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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2025

CORAM

THE HONOURABLE MR JUSTICE A.A.NAKKIRAN

**A. No. 60 of 2025
in
TOS No. 6 of 2018**

Vasant K.Cycil
No.6, 15th Cross Street, Shastri Nagar, Adyar,
Chennai-600020.

Applicant(s)

Vs

Mrs.Ramola Joseph
A-I, Oak Wood Apartments, 25, Anderson Road,
Chennai 600 006.

Respondent(s)

For Applicant(s): M.s.D.Veda

For Respondent(s): M/s.R.Kumar

Prayer in A.No.60 of 2025: Application filed under Testamentary and Intestate Jurisdiction praying to direct the Forensic Expert of the Forensic Department, Government of Tamilnadu to compare the signatures of R.H.Joseph in the Will of A.R.Cycil and in the marriage register dated 12.06.1984 and pass orders accordingly.



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ORDER

This application has been filed by the applicant/plaintiff praying the above said relief.

2. The learned counsel for the applicant submitted that the two attestors have signed in the Will by name as 1.Mr.R.H.Joseph and 2.Mr.S.Jagannathan. The 1st attesting Witness Mr.R.H. Joseph died on 12.11.2007 who is the husband of the respondent. Despite the 2nd attesting witness to the Will Mr.S.Jagannathan is available, he has refused to file an affidavit citing his old age, to prove the Will. Further, in spite of issuing subpoena, as ordered in A.No.1715 of 2023 to Mr.Jagannathan, he has not appeared to give evidence. Hence, in order to prove the Will, it is necessary to compare the signature of R.H.Joseph put in the Will executed by A.R.Cycil with the signature found in marriage register dated 12.06.1984. In the event of this application being ordered, no prejudice would be caused to the respondent. Hence, he prayed for allowing of this application.

3. The learned counsel for the respondent submitted that the



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alleged Will dated 26.03.1984 was executed at New Delhi and now only a photocopy of the Will was produced. Further no declaration by attesting witness was filed especially when one of the attesting witnesses is available. The manner in which the bequest is made only show that the alleged Will is not genuine and not executed by respondent's father. Further, it would be a difficult for an expert to draw a clear opinion by comparing the signatures contained in the photocopy with the marriage register. Therefore, he prayed for dismissal of the application.

4. Heard both sides and perused the materials available on record.

5. On perusal of Ex.P3, it is seen that the plaintiff has produced only a photocopy of the alleged Will dated 26.03.1984. Vide Ex.P3. Since the 2nd attesting witness is not coming forward to put forth his evidence to prove the Will, the plaintiff has taken out this application to compare the signature of the 1st attesting witness along with the Marriage Register. The signature can be compared from the Original Will for obtaining opinion from hand writing expert. In the present case, the plaintiff seeks to compare the photocopy signature put in the said Will which cannot be compared with



Marriage Register to find out the genuineness of signature.

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A.A.NAKKIRAN, J.

lbm/msr

6. In view of the above fact and also having regard to the fact that the plaintiff/applicant has various options to prove the case in the manner known to law, this Court is not inclined to allow the said application.

7. In the result, this application stands dismissed.

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