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A.No.1291 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-03-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

A No. 1291 of 2026

K.R.Sridhar
S/o. Late K.N.Ramachandra Rao,
Door No.22, Kannagi Street,
Madipakkam, Chennai 600 091.
also residing at 7120, Bolinger Road,
San Jose, California 95129, USA.
(Rep. by his POA mother Kamala Ramachandra
Rao)

..Applicant(s)

Vs

1. R.Indumathy and 2 others
D/o. K.N.Ramachandra Rao,
Rajan Apartment,
No.35, Kannagi Street,
Madipakkam, Chennai 600 091.
2. S.G.Mayasre
D/o. Late Sarumathy Gopinath,
Grand Daughter of late K.N.Ramachandra Rao,
4/58, Priya Residency,
Kanniamman Koil Street,
Ullagaram, Madipakkam, Chennai 600 091.
3. Kamala Ramachandra Rao
W/o. Late K.N.Ramachandra Rao,
Door No.22, Kannagi Street,
Madipakkam, Chennai 600 091.
(Power of Attorney Holder)
(Amendment carried out as per order dated
04.12.2025 in A.No.4490/2025)



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..Respondent(s)

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To accept the third party affidavit of S.Gopinath, S/o.Late A.Subramania Rao to identify the testator signature in the place of the attesting witnesses (namely 1.S.E.Johnson 2.S.G.Selvanathan) in the will Doc.No.12/1996, in the above said O.P.No.620 of 2024.

For Applicant(s): M/S.T. Kamalakannan
G.Rupa

For Respondent(s): Ms.S.Krishnaveni for R1 to R3.

ORDER

This application in A.No.1291 of 2026 in O.P.No.620 of 2024 has been filed seeking to accept the third party affidavit of S.Gopinath, S/o.Late A.Subramania Rao to identify the testator signature in the place of the attesting witnesses (namely 1.S.E.Johnson 2.S.G.Selvanathan) in the Will Doc.No.12/1996 in the above said O.P., in the matter of proof of the Will, on the footing that the attesting witnesses are unavailable / no more. In the supporting affidavit, the petitioner's power holder states that the petitioner is the only son and only beneficiary of the testator, but also states that by the Will the deceased appointed his son R. Sridhar as sole executor; the same affidavit further states that both attesting witnesses were unavailable, their whereabouts were not known, and that registered notices were returned with endorsement "Deceased."



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2. On perusal of the entire record, this Court is not satisfied that the present application can be allowed as such.

3. Firstly, the papers disclose a material inconsistency on the very basis of the testamentary relief sought. In one set of papers it is stated that the petitioner is the executor under the Will; in the main O.P. / connected record it is also stated that there is no executor under the Will; and elsewhere the petitioner is described only as the sole beneficiary seeking Letters of Administration with the Will annexed. This contradiction goes to the root of the proceeding and has not been satisfactorily explained.

4. Secondly, there is lack of clarity as to the date and particulars of the Will. Across the papers there is inconsistency between the references to Document No.12/1995 and 12/1996, and also between the dates 04.03.1996 and 14.03.1996. The date and registration particulars of the Will require specific clarification before any further step is taken in relation to proof of the Will.

5. Thirdly, the case rests only on a certified copy of the Will. There is no satisfactory statement, with necessary particulars, as to how the original Will came



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to be lost, in whose custody it was, who last saw it, when it was last seen, and what precise steps were taken to trace it. In a testamentary matter founded on a certified copy, these are material facts.

6.Fourthly, the present application does not lay a proper foundation for reception of the proposed third-party evidence. There is no clear statement as to who exactly the third-party affidavit deponent is, what his relationship is to the testator, and in what manner he is competent to depose. The present material suggests only that he proposes to identify the signature of the testator; there is no proper averment as to the signatures of the attesting witnesses or the exact evidentiary basis on which his testimony is sought to be substituted for proof through attestors.

7.Fifthly, even as regards the attesting witnesses, the position is not consistently set out. While the application states broadly that both witnesses are no more / non-traceable and that the legal heirs are not known, the available record also indicates differing postal endorsements in respect of the two witnesses. That aspect also requires precise clarification.



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8.It is also seen from the Will papers that the testator is stated to have executed the Will in the presence of his wife and son, and that the wife is to enjoy a life interest and thereafter the property is to go to the son as per the schedule. In that view also, the Court must first have a clear and consistent statement as to the petitioner's status and entitlement before any application to regularise proof of the Will is considered.

9.In such circumstances, this Court is of the view that A.No.1291 of 2026 is premature and misconceived in its present form. The deficiencies are not of a merely formal nature; they go to the maintainability of the relief sought and to the foundational facts necessary for proof of the Will.

10.Accordingly, A.No.1291 of 2026 is dismissed. No costs.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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DR.A.D.MARIA CLETE, J.

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