



C.R.P (PD) No.1418 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2025

CORAM

THE HONOURABLE MS. JUSTICE P.T. ASHA

C.R.P (PD) No.1418 of 2025

&

C.M.P.No. 8335 of 2025

Lakshmi

... Petitioner

VS.

1.Ponnusamy

2.The Executive Engineer,
Tamil Nadu Electricity Board,
Lakshmi Mills Distribution,
Lakshmi Mills,
Palladam.

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the
Constitution of India against the order dated 24.02.2025 made in



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IA.No.2 of 2025 in OS.No.169 of 2019 on the file of the Sub Court,

WEB COPY Palladam.

For Petitioner : Mr. S.Arjun

ORDER

Challenging the dismissal of the plaintiff's application for subjecting Ex.B.2 Will for hand writing expert the plaintiff is before this Court.

2. The plaintiff has filed the suit for partition. The defense to the suit is that the father of the plaintiff and the defendant executed a Will dated 18.02.1999 in favour of the 1st defendant. It appears that the Will has been marked but the attesting witnesses have not been examined on the side of the defendant. The petitioner / plaintiff has rushed to file a petition for sending the Will to hand writing expert.



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WEB COPY 3. The said application has been dismissed on the ground that it is for the legatee, namely, the defendant to prove the genuineness of the Will.

4. Challenging the same the plaintiff is before this Court.

5. The petitioner has not been able to demonstrate as to how the order passed by the learned Trial Judge is erroneous. It has been time and again observed by the Courts that propounder of the Will has to prove the Will in the manner known to law in order to claim a right under the Will. Therefore, it is for the defendant to prove their case and the petitioner is not required to discharge this onus. That apart, an hand writing expert's opinion would only be a piece of evidence for proving the genuineness of the will but the Will has to be proved as per the provisions contained in Section 63 (c) of the Indian Succession Act and Section 68 of the Evidence Act.



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WEB COPY 6. Therefore, for the above reasons, I see no reason to disagree with the order passed by the learned Trial Judge. The Civil Revision Petition is dismissed.

04.04.2025

Index: Yes/No
Internet: yes/No

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To

The Sub Court,
Palladam.



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P.T. ASHA.J
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