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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.10.2025

PRONOUNCED ON : 12.11.2025

CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

TOS. No. 43 of 2022

in

(OP.No.44 of 2010)

B.Latha,

D/o.K.Balaraman,

AA-69, 2nd Street,

Anna Nagar, Chennai 600 040.

...

Plaintiff

Vs

Ms.Sheela @ Paarvathy,

D/o.K.Balaraman,

AA-69, 2nd Street,

Anna Nagar,

Chennai 600 040.

PRAYER

The Complaint is filed under Sections 232 and 276 of the Indian Succession Act R/W order XXV Rule 5 of Rules of the High Court, Madras (Original Side) prays that the Letters of Administration with the Will annexed may be granted to him as one of the daughter /one of the legatees named under the Will of the deceased having effect limited to the state of Tamil Nadu.



For Plaintiff(s): Mr.T.Gowthaman, Sr. counsel

For Defendant(s): Mr.Ravichandran Sundaresan

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ORDER

The original petition filed by the plaintiff seeking Letter of Administration in a Will dated 01.06.1999 has been converted into a testamentary original suit in view of the caveat filed by the defendant.

2. The averments in the plaint, in brief:

The plaintiff and the defendants 2 and 3 are the daughters of one late K. Balaraman , and the 1st defendant is his wife. The said K. Balaraman passed away on 18.05.2008 at Rigid Hospital Private Limited, Chennai . He owned certain properties situated within the State of Tamil Nadu. The parents of the deceased had predeceased him. Upon his death, he was survived by his widow (the 1st defendant) and his three daughters, namely the plaintiff and defendants 2 and 3, who are his legal heirs.

2.1. During his lifetime, the deceased executed a Will dated 01.06.1999 in the presence of witnesses. Under the said Will, a life interest was conferred upon the plaintiff and defendants 2 and 3, without any power of alienation, and it was stipulated that after their lifetime, their respective issues would be entitled to enjoy the properties absolutely. The 1st defendant, being the wife of the deceased, was not given any property under the Will, as she already owned two properties in her own name.



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2.2. The testator did not appoint any executor under the Will. The Will was attested by two witnesses, namely Mr. M. Selvakumar and Mr. V. Kogulakrishnan and was duly executed by the deceased K. Balaraman . The first attesting witness, Mr. M. Selvakumar is presently residing in a foreign country and the second attesting witness, Mr. V. Kogulakrishnan is not on cordial terms with the plaintiff. Hence, the petitioners have filed this petition seeking the grant of Letters of Administration with the Will annexed .

3. The averments in the written statement of the defendant, in brief:

The properties owned by the defendants' father, late K. Balaraman , were his self-acquired properties . The house property situated at AA-69, 2nd Street, Anna Nagar, Chennai – 600 040 was used as the family residence of the deceased Balaraman, his wife, and their three daughters. The father passed away on 18.05.2008 , and the mother subsequently died on 27.04.2018 .

3.1.The defendant was employed and residing in Mumbai and she returned to Chennai in 2014 for a short period. She has been permanently residing in the said family property since 2018 . The said fact about residence has been acknowledged by both the plaintiff and the defendants in their exchange of legal notices. After the demise of the father, no information regarding the existence of any Will was ever disclosed to the defendant. During the absence of the defendant, the plaintiff filed an Original Petition seeking



Letters of Administration in respect of a Will dated 01.06.1999 . The defendant contends that the alleged Will is surrounded by suspicious circumstances .

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3.2. The testator late K. Balaraman , was a civil engineer engaged in the construction business and was well acquainted with legal and official matters. If he had genuinely intended to execute a Will, he would have executed and registered it in accordance with law. However, the alleged Will is unregistered and the signature appearing on it does not belong to the deceased , thereby indicating that the Will has been fabricated with an ulterior motive. The defendant remains unmarried but in the Will it is falsely stated that she is married. This false statement demonstrates that the Will is not genuine. The actual beneficiaries under the alleged Will are the plaintiff and the other sister, Usha, and her children .

