitted by the plaintiff that Sarojamma passed away in the year 1994. B.V.Padmanabha Rao had thought it fit to describe Lakshmi as his wife because his first wife was no more during the year 2008, when the Will was executed. It is not the contention of the defendants 1 to 4 that their mother Sarojamma was alive even at the time when the Will was executed. B.V.Padmanabha Rao did not live with D1 to D4 at the relevant point of time, when he executed the Will. So, to describe the mother of the plaintiff as the wife of B.V.Padmanabha Rao, the plaintiff cannot be found fault with or that alone cannot be stated as a reason to raise suspicion about the Will.

**13.** In fact, the plaintiff did not deny the fact that at the time when her father came into contact with her mother, the marriage between the defendant's mother Sarojamma with B.V.Padmanabha Rao was in subsistence. As B.V.Padmanabha Rao had children through Sarojamma, Lakshmi and Pramila, the plaintiff has impleaded all the children born to all the three women who



played a role in the life of B.V.Padmanabha Rao as parties to the proceedings.

So, with regard to the relationship and the legal heir ship, there is no confusion in the mind of the plaintiff as well as the defendants. It is submitted that the legal heir certificate dated 16.08.2010 of the deceased B.V.Padmanabha Rao which was marked as Ex.P3, does not show all the legal heirs and that the plaintiff has suppressed the material facts while obtaining the legal heir certificate. It is for the Revenue Authorities to make a proper enquiry on any one's application requesting legal heir certificate. Whatever may be contents of the legal heirship certificate, the plaintiff did not attempt to conceal any of the legal heirs of the deceased B.V.Padmanabha Rao and hence, there cannot be any serious allegation of suppression of relationship against the plaintiff.

**14.** Apart from the legality of mentioning the mother of the plaintiff as the wife of the testator, the rest of the contentions which the defendants 1 to 4 raised objection as to the Will are as under:

(i) In the Will, the testator has stated that he had only two children and in some other place, he has mentioned that he has three children which is actually contrary to the reality that he have seven children born through Sarojamma, Lakshmi and Pramila.



(ii) The Will makes a mention about other properties in Simhadripuram, Andhra Pradesh and bequeathed in favour of the brothers of the testator, but, there is no details given and in fact, one of the brother of the testator who was examined as witness in the other suit has stated in his evidence that the testator did not have any property in the said Village in order to bequeath it to his brothers.

(iii) Several deeds were executed in one and the same day apart from the Will and out of them, three settlement deeds were in favour of the plaintiff. Apart from the plaintiff and her brother, rest of the legal heirs of the deceased B.V.Padmanabha Rao were deprived of inheritance.

(iv) The attesting witnesses were not signed the Will and were not cross examined.

(v) The testator has no English knowledge and hence, he could not have understood the contents of the Will which has been written in English.

(vi) There is a mention about the benefit of Rs.3,50,000/- due to be paid to the testator and there is nothing stated about the liability of the builder.

**15.** By pleading all these grounds, it is claimed by the defendants 1 to 4 that the Will has been executed in a fraudulent manner by misrepresentation and undue influence. Before dealing with the other objections, I feel it is



appropriate to deal with the proof of the Will in the absence of examining the attesting witnesses.

16. The learned counsel for the plaintiff submitted that when the defendants themselves have admitted about the execution of the Will, but only contesting about the free and disposing state of mind of the testator, even in the absence of examination of the attestors, the genuineness of the Will stands proved and it is the defendants to prove that the testator was under undue influence and the Will has not been executed out of his own volition. The fourth defendant has been examined as D.W.1 and during his cross examination, he has admitted that the Will has been registered by his father. So it is claimed by the plaintiff that when the contesting defendant himself has admitted about the execution of the Will and the registration by his father, that itself will amount to proof of the genuineness of the Will and the absence of the examination of the attesting witnesses will not defeat the proof of the Will.

