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A No. 4020 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-09-2025

CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

A No. 4020 of 2024

in

TOS NO. 32 OF 2022

1. Vaijyanthi R.Chari

New No.36, Old No.2, Co-operative
Colony, Alwarpet, Chennai - 600 018.

Applicant(s)

Vs

1. Geetha Raman

No.19, V.C.Garden, First Street,
Mylapore, Chennai 600 004.

Respondent(s)

PRAYER

This application is filed under Order XIV Rule 8 of O.S.Rules r/w Section 39 of the Bharatiya Sakshya Adhiniyam, 2023 praying to send the Will dated 11/02/2015 marked as Exhibits P1 in the T.O.S.No.32 of 2022 along with Settlement Deed dated 14/03/2014, registered as Doc.No.273 of 2014 in the



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office of Sub Registrar Chennai Central Joint I, marked as Exhibits D5 and the deed of cancellation dated 18/02/2015 registered as Doc.No.181 of 2015 in the office of Sub Registrar Chennai Central Joint I marked as Exhibits D8 in C.S.No.202 of 2018, for expert opinion of the forensic laboratory to the Director, forensic laboratory situated at 30-A, Forensic House, Kamarajar Salai, Mylapore, Chennai 600 004.

For Applicant(s): M/S Chitra Sampath Senior
Counsel for M.R. Gokul
Krishnan

For Respondent(s): M/S .V. Srimathi

ORDER

The application has been filed to send the Will dated 11.02.2025 marked as Ex.P1 to the Handwriting expert and get his opinion by comparing the same with the Settlement Deed dated 15.03.2015 which is marked as Ex.D5 and the cancellation deed dated 8.2.2015 marked as Ex.D8.

2. The applicant is the plaintiff. The learned counsel for the applicant submitted that even though the attesting witness of the will has already been examined as a plaintiff's witness, in view of the complete burden on the



shoulder of the plaintiff, he has taken out the application for sending the impugned will for comparison with the admitted signature of the testatrix for forensic examination and to obtain the expert's opinion as to the handwriting and the signature.

3. However, the learned counsel for the respondent/defendant vehemently objected to the request of the applicant by citing various judgements of the other high courts and this high court on the position of law that the proof of genuineness of the will is concerned, the expert's opinion as to the identity of the signature cannot be considered as relevant fact and on this aspect the expert's opinion cannot act as a conclusive proof.

4. No doubt the essential requirement of the will has to be proved in accordance with Section 63 of the Indian Succession Act and the genuineness has to be proved under Sections 68–71 of the Indian Evidence Act.

5. It is not the claim of the applicant that the applicant is going to rely on only the opinion of the handwriting expert without examining the attesting witness or without establishing the compliance of mandates of Sec. 63 of the Indian Succession Act and the proof in accordance with Section 68 of the Indian



Evidence Act. Having examined the attesting witness, now by way of additional evidence the applicant has filed this application seeking permission to send the

documents for comparison by a forensic expert.

6. The opinion of the forensic expert may be positive or negative.

Whatever may be the case, the evidentiary value of the opinion of the expert under section 45 of the Indian Evidence Act and its scope can be better analysed at the conclusion of the trial after allowing the parties to produce their best evidence, including the opinion of the expert. At this stage, I don't find any compelling reason to stop the applicant from taking out this application for comparing the signature in the will with the admitted signature by a handwriting expert. Even in case the handwriting expert gives a negative opinion, the court cannot solely depend on the opinion of the expert and the findings have to be rendered only after comprehensive analysis of the entire evidence on record. So no prejudice will be caused for the respondent.

7. The anxiety of the plaintiff to collect the opinion of the expert along with the evidence already on record, the respondent/defendant cannot cause hardship to the defendant. Hence the applicant /plaintiff has to bare the cost of



this exercise irrespective of the result of the suit.

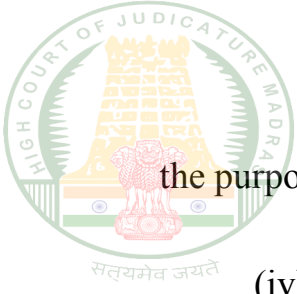
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8. With these limited observations and without getting into the evidentiary value of the opinion of the expert,

(i) This application is **allowed**.

(ii) **M/s.JP.Dhanyasree, Advocate, (Enroll No.4626/2019)**, having office at No.69, Room No.16, Attorney's Court, 3rd floor, Leelavathi Complex, Armenian Street, Parrys, Chennai 600 001. (Ph.No.9894236234) is appointed as Advocate Commissioner for doing the ministerial assistance for comparing the signature in the Will dated 11/02/2015 marked as Exhibits P1 in the T.O.S.No.32 of 2022, with the admitted signature in the Settlement Deed dated 14/03/2014, registered as Doc.No.273 of 2014 in the office of Sub Registrar Chennai Central Joint I, marked as Exhibits D5 and the deed of cancellation dated 18/02/2015 registered as Doc.No.181 of 2015 in the office of Sub Registrar Chennai Central Joint I marked as Exhibits D8 in C.S.No.202 of 2018, by the scientific expert and to get his report.

(iii) The commissioner can take the original documents which have been now produced before this Court[Ex.D5 and D8] and also the original will, for



the purpose of handing over to the handwriting expert.

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(iv) The Registry is directed to maintain the certified copies of the documents taken by the advocate commissioner keep it under custody of the Court and submit the report after it is given by expert.

10. The remuneration of the Advocate Commissioner is fixed at Rs.30,000/- (Rupees Thirty thousand only), which shall be borne by the applicant / plaintiff irrespective of result of the case.

10-09-2025

Note to Office : Issue warrant to the Advocate Commissioner.

jrs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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R.N.MANJULA J.

jrs

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