



WEB COPY

OSA No. 115 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-10-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN**

OSA No. 115 of 2025

1. P. Ramakrishnan

Appellant(s)

Vs

K. Canagarajan (deceased)

1. Veerasingam Nimalanthan

Respondent(s)

PRAYER

To order dated 13.03.2024 passed in A 888/2024 in TOS 16/2023 be set aside and this Court be pleased to pass orders as prayed the said appeal and thus render justice.

For Petitioner(s): Mr.P.Ramakrishnan

Party in Person

For Respondent(s): No appearance

ORDER

(Order of the Court was made by V.Lakshminarayanan J.)

The 1st defendant in OP.No.45 of 2020 is the appellant before us.

2. The OP was converted into Testamentary and Original suit pursuant

to the caveat that has been filed by the appellant herein. Today it is pending



before the learned Single Judge as TOS.No.16 of 2023.

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3. OP has been filed for grant of letters of administration under Section 218 and 278 of the Indian Succession Act, 1925. The plea of the plaintiff is that one Mr.K.Canagarajah, S/o.Kathirvel, had executed a Will, which is his last Will and testament. The plaintiff pleads that an application has been filed for grant of probate before the High Court of Malaya, Kolampur in Civil Division in originating summons WQ-32NCVC-467-03/2020. Probate was also granted on 11.06.2020.

4. When the matters were so pending, the appellants herein filed two applications, Application. 888 of 2024 and 889 of 2024. The substantive application pending as Application No.888 of 2024. By that application, the appellant herein sought for a direction for production of medical records of Mr.Canagarajah for three years prior to his death in order to prove that he was in sound disposal state of mind on 12.06.2019.

5. It is a specific averment of the defendant that Mr.Canagarajah was a



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retired UN official and was staying in a retirement home titled Procure Care Centre SDN.BHD' (K45143 26) No.27, Jalan Awan Dandan, Taman yarl 58200. He had asserted that the said Mr. Canagarajah was suffering from age-related mental problems and had even lost the power of recognition. He had also stated that Mr. Canagarajah was in such a bad physical and mental condition that he was not even in a position to attend the last rites of his wife. The application stated that he had approached the old-age home and the police station requesting an explanation, and since he did not get any reply, he moved the application to direct the 2nd plaintiff to place the medical records. The 2nd plaintiff filed a counter stating that as the probate of Mr. Canagarajah's Will had already been granted by the competent Court, it is presumed to be binding on this Court by virtue of Section 14 of the Code of Civil Procedure and consequently sought dismissal of the application.

6. The learned Single Judge who took up the application for disposal came to the conclusion that the burden of proof lies on the plaintiff to prove the Will and that the applicant alone has to take necessary steps to cause production of the relevant documents before this Court. After giving his findings, he concluded that the application had been filed to protract the



proceedings and therefore dismissed the said petition. Aggrieved by the same, the defendant has filed this appeal.

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7. We heard Mr.P.Ramakrishnan, Party in Person, and have gone through the records.

8. The learned Judge, having come to the conclusion that the burden is on the applicant/defendant to cause production of the document, ought not to have dismissed the application. The reason given by the learned Judge doesn't seem to follow the logic in the order. Having cast the burden of proof on the defendant and the defendant having taken out the application to discharge the burden, he ought not to have dismissed the same.

9. Whether Mr. Canagarajah had executed the document in the proper state of mind is a matter which necessarily goes into during the course of proceedings in TOS.No.16 of 2023. It is the assertion of the defendant that Mr. Canagarajah was not possessed of the requisite mental capacity to execute the testament. Whether the certificate of probate granted by the Foreign Court



is binding on this Court would be an issue to be decided by this Court at the time of final conclusion of the matter. If the records are kept out from the Court, a vital defence of the defendant will be taken away. In matters of probate where this Court acts as a Court of conscience, it is just and necessary that all available records are placed before the Court to enable it to come to a conclusion.

10. In the light of the above discussion, we are not in a position to sustain the order in A.No.888/2024 in TOS 16/2023 in order dated 13.03.2024, and the same is set aside. Consequently, the Original Side Appeal is allowed and A.No.888 of 2024 is allowed as prayed for. No costs.

(S.M.SUBRAMANIAM J.)(V.LAKSHMINARAYANAN J.)

31-10-2025

gd

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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**S.M.SUBRAMANIAM J.
AND
V.LAKSHMINARAYANAN J.**

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