17. In support of the above contention, the learned counsel had drawn the attention of this Court to the judgment of the Division Bench of this Court held in the case of ***Boomathi (died) Jayaraman and Others Vs. Murugesan (Died) S. Mani and Others, reported in 2023 (2) CTC 273***. In the said judgment, a



reference has been made about various judgments of the Supreme Court with regard to the proof of the Will. In the case of ***Ramesh Verma (died) through Lrs. Vs. Rajesh Saxena (died) by Lrs., reported in 2017 (1) SCC 257***, the Supreme Court has held that even the case of the opposite party did not specifically deny the execution of the Will in the written statement, the plaintiff is obliged to prove the Will as per the mandate of Section 68 of the Evidence Act. Even though the said position has been followed in several other judgments, a distinction was made by this Court in a subsequent judgment held in ***Akkinirajan Vs. Maheswari & Others reported in 2023 (1) LW 72***. In the said judgment, a distinction was made between “specifically denied”, “not specifically denied” and “admitted”.

**18.** As per the distinction drawn by this Court, the situation arising out of “specifically denied” would not change the burden placed on the plaintiff to prove the Will under Section 68 of the Evidence Act. But so far as the admission is concerned, then, Section 58 of the Evidence Act will come into play. Section 58 would state that those facts which are admitted need not be proved. So, in cases where execution of the Will is admitted, there arises no circumstance to prove the same will arise and the admission itself is a sufficient



proof. It is worth to refer the relevant paragraphs of the above judgment which are as follows:

*“25. This Court draws the distinction between 'specifically denied', 'not specifically denied' and 'admitted'. The first two instances, namely, 'specifically denied' and 'not specifically denied', would fall within one category. Insofar as proof of a Will in both cases in this category, the Will would have to be necessarily proved by the propounder. However, where the opposite party categorically admits to the Will, the position would be certainly different. In India, we follow what is called the system 'adversarial proceedings', which is also followed in the British Courts. The foundation of this School is that parties before a Court would have to deal with facts in issue namely facts that are asserted and denied by the parties to the lis and the Court would proceed to adjudicate on such issues. When there is no dispute between the parties on certain matters, the Court would not venture to require proof of such admitted facts.*

*26. In this context, it would be relevant to refer to Sections 17 and 58 of the Indian Evidence Act:*

*“17. Admission defined. ?An admission is a statement, 1[oral or documentary or contained in electronic form], which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.”*

*“58 Facts admitted need not be proved. ?No fact need to be proved in any proceeding which the parties*



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*thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings: Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.”*

*27. Applying the definition of 'admission' as set out in Section 17 of the Indian Evidence Act, if Sections 56 to 58 are applied, it leads to the only conclusion that facts that are admitted, whether it is in oral or documentary form, are not required to be proved. These sections are categorised and incorporated as a separate Chapter, namely, Chapter III under Part II of the Indian Evidence Act regarding proof. Only where the facts would require proof of a document, like a Will in the instant case, the Court would be bound by the subsequent Chapters, namely, Chapter IV dealing with oral evidence and Chapter V dealing with documentary evidence. Therefore, it is axiomatic that proof as mandated under Chapters IV and V would be warranted only when there is a 'fact in issue' between the parties and cannot be extended to a case which clearly falls within the four corners of Chapter III, especially, Section 58 which is relevant for the purposes of the present case.*

*28. Conscious of the above distinction, this Court now falls back on the admitted facts of the present case. In the present case, there is no dispute with regard to the earlier Will which is admitted by both the parties. In such*



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circumstances, it was not incumbent on the Trial Court to even frame an issue with regard to proof or validity of the Will dated 04.10.1991 [Ex.B1]. In view of the above discussions alone, it is sufficient to hold that the Will dated 04.10.1991 [Ex.B1] is not required to be proved, one additional reason and important circumstance. In the present case is that the testator himself, as one of the plaintiffs, filed a suit in OS.No.172/1992. In fact, this Court finds that the original Will dated 04.10.1991 was filed as a suit document. In this context, it is relevant to refer to Section 70 of the Indian Evidence Act, which reads thus:

