



WEB COPY

A No. 4214 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-09-2025

CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

**A No. 4214 of 2025
in TOS No.16 of 2024**

1. Kundavi Sandrasegaran and Another
W/o.Mr.Sandrasegaran Karupaiah,
Door No.119 and 120, Sterling Road,
Nungambakkam, Chennai - 600 034.

2. Latha Chiniah Shivashanmugam
W/o.Dr.Padmanapan Karupaiah, 59,
Jalan Pipit, Taman Million Batu, 3 Jalan
Ipoh, Kuala Lumpur, Malaysia - 51100.
Represented by her Power Agent/sister,
Mrs.Kundavi Sandrasegaran (1st
Petitioner)

Applicant(s)

Vs

1. C.S.Baskar and Another
S/o.Late Shri C.Sivashanmugam,
No.117A, Arunachala Villa, 16th Cross
Street, Shanmuga Nagar, South
Extension, Vayaloor Road, Trichy - 620
102.



2.C.S.Arun

Late Shri C.Sivashanmugam, No.18A,
Pound Street, Kadaperi, Tambaram -
600 045.

Respondent(s)

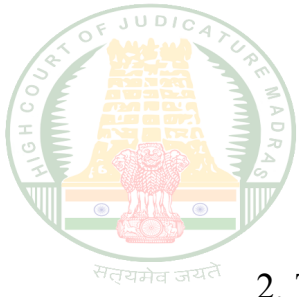
PRAYER: Application filed under Order XIV Rule 8 of O.S.Rules of the High Court r/w. Order XXVI Rule 4 of C.P.C. to appoint an Advocate Commissioner to record the evidence of PW1 along with video recording of the entire proceedings at the residence of PW1 at No.1879/33, 20th Cross Near Maruthi Mandir, M.C.Layout, North Bangalore, Karnataka 560 040.

For Applicant(s): M/s R.V.Gayatri
for M/S.P.B. Ramanujam
Associates For Plaintiffs

For Respondent(s): A.Veerassamy For Defendants

ORDER

This application has been filed seeking to appoint an Advocate Commissioner to record the evidence of P.W.1 at his residence situated at No.1879/33, 20th Cross Near Maruthi Mandir, M.C.Layout, North Bangalore, Karnataka 560 040.



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2. The applicants / plaintiffs have filed a petition for probate of last Will and testament of Late C.Sivashanmugam dated 25.08.2025. The first attesting witnesses to the Will one Pitchaimani had passed away on 27.07.2020 and the other attesting witness by name A.Chavudappan is alive and residing at Bangalore, Karnataka. However the said A.Chavudappan is a super senior citizen aged about 80 years. He was examined in-chief as P.W.1. Due to his advanced age, he is not able to travel and is medically advised to avoid travelling. Hence, the present application has been filed to appoint an Advocate Commissioner to record the evidence of P.W.1 at his residence.

3. The learned counsel for the respondents / defendants have raised objections stating that the inconvenience on the side of the plaintiffs should not cause hardship to the defendants and they should not be slapped with the travelling expenses to Bangalore in order to cross-examine P.W.1.



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4. The applicants who are the plaintiffs have got the burden to prove the genuineness of the Will by examining the attesting witness. The attesting witness has been examined in-chief, but due to his age and health condition, he is not able to travel and present himself for cross-examination at Chennai. The respondents / defendants did not deny the fact that the said attesting witness A.Chavudappan is a super senior citizen and he has his own medical conditions which may not be compatible for his long travel. In such case, in order to avoid the inconvenience of the said witness and in the interest of justice, I feel the application of the applicants should be considered favourably.

5. As rightly pointed out by the respondents / defendants, it would be appropriate to direct the applicants themselves to bear the expenses in connection with the examination of P.W.1 at his residence, which will be inclusive of the travelling expenses that has to incurred by the defendants.

6. Accordingly, this application is allowed and **Mr.Krishna Bhagavat Advocate, (Enroll No.3412/2014)**, having office at No.160, Thambu Chetty



Street, 1st Floor, Hussain Plaza, Chennai – 600 001 (Ph.No.9444264634) is

appointed as Advocate Commissioner to record the evidence of P.W.1 along

with video recording of the entire proceedings at the residence of P.W.1 at

No.1879/33, 20th Cross Near Maruthi Mandir, M.C.Layout, North Bangalore,

Karnataka 560 040.

The remuneration of the Advocate Commissioner is fixed at Rs.50,000/-
(Rupees Fifty Thousand), which shall be borne by the applicants / plaintiffs
irrespective of result of the case.

09-09-2025

Internet: Yes
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R.N.MANJULA J.

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