



S.A.No.619 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2025

PRESENT:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

S.A. No.619 of 2014

Krishnaveni,
W/o.Ramanujulu,
Plot No.14, 4th Lay out,
Teacher's colony,
Lakshmipuram,
Chennai.

... Appellant/Appellant/Plaintiff

Vs.

1.Sriramulu (Died)
S/o.Kabirdass,
Madurai Veeran Koil Street,
Hanumanthapuram,
Chengalpattu.

2.Sarojini,
W/o.Nagarajan,
2/321, Sakthi illam,
Rajaganapathy Nagar,
Dharmapuri & District.

3.Sakunthala W/o.Sriramulu
4.Sasikala D/o.Sriramulu
5.Renu, D/o.Sriramulu
6.Prasad, D/o.Sriramulu
7.Ravi S/o.Sriramulu

R3 to R7 are residing at:
31, Madurai Veerankoil Street,



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Hanumanthaputheri,
Chengalpet.

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*R1 died, R3 to R7 are brought on record as L.R.s
of the deceased R1 vide court order dated
29.04.2025 made in C.M.P.No.18646 of 2021 in
S.A.No.619 of 2014 (RKMJ)

...Respondents

PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code to set aside the decree and Judgment dated 18.09.2013 passed in A.S.No.23 of 2009 on the file of the Principal Sub Judge of Erode confirming the decree and Judgment dated 31.12.2008 passed in O.S.No.752 of 2004 by the 1st Additional District Munsif Court, Erode & District by allowing this second appeal and thus render justice.

For Appellant : Mr. I.C. Vasudevan, Advocate.

For Respondents : R1 – Died.

R2 – Served – no appearance.

Mr.R.Munusamy for R3, R5 to R7.

Not ready for R4.

J U D G M E N T

Heard.

2.This Second Appeal is directed against the judgment and decree dated 18.09.2013 passed by the learned Principal Subordinate Judge, Erode, in



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A.S.No.23 of 2009, confirming the judgment and decree dated 31.12.2008 passed by the learned I Additional District Munsif, Erode, in O.S.No.752 of 2004.

3.The appellant herein is the plaintiff in the suit. For the sake of convenience, the parties are referred to as they are arrayed in the plaint.

4.The brief facts necessary to dispose of this second appeal are as follows:The plaintiff filed the suit for partition claiming 1/3rd share in the suit schedule property as daughter of the deceased Amirthammal. According to the plaintiff, the suit property was absolute property of her mother Amirthammal, who died intestate on 06.04.1999, leaving behind the plaintiff (daughter), the 1st defendant (son) and the 2nd defendant (another daughter) as her legal heirs. On that footing, the plaintiff sought partition.

5.The 1st defendant resisted the suit contending that the deceased executed a registered Will dated 25.02.1993 on the file of the Sub-Registrar, Erode, bequeathing the suit property in his favour. Since the mother died testate, the plaintiff is not entitled to seek partition.



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6.The Trial Court, on appreciation of the oral evidence of attesting witnesses D.W.2 and D.W.3 and on considering the reports of the handwriting expert and finger print expert marked as Exs.B19 and B20, held that the Will dated 25.02.1993 (Ex. B8) was duly proved in accordance with law and dismissed the suit. The First Appellate Court confirmed the said findings.

7.The appellant raised the following contentions in this second appeal that:

- (i).Non-examination of witnesses in respect of the earlier Will Ex. A4;
- (ii).Absence of necessity for executing a subsequent Will when the same beneficiary is named; and
- (iii).Exclusion of daughters in the Will constitutes a suspicious circumstance.

8.The Courts below have discussed in detail the earlier Will Ex. A4 dated 29.07.1992, stated to have been executed at Chengalpattu. It was the consistent case of the 1st defendant that at the time of execution of Ex.A4, the testatrix was unwell and therefore affixed her thumb impression, which is also duly recorded therein.Subsequently, after recovery from illness, she executed the later Will Ex. B8 by affixing her signature, reiterating the same bequest. Upon execution of the



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later Will, the former Will stood revoked by operation of law and the last Will alone governs succession. Therefore, non-examination of witnesses to Ex. A4 is inconsequential, as Ex. A4 ceased to have any legal efficacy.

7.As regards exclusion of daughters, the evidence reveals that at the relevant time, the son was residing with the testatrix, whereas both daughters were married and living in their matrimonial homes. Bequeathing property to the only son under these circumstances cannot by itself be termed as a suspicious circumstance. The Courts below have correctly appreciated this issue.

8.Both Courts below have recorded concurrent findings of fact on due execution and attestation of the Will (Ex.B8) after analysing oral and expert evidence. The appellant has not demonstrated any perversity, illegality, or misapplication of settled principles of law.

9.The Second Appeal does not involve any substantial question of law within the meaning of Section 100 of the Code of Civil Procedure. The appeal is only an attempt to seek re-appreciation of evidence, which is impermissible in a Second Appeal.



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10. In fine the Second Appeal is dismissed at the admission stage itself. No order as to costs. Consequently, connected miscellaneous petition, if any, is closed.

05.12.2025

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Index : Yes/No

NCC : Yes/No

Speaking Order / Non-Speaking Order

To

1. The Principal Sub Judge, Erode.
2. The Additional District Munsif Court,
Erode.
3. The Section Officer,
VR Section,
High Court of Madras
Chennai.

DR. A.D. MARIA CLETE, J

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Dated: 05.12.2025