3.3. The defendant became aware of the said proceedings only in 2018 upon which she immediately filed her objections. The defendant also submits that she is a cancer patient and is presently undergoing treatment. On 27.04.2019 one of her sisters Usha along with her daughter and son-in-law threatened and attempted to evict the defendant from the family property and they compelled to file a police complaint .

3.4. No mention of any Will was ever made by any of the family members after the testator's death in 2008. The petition for Letters of Administration was filed only in the year 2010, without any intimation to the



defendant. The Will, if relied upon, must be proved in a manner known to law .

No affidavit from any attesting witness was filed along with the petition.

Although the defendant was residing in Mumbai during that period, her address has been shown in the petition as Anna Nagar, Chennai. The plaintiff therefore has attempted to obtain Letters of Administration behind the defendant's back .

3.5. As the defendant has been ill-treated by her sisters , she has demanded partition of the family property into three equal shares , seeking one share to be allotted to her. The ground floor of the property being rented to a tenant requires the plaintiff to render accounts of the rent collected. The defendant came to know about the filing of the Original Petition for grant of Letters of Administration only upon receiving the reply notice dated 03.09.2018 sent by her sisters in response to her own notice dated 03.08.2018 . The defendant asserts that the alleged Will is not genuine and hence no Letters of Administration can be granted on the basis of such a document.

4. On the basis of the above pleadings the court has framed the following issues:

(i) Whether the Will dated 1.6.1999 alleged to have been executed by K.Balaraman is true, genuine and valid?

ii) Whether the plaintiff is entitled to the relief of grant of letters of administration as prayed for and

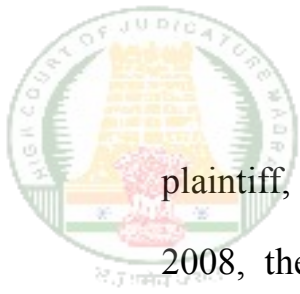
iii) To what other reliefs, if any ?



5. During the course of trial on the side of the plaintiff, two witnesses have been examined as P.W.1 and PW.2 and Exs.P1 to P3 were marked. On the side of the defendant one witness has been examined as D.W.1 and Ex.B1 to B5 were marked.

6. The learned counsel for the plaintiff submitted that the Will has been proved to be compatible under Section 63 of the Indian Succession Act and its genuineness has also been proved in compliance with Section 68 of the Indian Evidence Act. The attesting witness, PW.2, testified that he was present when the testator executed the will on 01.06.1999. He further stated that the testator, the late Balaraman, was in a sound disposition state of mind and he had a good memory and understanding power at the time when he executed the Will. And the cross-examination of PW.2 did not describe its evidence given in the chief examination. In the examination of the attesting witness, the plaintiff has proved the genuineness of the Will. The marital status of the defendant has been presumed because she was away from the family for nearly 20 years. But there is no reason to say that the Will is fabricated, and hence the plaintiff is entitled to get Letters of Administration.

7. The learned counsel for the defendant submitted that the testator, who is the father of the parties, is a person of world knowledge, and he was working as a civil engineer. So he knows the consequence of an unregistered documents. Had the suit been a genuine one, the testator would have written a registered will and not an unregistered one. Soon after the death of the father of the



plaintiff, nothing was spoken about the will, and all of a sudden in the year 2008, the plaintiff filed the original petition. Knowing pretty well that the defendant is not residing in Chennai, the plaintiff gave the Chennai address just in order to evade the service of notice on the defendant. The will is surrounded by suspicious circumstances; despite the fact that the defendant is not married, she has been described as the married daughter in the Will. The age of the father has also been wrongly stated. The testator did not say anything about the Will and his evidence is not supported to prove its existence. PW.1 has given a contradictory statement in her evidence; hence, the plaintiff is not entitled to the relief as prayed.

