



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1495 of 2025

1. R.Rangasamy,
S/o.Ramasamy, residing at D.No.7/353,
Mariyamman Koil West Street,
Pongalur Post, Palladam Taluk,
Coimbatore District.
2.Sumathi,
D/o.Ramasamy, residing at D.No.7/353,
Mariyamman Koil West Street,
Pongalur Post, Palladam Taluk,
Coimbatore District.

Appellant(s)

Vs

1. NIL
Nil

Respondent(s)



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PRAYER

To set aside the order passed in Probate O.P.No.12 of 2024 on the file of the Principal District Judge, Tiruppur, Dated 17.02.2025 and thus render justice.

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For Appellant(s): Mr.B.Kumarasamy

For Respondent(s):

JUDGEMENT

This Civil Miscellaneous Appeal has been filed to set aside the order passed in Probate O.P.No.12 of 2024 on the file of the Principal District Judge, Tiruppur, Dated 17.02.2025.

2. The learned counsel for the petitioners submit that before the Trial Court the petitioners have filed the petition in Probate .O.P No. 12 of 2024 seeking for issuance of probate certificate on the Will executed by the testator late S. Vasu and Lakshmi dated 16.04.1991 in favour of the petitioner. In the said petition, the petitioners have proved the Will by examining two witnesses in spite of that the Trial Court has not probated the Will. Therefore, the petitioners filed this appeal.



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3. The facts reveal that one Vasu and Lakshmi are the real owner of the petition mentioned property and they have executed a joint Will dated 16.04.1991, through which they bequeathed the petition mentioned property to Appellants/beneficiary, in order to probate the same the petitioners have filed the petition before the Trial Court but the same was dismissed by the Trial Court holding that petition mentioned properties documents were not produced and he expressed suspicious over the Will. Accordingly, dismissed the petition. On enquiry, the facts reveal that deceased Vasu and Lakshmi had one son namely Ganesan, who is mentally retorted person to that effect they produced the disability certificate. On earlier occasion, this Court perused the Will, in the Will nothing is mentioned about the son Ganesan, who is mentally retorted person. So, this Court, directed the appellants to appear before this Court through Video conference. Accordingly, said Ganesan is appeared before the Court through Video conference along with appellants/petitioners. It seems that he is mentally retorted person and live under the care of the appellants.



However, nothing mentioned about the said Ganesan in the Will as he is the one of the legal heir of the testator. The main contention of the appellants is that to take care the said Ganesan the appellants want to probate the said Will but in the Will neither mentioned about the legal heir/Ganesan nor about the benefits given to him. Hence, the appellants are directed to approach the Civil forum to prove the Will as per manner known to law and this Court is not inclined to set aside the order passed by the court below. Furthermore, on seeing the pathetic condition of the said Ganesan, who is the son of Vasu and Lakshmi/testator and now, he is under the custody of the appellants and it has to be monitored whether the appellants will take care the said Ganesan. Hence, the Legal service Authority, Tiruppur, is directed to monitor two months once whether the said Ganesan is take care by the appellants, till his demise.

4. Accordingly, this Civil Miscellaneous Appeal is disposed of. No Costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

1. The Legal Service Authority, Tiruppur.
2. The Principal District Judge, Tiruppur.
3. The Section officer, V.R Section, High court, Madras.



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T.V.THAMILSELVI J.
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