*“70. Admission of execution by party to attested document. ?The admission of a party to an attested document of its execution by himself shall be sufficient proof of its execution as against him, though it be a document required by law to be attested.”*

*29. The facts of the present case would clearly warrant relevance and applicability of Section 70 herein above. When the testator himself comes before a competent Court of law and admits execution of a testamentary instrument by him, in terms of Section 70, the admission of such testator shall be sufficient proof of execution as against the testator even if the document is one that requires to be attested in law.”*

**19. In *Vanjiammal (died) through LRs Vs. V.Vidya and others* (CRP.PD No. 3659 of 2013 dated 21.04.2017, it is held that aspects which are admitted need not be proved and that would amount to wasting the precious**



time of the Court. So after reading the several judgments on the aspect of admission, it is concluded by the Division Bench in ***Boomathi case*** that the preposition laid by the ***Vanjiammal case*** is the right one. That means, when the opposite party clearly admits the execution of the Will, there is no obligation to the other party to prove the above admitted fact. So, by taking cue from the above judgment, it has to be seen whether the opposite party in this case had “specifically denied” or “not specifically denied” or “admitted”.

20. Even in the written statement filed by the defendants, the validity of the Will only was questioned and not its genuineness. The above written statement would only show that the defendants accepted the execution of the Will, but the only doubt is about its validity. So, it is contended that the Will have been executed by the testator by misrepresentation or fraud and by exerting undue influence on him. The evidence of D.W.1 on this aspect would give more clarity to the above statement pleaded by him. When a specific suggestion made to D.W.1 during cross examination that the Will has been executed and registered by his father and it should be considered as proper execution, D.W.1 has answered in the affirmative by saying that the Will was registered by his father B.V.Padmanabha Rao.



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**21.** The combined reading of pleadings of the opposite party and the written statement and his evidence, would only leave an inference that the execution of the Will has been 'admitted' and only the validity on the ground of free and disposing state of mind on the part of the executant was questioned. Apart from the above legal position which comes to the rescue of the plaintiff, the factual background for the non-examination of the attesting witness by the plaintiff should also be considered for the sake of completion.

**22.** On perusal of the Will which was marked as Ex.P1, it is seen that it has been attested by two witnesses by names M.Vinoth Kumar and T.John Jegannathan. The plaintiff has stated that he could not trace out the witnesses. Admittedly, no death certificate has been produced to show that these witnesses were not alive. A hypothetical contention was made by the defendants that even if the first witness is presumed to have died, the other witness by name M.Vinoth Kumar could have been examined because he had signed some other documents which were executed and registered on the same day by B.V.Padmanabha Rao. During the cross examination of P.W.1, a specific question was posed whether the plaintiff has filed an eviction case against M.Vinoth Kumar which was allowed on 11.10.2017. The plaintiff had admitted that she has filed an eviction case against M.Vinoth Kumar. When the eviction



petition was allowed, naturally M.Vinoth Kumar would have left the suit schedule property. So, it is quite possible that the plaintiff could not know the whereabouts of M.Vinoth Kumar as he had vacated the premises. Even if it is presumed that the plaintiff might be knowing the whereabouts of M.Vinoth Kumar, having filed a litigation against M.Vinoth Kumar, the plaintiff cannot whole heartedly believe that if M.Vinoth Kumar is summoned and examined as attesting witness, he might tell the truth without having any grudge against her.

**23.** When the opposite party themselves have admitted the execution of the Will, it is unnecessary for the plaintiff to take such a risk without taking the benefit of admission. So, even on factual aspect, there is justifiable reasons that the plaintiff could not know the whereabouts of M.Vinoth Kumar in order to examine him. Though it is a mandatory rule that the plaintiff has to prove the Will in accordance with Section 68 of the Evidence Act, there is one exceptional situation, where the plaintiff could get the benefit of “admission by the opposite party” under Section 58 of the said Act.