8. There is no dispute with regard to the relationship of the parties with the deceased K. Balaraman. The plaintiff, the defendant and their sister Usha are the daughters of the said Balaraman. His wife, Mrs. Thirupurasundari is also no more. The father of the parties, who is the testator of the suit Will, passed away on 18.05.2008.

9. The plaintiff claims that Ex.P3 is the Will executed by her father on 01.06.1999. The properties covered under the said Will are the self-acquired properties of late K. Balaraman. As per the recitals in the Will, the 'A' Schedule property, being a house property, was allotted to Usha, the elder daughter of the deceased. The 'B' Schedule property measuring an extent of 2101 sq.ft., was allotted to the defendant, and the ground floor portion of the 'B' Schedule independent house was allotted to the plaintiff.



10. The 'C' and 'D' Schedule properties, consisting of vacant sites, include 1/6th share of one Sundaramoorthy, which was to be given to the defendant, and the remaining portions were to be shared among the three daughters. According to the terms of the Will, the 'A' Schedule property was bequeathed to Usha, 'B' Schedule property was bequeathed to the plaintiff and 'C' and 'D' Schedule properties were bequeathed to the defendant .

11. The Will further stipulates that the daughters of the testator were only provided with life interest in their respective properties, without any power of alienation, and that the income derived from the properties could be utilized only for administering and maintaining the said properties. Upon their lifetime, the absolute ownership of the properties would vest in the children of the respective daughters .

12. The defendant has contended that 'C' and 'D' Schedule properties are vacant sites and they do not generate any income. The distribution made under the Will is unequal and prejudicial to her. Though the Will specifies distinct properties for each daughters, ultimately, only life interest has been conferred upon them, and the absolute rights have to devolve upon the children of the plaintiff and the defendant's sister Usha.



13. Some of the doubtful circumstances pointed out by the defendant are as follows:

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- The defendant is unmarried whereas the recitals in the Will state as though she is a married woman which creates a serious doubt about the genuineness of the document.
- The testator, late K. Balaraman, was a civil engineer by profession and was well-versed in men and matters. Hence, it is highly improbable that he had executed a Will without registering it. The fact that the Will is unregistered by itself creates a suspicion regarding its authenticity.
- After the filing of the Original Petition the notice was sent to the defendant's Chennai address despite the plaintiff being fully aware that the defendant was then residing in Mumbai.
- Even when the defendant came to Chennai in the year 2014, she had no knowledge of the pending proceedings for grant of Letters of Administration. She came to know about the same only upon meeting her advocate. This conduct on the part of the plaintiff indicates that the alleged Will was a fabricated one and not executed by the father.
- The manner in which the properties have been distributed under the Will clearly shows that the other sister, Usha alone has been made as the principal beneficiary. Only life interest without any real benefit has been given to the defendant.
- The defendant has been allotted with only a vacant site which yields no income, and therefore, the grant of life interest in respect of such a



property is of no practical use to her.

- The affidavits of the attesting witnesses were not filed along with the petition. The absence of such affidavits further intensifies the defendant's contention that the execution of the Will is doubtful.

DISUCSSION:

14. On perusal of the recitals of the Will, it seems to have stated that his daughters Usha and Parvathi are already married. Parvathi is the defendant who is actually unmarried. The defendant who was examined as DW.1 in her cross-examination has admitted that she was away from the family for 21 years, so there is a possibility that the defendant's father would have presumed her marital status, so that alone cannot be read in isolation in order to presume that the will is a fabricated one. The will is an unregistered one. The testator, the father of the plaintiff, late Balaraman is a civil engineer and had been contacted for several years in Chennai. Even in the will, the details of the testator have been given that he was a civil engineer. Even if it is true that the plaintiff's father is an educated civil engineer who has been dealing with contracts, it is at least his option to set out a will, either as a registered one or as an unregistered one. The unregistered nature of the will alone cannot give the reason to reject the will as fraudulent or fabricated.

