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TOS No. 40 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	09.09.2025
Pronounced on	22.09.2025

CORAM

THE HON'BLE DR.JUSTICE R.N.MANJULA

TOS No. 40 of 2016

S.Palaniappan Chettiar,
S/o.Sokkalingam Chettiar, No.522, 2nd West Street,
Kamaraj Nagar, Thiruvanmiyur, Chennai-41.

..Plaintiff

Vs

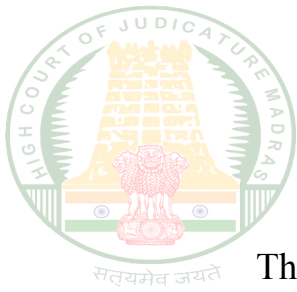
S.P.Meena
W/o.A.R.Subramanian, No.113, Chandran Nagar,
4th Street, Chrompet, Chennai-44.

..Defendant

PRAYER : This Suit has been filed under Sections 232 and 276 of the Indian Succession Act read with Order XXXV Rule 5 of the Original Side Rules, to grant Letters of Administration with the Will dated 25.12.2012 may be granted to the plaintiff as husband / legatee under the Will of the deceased P.L.Meenal having effect throughout the State of Tamil Nadu.

For Plaintiff : Mr.R.Subramanian

For Defendant : Mr.C.Sivanesan



JUDGMENT

The Testamentary Original Suit has been filed to grant Letters of Administration with the Will dated 25.12.2012 to the plaintiff as husband / legatee under the Will of the deceased P.L.Meenal having effect throughout the State of Tamil Nadu.

2. Heard Mr.R.Subramanian, learned counsel appearing for the plaintiff and Mr.C.Sivanesan, learned counsel appearing for the defendant.

3. The averments of the plaint in brief:

The plaintiff has filed the Original Petition in O.P.No.480 of 2014 for granting letters of administration in respect of the Will dated 25.12.2012 executed by one P.L.Meenal. Despite the other legal heirs of the deceased P.L.Meenal have filed consent affidavits, the second respondent / defendant S.P.Meena had objected the same without filing the consent affidavit. Hence, the Original Petition has been converted into Testamentary Original Suit. The parties were allowed to file their pleadings and let in their evidence.

4. The defendant had filed the written statement making the following averments:



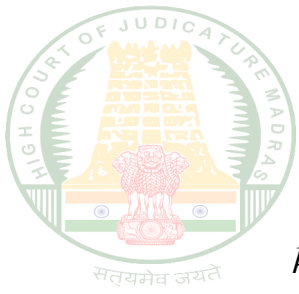
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The plaintiff is the father of the defendant and the respondents 1 & 3 in O.P.No.480 of 2014 are the other daughters of the plaintiff and the fourth defendant is the adopted son of the plaintiff. The defendant's mother P.L.Meenal died on 28.01.2013. After the death ceremony of the mother, the elders in the family had decided to allot the shares of the deceased P.L.Meenal, for which, the plaintiff's adopted son did not agree. Later, the plaintiff also joined hands with his adopted son and refused to allot the share belonged to the defendant. The plaintiff all of a sudden came with a Will alleging that it had been executed in his favour by his wife P.L.Meenal. No Will has been executed by her deceased mother and the signature found in the Will ought to have been a forged one. The value of the property has also not been correctly assessed and hence, the Court Fee paid is also not correct. The Will has been created just for the purpose of defeating the claim of the defendant in the properties of the deceased mother.

5. On the basis of the above pleadings, this Court has framed the following issues:

"1. Whether the Will was executed by the testatrix, when she was of sound disposing state of mind?

2. Whether the Will was forged and fabricated document as contended by the defendant?



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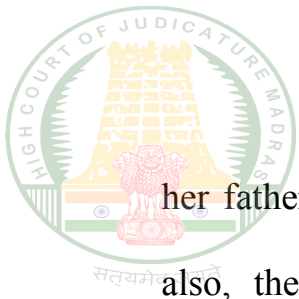
3. *Whether the Will had been proved in the manner known to law?*

4. *Whether the plaintiff is entitled to Letters of Administration of the Will dated 25.12.2012 annexed to it?*

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

6. On the side of the plaintiff, the plaintiff was examined as P.W.1 and the other attesting witness viz., Mr.K.Jayankondan was examined as P.W.2 and Exs.P1 to P7 were marked. On the side of the defendant, the defendant was examined as D.W.1 and Exs.D1 to D16 were marked. The handwriting expert was examined as C.W.1.