**24.** With regard to the contention that the testator was under any undue influence or misguided by misrepresentation, a little more analysis is needed. No doubt the Will is a registered Will and D.W.1 has also admitted in his



evidence that the testator only had registered it. In such case, there could be a presumption in favour of the plaintiff and the burden would be on the part of the defendants who disputes the same. When the Will is proved to be executed and duly registered by the testator, the other circumstances which the defendants' claim to vitiate the Will have to be proved by the defendants.

**25.** One of the circumstances pleaded by the defendant is that the Will has deprived the other legal heirs from inheriting the property of B.V.Padmanabha Rao. As stated already, B.V.Padmanabha Rao had children through three women in his life. The subject property involved in the Will is only in respect of the property situated at No.23/13, Nagarjuna Nagar, First Street, Kodambakkam, Chennai. Apart from the other property in the same street, B.V.Padmanabha Rao had owned some other property at Door No.13, Nagarjuna Nagar, First Street, Kodambakkam. It is neither the contention of the plaintiff nor the contention of the defendants that B.V.Padmanabha Rao had lived with all the children born to three different women as one family in one house. The cross examination of D.W.1 would make the above point clear. The property in No.19, Nagarjuna Nagar, First Street has been registered in the name of the Sarojamma who is the mother of the defendants 1 to 4. Sarojamma did not have any independent income. The above property in Door No.19 has



been disposed in the year 2000. No share of the sale proceeds had been given to the plaintiff, her mother and brother. All these facts have been admitted by D.W.1 in his cross examination. He further admits that the plaintiff and her brother and mother did not make any claim for the sale proceeds pertaining to the property in D.No.19, Nagarjuna Nagar, First Street, Kodambakkam, Chennai.

**26.** A portion of the above property had been transferred to the mother of the fifth defendant viz., Pramila also. With regard to the portion given to Pramila, the mother of D.W.1 had first transferred that portion in favour of B.V.Padmanabha Rao and he in turn transferred it to Pramila. Sarojamma did not object or raise any question about the transfer so made in favour of the fifth defendant's mother in respect of that portion. The remaining measurement of the property in Door No.19, Nagarjuna Nagar, First Street, Kodambakkam, as per the evidence of D.W.1 is 4000 Sq.ft (40 x 100). A specific question was put to D.W.1 during cross examination whether the above extent is in exclusion of the portion settled for Pramila. He had given a clear affirmative answer. So, the property subjected in the Will also more or less the property of a similar area (40 feet x 108 feet).



**27.** The defendants 1 to 4 or their mother Sarojamma did not raise any objection when the portion of Door.No.19, Nagarjuna Nagar, First Street, Kodambakkam, had been transferred in favour of the fifth defendant's mother Pramila by retaining 40 feet x 100 feet = 4000 Sq.ft for their use. The defendants did not concede that the plaintiff and her brother and mother can claim any share in respect of Door No.19, Nagarjuna Nagar, where his mother and Defendants 1 to 4 lived. The defendants 1 to 4 have admitted that in the Family Card issued by mentioning the address as Door No.19, Nagarjuna Nagar, First Street, Kodambakkam, the members of the family has been shown as his father, his mother and defendants 1 to 4. The plaintiff's family has got separate ration card and it appears that the legal heirship certificate has been issued basing upon two different ration cards in different address.