15. During the cross-examination of PW.1, she admitted that she had the knowledge that the defendant had been living in Mumbai for 21 years. Even at the time when the original petition for seeking Letters of Administration was filed, the defendant was residing in Mumbai only. Knowing that well, the



plaintiff has chosen to send the notice to the defendant in Chennai address. She has stated in her evidence that she could not send any notice to the defendants' present residing address as she was not aware of her Mumbai address. Even when the defendant came to Chennai in the year 2015, at that point in time also, the plaintiff did not appraise the defendant about the existence of the will. But if the plaintiff did not know the address of the defendant in Mumbai, then she had no other option except to serve the notice to her permanent address, which is the suit house property.

16. On perusal of the nature of the disposition made in the will, the house property has been described under schedules 'A' and 'B'. The above properties have been bequeathed to the plaintiffs and another sister by the name Usha. The properties described as 'C' and 'D' are vacant sites, and the vacant sites have been bequeathed in favour of the defendant. In the will there is no provision made for the wife of the testator. In the will the reason for not giving any property to the wife of the testator has also been stated. So there are recitals in the will to the effect that the wife of the testator has already been given certain properties by her father, and hence the testator did not think it fit to allot any property to his wife. Even the properties bequeathed in favour of the plaintiff's sister, Usha, are only life interest and not absolute interest. The arrangements made as per the recitals of the Will is that the daughters of the testator can enjoy the property till their lifetime, and thereafter the absolute interest will be vested with their children.

17. On perusal of the properties allotted to the defendant under 'C' and 'D'



schedules, which are the vacant sites, that do not derive any income. It might be true that there is no equal benefit accrued in favour of each of the daughters of the testator.

18. In the judgement of *Swarnalatha & Ors vs. Kalavathy & Ors*, the Hon'ble Supreme Court has held that exclusion of one of the natural legal heirs alone cannot be a ground to hold that the Will is tainted with suspicious circumstances. However that can be considered along with the other suspicious circumstances listed out by the defendant. So the unequal and unfair distribution without considering the fairness and equity alone cannot be the reason to suspect the genuineness of the will.

19. In fact, the defendant has not been excluded from inheriting any interest in the properties of the testator. But she has made up her mind to give the absolute interest only to the children of his other married daughter by name Usha. The plaintiff has also been given a life interest but not an absolute interest. Now the grievance of the defendant is that while the property bequeathed to the plaintiff and the other sister, Usha, under 'A' and 'B' schedules are income-bearing properties, the defendant has been allotted a vacant site which does not derive any income. So it is claimed by the defendant that there is an unfair distribution and that will cast doubt on the genuineness of the will.

20. It is submitted by the plaintiff that late Balaraman, the testator, who is the father of the parties, could not have been happy with the defendant, who had opted to live away.



21. Even according to the evidence of DW.1, she had been away from her family for 21 years prior to 2018. When a specific question was put to her in view of the long separation from the family, she could not have been aware of her father's signature as to how it had evolved. Across the period of time and age, she had given the answer as extracted below:

"Q26: I put it to you that you had been away from your family for 21 years prior to 2018 and you were not even aware of your father's signature as it evolved period of time with age?"

A:21 years is true. But the signature of my father is known to me from my childhood. "

22. So her answer would confirm that she did not have any attachment with the family for more than two decades. But there are possibilities that the father could have thought of excluding her to enjoy the house property and so, he would have allotted the vacant sites under 'C' and 'D' schedule properties. Had 'C' and 'D' schedule properties been bequeathed to her absolutely, it would not have been a problem. But the arrangement is in such a way that after the lifetime of the daughters of the testator, their children shall be entitled to enjoy the respective properties absolutely with all rights of alienation and dispossession. At that time, as the defendant was away from her family and returned after 21 years, the testator, while executing the will dated 01.06.1999, would not have been aware that the defendant had not been married for so long and that she would not have any children.