7. Mr.R.Subramanian, learned counsel for the plaintiff, submitted that the Will has been proved to be compatible in terms of Section 63 of the Indian Succession Act and its genuineness has been proved as per Section 68 of Indian Evidence Act. The attesor of the Will has been examined as P.W.2 and he has stated that the Will has been executed by P.L.Meenal in his presence. No suspicious circumstances have been pleaded about the Will in the written statement filed by the contesting defendant. The attesting witness P.W.2 had consistently given evidence about his signature attested during the execution of the Will. Hence, the Will has been proved in the manner known to law. The conduct of the defendant would show that she has harassed everyone including



her father and in an arbitration proceedings in respect of some other property also, the defendant did not allow the Arbitrator to deal with the matter smoothly.

7.1. The learned counsel for the plaintiff further submitted that the defendant has been in the habit of filing various applications just for the purpose of dragging the proceedings. The forensic expert might have stated that the signature differs but it was due to the age of the testatrix. In the legal notice exchanged between the parties, the defendant had admitted the execution of the Will. Hence, Letters of Administration has to be granted in favour of the plaintiff.

8. Mr.C.Sivanesan, learned counsel for the defendant submitted that the Will is an unregistered Will and concocted one. It has been created by the plaintiff subsequent to the death of the defendant's mother P.L.Meenal. The attesting witness who was examined as P.W.2, has not given any evidence in support of the plaintiff and even the handwriting expert opinion would show that the signature of the testatrix in the Will is different from the admitted signatures in the other documents sent for comparison. He further submitted that the plaintiff being a man of wide world knowledge and claims to have been



present at the time of the execution of the Will, could have suggested the testatrix to register the Will in order to prove its authenticity. Since the Will is not a genuine one, it has not been registered.

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8.1. The learned counsel for the defendant also submitted that the plaintiff during his cross examination has stated that the Will has been signed by the deceased P.L.Meenal at Thiruvannamiyur. But at the opening paragraph of the Will, it has been stated that the executant of the Will was residing in Pudukottai at the relevant point of time. Even the attesting witness was also a resident of Pudukottai and the scribe of the Will belonged to Salem. P.W.1, during his cross examination had admitted that the scribe of the Will was his close associate. One of the attesting witness is the classmate of the plaintiff and he had also got long acquaintance with the plaintiff. The lack of evidence on the part of the plaintiff would show that the Will is shrouded with suspicious circumstances. Even the other legal heirs who said to have a cordial relationship with the testatrix, have not been bequeathed with any share in the properties of the testatrix. As the Will has not been proved in terms of Section 63 of the Succession Act r/w Section 68 of Evidence Act, the suit has to be dismissed.

Discussion :



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9. The testatrix P.L.Meenal is the wife of the plaintiff and the mother of the defendant. The Will has been marked as Ex.P1. As per the evidence of P.W.1, he was very much present at the time when the Will was executed. During the cross examination of P.W.1, he has stated that the Will was signed in Thiruvanniyur on 25.12.2012, when the Will was written. Even as per the evidence of P.W.1, the scribe of the Will was a close associate of P.W.1. As per the recitals of the Will, the plaintiff alone was the beneficiary of the Will. The recitals would show that the whole of her properties involved in the Will has been bequeathed in favour of the plaintiff and the properties mentioned in the Will should be given to the plaintiff after her death. The testatrix died on 28.01.2013. Hence, the Will has been executed just one month prior to the death of the testatrix.

10. Some of the doubtful circumstances raised by the defendant that are surrounding the Will are as follows:

(i) the plaintiff who is a man of world knowledge and businessman by himself, despite being present at the time when the Will was executed, did not suggest to register the same and it is unnatural.

(ii) The attestors and the scribe of the Will are closely associated with the plaintiff.



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(iii) The plaintiff alone is said to be the sole beneficiary of the properties of the deceased testatrix. As the other children of the deceased P.L.Meenal were not complained with quarrelsome nature, there is no need to disinherit the other children from getting the property.

(iv) While the recitals of the Will states that the testatrix was residing at Pudukottai at the time when the Will was executed, P.W.1 has stated during his cross examination that the testatrix had signed the Will at Chennai.