**28.** Whatever may be the case, the pattern in which the children and wife of B.V.Padmanabha Rao lived would only show that B.V.Padmanabha Rao had not taken the risk of mixing the family members of the family he constituted with his wife and two other women. Accordingly, he had settled each of his family partners, with separate properties and whenever those respective properties are disposed, he made sure that the other wife does not interfere and make any objection. So far as the plaintiff, her brother and her mother are



concerned, they have been living separately in Door No.23/13, Nagarjuna Nagar, First Street, Kodambakkam. The mother of the fifth defendant Pramila passed away in the year 1992. Sarojamma who is the mother of D1 to D4 had died in the year 1994 and thereafter, Lakshmi was alive. It is quite possible for B.V.Padmanabha Rao to live with Lakshmi and his son Murali and daughter, the plaintiff herein. The fourth defendant who has been examined as D.W.1 has stated in his examination that he was shifted to Hyderabad and he has been in the habit of visiting the father on and off only.

**29.** It is stated by D.W.1 that he only manages the case and giving instructions to the Advocate. The other defendants 2 to 3 and 5 did not meet the advocate to give any instructions. The first defendant died during the pendency of the suit and her legal heirs have been impleaded as D6 and D7. Even D.W.1 was shifted to Hyderabad and all his sisters also settled in Andhrapradesh with their families. The fifth defendant also married and she is settled in Chennai. It appears that none of the other defendants are interested to contest the suit except the fourth defendant who got examined himself as D.W.1. After he settled in Hyderabad, he did not care to question his father for choosing to live with Lakshmi and her children.



**30.** Even though there are eight documents have been executed in one and the same day, all those documents pertain only to the suit property. Those documents have got nothing to do with the properties involving the families of B.V.Padmanabha Rao constituted through Sarojamma and Pramila. It is stated that B.V.Padmanabha Rao had entered into a joint venture agreement with the builder in respect of the suit property. It is not the contention of the defendants that earlier settlement deeds executed in respect of the suit property were executed in the names of any of the defendants and that the plaintiff had influenced her father to cancel those documents. Even according to the submission of the defendants, it was the plaintiff's mother and brother who have been living and managing the suit property and the earlier settlements have also been made in the name of the plaintiff and her mother only.

**31.** So, the arrangement done by B.V.Padmanabha Rao in respect of the suit property involved only the plaintiff, her mother and brother and not the defendants. The brother of the plaintiff Murali also died. So, it could have been possible for B.V.Padmanabha Rao to bequeath the suit property in favour of the plaintiff who is the only surviving legal heir for the deceased Lakshmi and who born through Lakshmi's cohabitation with B.V.Padmanabha Rao. So, the



inheritance of the other defendants in the suit Will does not create any doubtful circumstances.

**32.** In fact, the evidence available on record especially the evidence of D.W.1 would only make it clear that his father B.V.Padmanabha Rao did not try to mix all the three families which he maintained and he did separate arrangement for each families. As the defendants 1 to 4 and their mother got benefited in respect of the property in Door.No.19, Nagarjuna Nagar, First Street, B.V.Padmanabha Rao could have thought it fit to execute the Will in respect of the suit property for the plaintiff only. So the money due to be paid by the builder to B.V.Padmanabha Rao in pursuant to his joint venture agreement, if any, is also the look out of the plaintiff and hence, it is for the plaintiff to tackle any recoveries or liabilities with regard to the same. So, B.V.Padmanabha Rao, appears to be clear in what he is doing and he had not been misguided or subjected to any pressure.

**33.** The Advocate who has drafted the Will has been examined as P.W.2 and his evidence would only show that the testator was conversant with English and he has a working knowledge in English. So it could not have been difficult for the testator to understand the contents of the Will which is written in



English. Until B.V.Padmanabha Rao was alive, the fourth defendant or his siblings did not make any claim in respect of the suit property by claiming any right in the flats promoted in the site by his father by entering into a joint venture agreement with the builder. The evidence available on record especially the cross examination of D.W.1, makes it clear that the testator had to deal with the suit property only by considering the plaintiff by excluding the other children.

