



WEB COPY



A.No.4920  
in TOS No.1 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 11-12-2025**

CORAM

**THE HONOURABLE MR.JUSTICE P. DHANABAL**

**A No. 4920 of 2025**

**IN**

**TOS NO. 1 OF 2018**

Smt.Akila Vijayakumar  
W/o.Sri Vijayakumar No.1, Maharaja  
Surya Road, Alwarpet, Chennai-600018.

Applicant(s)

Vs

Smt.Saraswathy Bhuvarahan and 5 others  
W/o.Late Sri.Bhuvarahan New No.78, Old  
No.6A, Sriman Srinivasan Road, Venus  
Colony, Alwarpet, Chennai-600018.

Respondent(s)

|                 |                                                       |
|-----------------|-------------------------------------------------------|
| For Applicant : | Mr.N.L.Rajah<br>Senior Counsel<br>for Ms.Vidya Chetan |
| For R1 & R2 :   | Mr.N.Duraikannan                                      |
| For R3 & R4 :   | Mr.A.V.Bharathi                                       |

**ORDER**

This application is filed by the applicant / plaintiff to bring on record the respondent 4 to 6 herein as the legal representatives of the deceased third defendant as the defendants 5 to 7 in TOS No.1 of 2018.



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2. According to the applicant, she is the plaintiff in the main suit. The suit is filed to probate the Will. During the pendency of the suit, the third defendant died on 31.10.2024. Despite best efforts to verify the address, the applicant could not obtain any authentic proof at that stage, but upon making personal and diligent enquiry and on basis of certain documentary evidence and credible information received from reliable sources, the applicant came to know the correct and present address of the legal representatives of the deceased third defendant. Therefore, there is a delay in taking steps to implead the legal heirs of the deceased third defendant. Therefore, the petitioner filed an application to bring the legal heirs of the deceased third defendant.

3. The respondents filed counter affidavit objecting the reasons stated by the applicant and according to the respondents, the provisions quoted in the application is not correct, main original suit itself is not maintainable and there are no grounds to allow this application. Once the suit is abated, the cause of action does not survive. The suit itself is not maintainable, since the plaintiff's claim for probate is based on a forged and fabricated Will. The property in question was already disposed of by a valid registered settlement deed dated 10.01.2008 executed by the Testator during his lifetime and the said settlement deed was upheld by the competent Court in O.S.No.4120 of 2014 and therefore the Will now propounded is void and unenforceable. Therefore, the application is liable to be dismissed.

4. Heard both side counsel.



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5. Considering the reasons stated in the affidavit and the facts and circumstances of the case, and due to the death of the third defendant, the proposed parties have to be impleaded as proper and necessary parties and the merits of the case can be decided in the main petition.

4. The Registry is directed to carry out necessary amendment in the case and post the matter on 06.01.2026.

**11.12.2025**

**(3/3)**

mtl



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**P.DHANABAL, J.**

mtl

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