11. The report of the forensic expert also states that the signature of the testatrix on the Will and her admitted signatures on the documents were not identical. It is submitted by the learned counsel for the plaintiff that the expert opinion about the signature of the Will cannot be attached with too much seriousness, because the testatrix due to her old age would have developed changes in her signature across the time and hence that cannot be perceived as doubtful difference in the signature. So, it is asserted by the plaintiff that the genuineness of the Will has been proved as per Section 68 of the Indian Evidence Act. As per Section 63 of the Indian Succession Act, the Will has to contain all the ingredients as mentioned in the Act. For the sake of clarity, Section 63 of the Indian Succession Act is extracted as below:

"63. Execution of unprivileged Wills -- *Every testator, not being a soldier employed in an expedition or engaged in*



actual warfare or a mariner at sea, shall execute his Will according to the following rules:-

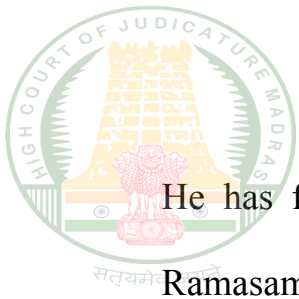
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(a) The testator shall sign or shall affix his mark to the Will, or it shall be signed by some other person in his presence and by his direction.

(b) The signature or mark of the testator, or the signature of the person signing for him, shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a Will.

(c) The Will shall be attested by two or more witnesses, each of whom has seen the testator sign or affix his mark to the Will or has been some other person sign the Will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses shall sign the Will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary."

12. The plaintiff claims that the signature on the Will is the Signature of the testatrix P.L.Meenal. The plaintiff has taken efforts to prove the Will as per Section 68 of the Indian Evidence Act by examining one of the attesting witness as P.W.2. In the evidence of P.W.2, at the time when the Will was written, the testatrix, her husband and the scribe and other attesting witness were present.



He has further stated that the Will was dictated by P.L.Meenal, her scribe Ramasamy had written the Will and after completion, it was read out by Ramasamy and then, the testatrix had affixed the signature and thereafter, P.W.2 signed on the Will and the other attesting witness signed below him.

13. Even though P.W.1 has claimed that he was also present at the time when the Will was written, he did not insist his wife to register the Will. In the evidence of P.W.1, he has stated that the testatrix has signed the Will at Chennai, but, it is seen from the opening paragraph of the Will that the testatrix had executed the Will at pudukottai. The evidence of P.W.1 on this aspect is contrary to the recitals of the Will.

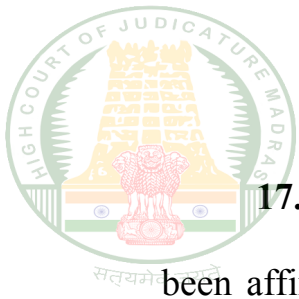
14. In paragraph Nos.3 and 4 of the Will, it has been stated that the defendant and her husband had developed quarrel with the testatrix and had claimed money in the partnership firm that had caused mental agony to her. It is further stated that the testatrix had been taking treatment as she was suffering from chest pain from the month of October. In the fourth paragraph, it has been stated that she wished to write a Will as there should not be any trouble in inheriting the property by her husband subsequent to her death.



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15. The testatrix had other children also and against whom she did not have any complaints. Even then, no share has been given in the properties to the other legal heirs who according to the testatrix were cordial with her. P.W.1 has stated that whenever any document is executed, the permanent residential address alone would be stated and that she was ill and hence she used to travel between Pudukottai and Chennai for marriage and other functions and treatment.

16. The attesting witnesses have also given their addresses as the residents of Pudukottai. Hence, the Will could have been written at Pudukottai. P.W.1 has stated that both the attesting witnesses and the scribe had also used to travel between Chennai and Pudukottai. During the cross examination of P.W.2, he has stated that he did not remember whether the scribe had signed in his presence. P.W.2 has also stated in his evidence that the testatrix was staying in Thiruvannamiyur at the time when the Will was executed and the testatrix called him at about 5 p.m., on 25.12.2012 through phone and thereafter, he went to her residence at Chennai. In the chief examination of P.W.1, he has stated that he had signed in the Will as an attesting witness below the signature of the other attesting witness.