**34.** When the plaintiff proved not only the Will but also its genuineness on the basis of the above circumstances and the evidence, it is for the defendants to prove that the Will is not valid. The defendants did not produce any documents or any other evidence to show that B.V.Padmanabha Rao was not in a sound disposing state of mind at the time when he executed the Will or he was kept under any undue influence. It is only the fourth defendant who did not raise any objection when B.V.Padmanabha Rao was alive and all of a sudden has started to make claims against the plaintiff. It is claimed by the defendants that there are other suits pending between the defendants and plaintiff and they were filed by the defendants. So far as this suit is concerned, it is only with regard to the execution of the Will, its genuineness and validity.



**35.** The next contention is about the mentioning of the property in Simhadripuram, Andhra Pradesh, in which, the testator did not have any share. So far as that property is concerned, it is said to have been bequeathed to the brothers of B.V.Padmanabha Rao. The brother of B.V.Padmanabha Rao by name Purushothaman who has been examined in other civil suit has stated that B.V.Padmanabha Rao did not have any property in Simhadripuram. So the mentioning of the above property would no way affect the genuinity or the validity of the Will.

**36.** When the plaintiff has proved the genuineness and the validity of the Will through the oral and documentary evidence to the satisfaction of the Court, the defendants did not discharge the burden shifted upon them to prove that B.V.Padmanabha Rao had executed the Will, while he was not in a sound disposing state of mind. As B.V.Padmanabha Rao had gone to the registration office to register the Will, it has to be presumed that he was hale and healthy at the time when the Will was registered. The plaintiff has proved not only the execution, but also the genuineness and the validity of the Will. Accordingly, the issue Nos.1 to 3 are answered in favour of the plaintiff.



37. As the plaintiff has paid the necessary Court Fee and she had also proved the genuineness and validity of the Will, she is entitled to get the Letters of Administration in respect of the suit property as prayed.

38. In the result, this Testamentary Original Suit is **decreed** as prayed by granting Letters of Administration to the plaintiff with the Will dated 22.02.2008 of B.V.Padmanabha Rao annexed thereto. Such Letters of Administration shall have effect throughout the State of Tamilnadu. The plaintiff is directed to execute a security bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in the name of the Assistant Registrar (Original Side) of this Court. The plaintiff is further directed to file an inventory of assets and statement of accounts within a period of six months and one year, respectively. No costs.

**03-11-2025**

Index: Yes

Speaking order

Neutral Citation: Yes

GSK



To

1. P.RAJESWARI (Deceased)  
R/o.H.No.5-11, 692/7, Vidhyaranpuri, University  
Colony, Hanumakonda Warangal,  
Andhrapradesh - 506 009
2. P.Sridevi  
R/o. H.No.D2, 37, Sullurpeta, Pulicat Nagar,  
K.Rpalem, Nallore, Andhra Pradesh - 524 121
3. G.Vasantha Lakshmi  
R/o Gurudham, Jaggiahpetta, Krishna District,  
Andhara Pradesh - 521 175
4. B.Sairam  
R/o. 234, Flat No.201, Road No.5, Alkapuri  
Colony, Saroornagar, Hyderabad,  
Andhrapradesh - 500 035
5. P.Aruna  
No.19/8, Nagarjuna Nagar, Ii Street,  
Kodambakkam, Chennai - 600 024
6. P.Raghavendra  
S/o.P.Mallikarjuna Rao,  
R/o H No.5-11-692/7,  
Vidyardanpuri, University Colony,  
Hanumakonda, Warangal,  
Andhra Pradesh - 506 009.



7. P.Pranay

S/o.P.Mallikarjuna Rao,

R/o H No.5-11-692/7,

Vidyaranpuri, University Colony,

Hanumakonda, Warangal,

Andhra Pradesh - 506 009.

(Defendants 6 and 7 brought on record as legal heirs of deceased 1st defendant and amended as per order dated 08.02.2023 in A.No.4941/2022)



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TOS No. 6 of 2



**DR.R.N.MANJULA, J.**

**GSK**

**TOS No. 6 of 2020**

**03-11-2025**