23. The plaintiff, who is the other daughter of the testator, also remains unmarried and that has been stated in the will itself. It is unfortunate that the



two daughters of the testator were not married and there would not be any children born through them. So the intention of the father is not to make arrangements in such a way that the children of the only married daughter, Usha, need to inherit the absolute interest in the suit property. It appears to have thought that the property was bequeathed by him without any damage, and it should reach the hands of the next generation. The defendant has stated that she had been in Chennai in the year 2014 and also she was not informed about these proceedings.

24. It appears that the defendant does not have a cordial relationship with her family members, and in fact, the plaintiff could not have been aware of her Mumbai address. It is true that the plaintiff could have taken efforts to know about the whereabouts of the defendant and seen that the notice was served upon her. So the lack of efforts on the part of the plaintiff and her failure to inform the defendant about the pending proceedings any time earlier than 2018 can only show the inattentiveness or indifference on the part of the plaintiff and that cannot be the reason to conclude that the Will is a fabricated one. Even though the defendant had disputed the signatures of her father in the Will, she had not taken any steps to disprove the same.

25. In fact, the attesting witness who was examined as PW.2 is also a relative of the plaintiff's family, and he has stated in his evidence that he had seen the testator subscribing his signature in a will. His cross-examination also did not bring out anything adverse to his chief examination in order to render



his examination given in chief as untrustworthy.

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26. The learned counsel for the defendant submitted that PW.2 did not know anything about the person who drafted the will and whether the will had been stamped on stamp paper or ordinary paper. P.W.2 has stated that before he came, the will had already been written and thereafter only it was signed by the testator and he attested the same. It is possible that the attesting witnesses may not have been present at the time when the will was drafted and they would have simply attested the Will by seeing the testator signing in their presence. So the minor discrepancies with regard to the marital status and the age of the testator written in the will does not appear to be fatal in the holistic circumstances and the manner in which the Will has been written.

27. One more submission made on behalf of the defendant is that the attesting witness did not file his affidavit at the time when the original petition was filed. Even PW1 has admitted in the evidence that his affidavit couldn't be filed, but thereafter she was not questioned about why she was not able to file the affidavit along with the original petition. The plaintiff, who was examined as PW.1, has stated in her evidence that while her father was admitted to the hospital, he told about the Will and thereafter she took it with the help of her mother. She had also given a contradictory answer about the same fact that when her father was admitted in the hospital, he told her about the will and he himself proceeded to his room and took up the will along with her mother. This is only a minor discrepancy in describing the manner in which the will reaches



the hands of the plaintiff. When the will has been proved with the evidence of the attesting witness, the burden would be shifted upon the defendant to prove that the will has not been executed by the testator or that the testator has executed the Will when he was not in a sound state of mind.

28. It is true that the plaintiff has to prove to the satisfaction of the court by dispelling all the doubts cast upon the Will. The doubts raised by the defendant should also be in such a way that they should convince the consciousness of the Court that it is a serious suspicious circumstance surrounding the Will; such a circumstance would render the Will as not genuine.

29. The detailed discussions made about including the suspicious circumstances pointed out by the defendants are not strong enough to probabilise the execution of the Will by the testator or to confirm that the testator had executed the Will while he was not in a sound disposing state of mind. As stated already, the defendant has not come out with any evidence to show that the testator was seriously ill or that he was not in a position to discriminate what he was doing or to take decisions. In this regard, it is relevant to cite the judgement in ***Indu Bala Bose And Others (Smt) v. Manindra Chandra Bose And Another***, reported in ***1982 (1) SCC 20*** . Paragraphs Nos. 7 and 8 of the above judgement are extracted hereunder:

"7. This Court has held that the mode of proving a will does not ordinarily differ from that of proving any other document except to the special requirement of attestation prescribed in the case of a will by Section 63 of the Successions Act. The onus of proving the will is on the propounder and in the absence of suspicious circumstances surrounding the execution of the will, proof of testamentary capacity and the signature of the testator as



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required by law is sufficient to discharge the onus. Where however there are suspicious circumstances, the onus is on the propounder to explain them to the satisfaction of the court before the court accepts the will as genuine. Even where circumstances give rise to doubts, it is for the propounder to satisfy the conscience of the court. The suspicious circumstances may be as to the genuineness of the signatures of the testator, the condition of the testator's mind, the disposition made in the will being unnatural, improbable or unfair in the light of relevant circumstances, or there might be other indications in the will to show that the testator's mind was not free. In such a case the court would naturally expect that all legitimate suspicions should be completely removed before the document is accepted as the last will of the testator. If the propounder himself takes a prominent part in the execution of the will which confers a substantial benefit on him, that is also a circumstance to be taken into account, and the propounder is required to remove the doubts by clear and satisfactory evidence. If the propounder succeeds in removing the suspicious circumstances the court would grant probate, even if the will might be unnatural and might cut off wholly or in part near relations. .

8. Needless to say that any and every circumstance is not a 'suspicious' circumstance. A circumstance would be 'suspicious' when it is not normal or is not normally expected in a normal situation or is not expected of a normal person. Learned Counsel relied on the decision of this Court in the case of . In this case the will in question gave the entire property by the testator to a distant relation of his to the exclusion of the testator's widow, sister and his other relations, and even his daughter, who would be his natural heirs, but subject, of course, to the condition that the legatee would maintain the widow and the sister of the testator. The testator's signatures were not his usual signatures, nor in the same ink as the rest of the will; the testator used to sign blank papers for use in his cases in court and he used to send them to his lawyer through his servants; the testator did not appear before the Sub-Registrar for the purpose of registration of the will but the



Sub-Registrar sent only his clerk to the residence of the testator for the purpose of registration; there were 16 attesting witnesses who attested the will, but of them, only 4 interested witnesses were examined to the execution of disinterested witnesses. The above are undoubtedly suspicious circumstances, circumstances creating doubt in the mind of the Court. In spite of these circumstances, it was held by the Trial Court that the will was duly executed and attested. On appeal, the High Court affirmed the order of the Trial Court. On further appeal, this Court held that the circumstances were suspicious and were not satisfactorily explained and hence held that "the due execution and attestation of the will were not proved."

30. The will has been proved to be true in accordance with Sec.68 of the Indian Evidence Act. After the burden shifted upon the defendant, she did not prove before the Court that there are serious doubts which would make the Will improbable and not genuine. So I do not find any reason to withhold the probate and deny the relief as prayed by the plaintiff.

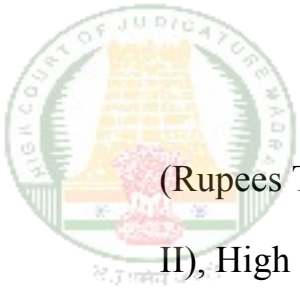
31. In the result,

(i) The Suit in T.O.S.No.43 of 2022 is decreed.

(ii) The Letters of Administration along with the Will annexed may be granted to the plaintiff as one of the daughters/one of the legatees of the deceased K. Balaraman, having effect limited to the state of Tamil Nadu.

(iii) The plaintiff is directed to duly administer the estate of the deceased.

(iv) The plaintiff shall execute a security bond for a sum of Rs.25,000/-



(Rupees Twenty Five Thousand only) in favour of the Assistant Registrar (O.S.-
II), High Court, Madras.

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(v) The plaintiff is further directed to render true and correct accounts
once in a year.

(vi) No costs.

12 -11-2025

Index:Yes

Speaking order

Neutral Citation:Yes

jrs



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Dr.R.N.MANJULA J.

jrs

**TOS. No. 43 of 2022
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12-11 -2025