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17. On perusal of the Will, no such thumb impression is seen to have been affixed either by the testatrix or by the attesting witnesses. In the Cross examination, P.W.2 has stated that he did not remember whether the testatrix has affixed her thumb impression on the Will. With regard to the method in which the Will has been prepared, P.W.2 has stated that it was dictated by P.L.Meenal and written by the scribe Ramasamy. P.W.2 is the school mate of the plaintiff and studied together upto pre-university. Thereafter also they met in Chennai and worked in a medical shop.

18. The report of the handwriting expert is available as Ex.C1 and the expert who had given the opinion (the Scientific Officer, Forensic Science Department) had been examined as C.W.1. He has stated in his evidence that on comparison of the questioned signature with the admitted signature, he found that the admitted signatures differed from the questioned signatures. So, according to the handwriting expert, the signature seen in the Will is not the signature of the person who had signed the admitted document.

19. The Division Bench of this Court in the case of ***J.Naval Kishore Vs. D.Swarna Bhadran, reported in 2008 (1) CTC 97***, had dealt the evidentiary value attached to the opinion of the handwriting expert. After referring various



judgments of the Hon'ble Supreme Court, it is held that the expert opinion is only one piece of evidence that might raise suspicion as to the genuineness of the Will coupled with the fact that the Will was not a registered one. For the sake of better clarity, crucial paragraphs of the above judgment are extracted below:

" 51. SUSPICIOUS CIRCUMSTANCES:

Law is well settled that if there are suspicious circumstances surrounding the Will, it is the duty of the person who propounds the Will to dispel such suspicious circumstance. In Venkatachalam's case, the Supreme Court has held that where the propounder was unable to dispel the suspicious circumstances, which has surrounded the question of valid execution of Attestation of the Will, no Letters of Administration in favour of the propounder could be granted.

52. Regarding the principles governing the proof of a Will, in AIR 1974 SC 1999 Surendrapal's case, the Supreme Court indicated that the suspicious circumstances surrounding the execution of the Will would be,

(a) Where the signature is doubtful; (b) the testator is of feeble mind or is overawed by powerful minds interested in getting his property, (c) Where in the light of the relevant circumstances the dispositions appear to be unnatural, improbable and unfair and (d) Where there are other reason of doubting that the dispositions of the Will are not the result



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of the testator's free Will and mind. It was held that in such cases, where there may be legitimate suspicious circumstances, they must be reviewed and satisfactorily explained before the Will is accepted.

.....

66. We feel that opinion evidence of CW-1 is only one piece of evidence which according to us raises suspicion as to the genuineness of Ex. P-2 Will. This coupled with the fact that the Will is not a registered one. We have carefully perused and examined the enlarged disputed signature and the admitted signatures. We are convinced with the reasonings given by CW-1 for his opinion."

20. In an another judgment of the Hon'ble Supreme Court held in ***Niranjan Umeshchandra Joshi Vs. Mridula Jyoti Rao, reported in AIR 2007 SC 614***, certain suspicious circumstances regarding the Will has been listed out as under:

" 33. There are several circumstances which would have been held to be described by this Court as suspicious circumstances:

- (i) When a doubt is created in regard to the condition of mind of the testator despite his signature on the Will;*
- (ii) When the disposition appears to be unnatural or wholly unfair in the light of the relevant circumstances;*



(iii) *Where propounder himself takes prominent part in the execution of Will which confers on him substantial benefit."*

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21. In the instant case also, a propounder has played a prominent part in the execution of the Will and the Will confers the whole of the benefit and not just a substantial benefit. Though it has been stated that the Will has been executed just to exclude the defendant who is his quarrelsome daughter, the Will does not give any share to the other daughters of the testatrix. In the evidence of D.W.1 has stated about her strained relationship. She had stated that the relationship got strained only because her parents has adopted a grown up male as their adopted son and he prevented her from visiting her parents house as free as she was previously.

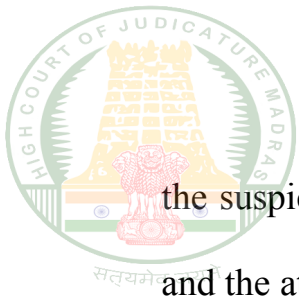
22. The factum of adopting a grown up male as an adopted son by the deceased testatrix and P.W.1 was not denied. The scribe and the attesting witness were closely associated with P.W.1, who alone had played a prominent part in getting the Will executed. The strained relationship with the contesting defendant and the plaintiff could be the reason either for executing the Will or even for creating the Will. It is a settled preposition of law that the motive is a double-edged weapon. In these above circumstances only, the Court has got a paramount duty to validate the intention of the testatrix by evaluating the



circumstances. So for this, the truthfulness of the intention of the testatrix who executed the Will and the genuineness of the Will need to be proved. Though the opinion of the handwriting expert alone cannot play a prominent role in rejecting the genuineness of the Will, it can be read along with the other suspicious circumstances before coming to the conclusion about the genuineness.

23. Though the plaintiff is a business man and who knows the significance of registering a document, for the reasons best known to him, he did not choose to advise his wife to register the Will and make it more authenticated. No proper explanation has been given by the plaintiff with regard to the question why the Will remained unregistered. Even the other legal heirs of the deceased testatrix were not given with any share in the property. This will also intensify the doubtful circumstances.

24. It is submitted by the learned counsel for the plaintiff that the defendant is quarrelsome and torturous daughter who put her father to task during the another arbitration proceedings. The nature of the defendant being quarrelsome cannot add sanctity to the Will, unless the plaintiff discharges his burden to prove its genuineness independently and successfully by removing all



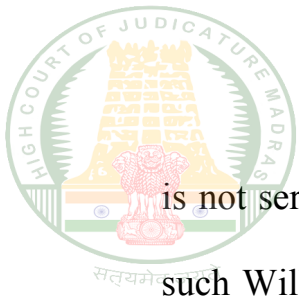
the suspicious circumstances surrounding the Will. The address of the testatrix and the attestors and the scribe were shown as resident of Pudukottai and Salem.

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It might be true that the deceased could have been in the habit of visiting Pudukottai and stay at her house during some special occasions and she normally chose to live in Chennai. But this fact has not been stated in the Will.

25. While deposing evidence, both the plaintiff and the attesting witness appeared to be cautiously added both the addresses at Pudukottai and Chennai. The attesting witness P.W.2 could not even state whether the testatrix had affixed her thumb impression along with the signature. For many of the questions during the cross examination of P.W.2, he has stated that he did not remember. When he was asked whether the scribe has signed the Will and whether he had upended his thumb impression after affixing his signature, P.W.2 has stated that he did not remember those things.

26. In the opening paragraph of the reply notice dated 19.03.2013, the defendant has stated about the contentions of the plaintiff in his legal notice. Only if subsequent lines of the same paragraph is read, a comprehensive meaning is given. By the comprehensive reading of those lines, it can be understood that the defendant is in need of the copy of the Will only to ascertain its genuineness. In fact, in the reply notice, it is stated that the copy of the Will

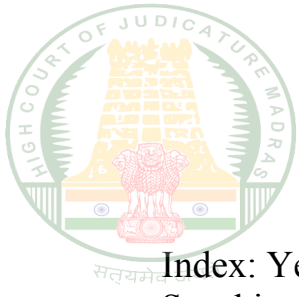


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is not served upon the defendant and so that she had presumed that there is no such Will. Even according to the contention of the plaintiff, the defendant was not there at the time when Ex.P1 Will was executed. So the plaintiff cannot presume that the defendant through her legal notice had admitted the validity of the Will without being participated in the execution and without having an opportunity to peruse the same prior to her reply notice.

27. The uncertain evidence of P.W.2 is coupled with the testatrix's unregistered Will in the manner in which whole of the properties could be benefited by the plaintiff to the exclusion of the other legal heirs would only magnify the suspicious circumstances surrounding the Will. These suspicious circumstances were not successfully dispelled with the acceptable evidence. In fact, along with the above suspicious circumstances, the negative report of the forensic expert would also render the Will utterly suspicious. Since the plaintiff has failed to prove the genuineness of the Will, the issues 1 to 3 are answered against the plaintiff. In view of the same, the plaintiff is not entitled for the relief as prayed. Thus, the issue No.4 is answered. In the circumstances of the case, the plaintiff is not entitled to any other relief. Thus, the issue No.5 is also answered.

28. In the result, this Testamentary Original Suit is dismissed. No costs.



TOS No. 40 of 2



Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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22.09.2025



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DR.R.N.MANJULA, J.

GSK

To

S.P.Meena

W/o.A.R.Subramanian, No.113, Chandran Nagar,
4th Street, Chrompet, Chennai-44.

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