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A.Nos.822 & 823 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2026

CORAM

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

A Nos. 822 & 823 of 2026

in

O.P. No. 656 of 2023

A. No. 822 of 2026:

1. Malladi Leeleswari Devi and 2 Others

D/o.Late C.N.Prasad,
Residing at Eswar Sadan,
Flat 303, C-49, D.D.Colony,
Hyderabad - 500 007.

2. Jousula Sivasankari

D/o.Late C.N.Prasad,
Residing at Flat 1D, Srinivasa Terrace,
No.52, 2nd Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 020.

3. Malladi Lakshmi bhuvaneswari

D/o.Late C.N.Prasad,
Residing at Sanali Residency,
Flat 401, 6-3-1090/1/Q,
Rajbhavan Road,
Somajiguda,
Hyderabad - 500 082.

..Applicant(s)

Vs

C.R.Kumar

S/o.Late C.N.Prasad,
Residing at Chavali Nilayam,

1/8



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No.68A, Greenways Road,
R.A.Puram,
Chennai - 600 028.

..Respondent(s)

PRAYER: To Revoke the order dated 23/07/2025 passed in O.P.No.656 of 2023.

For Applicant(s): M/S.K.Harishankar
T.K.Bhaskar
Mithreyi Kasthurirangan-MS/2206/2015
Shriram Adhethyan R
M.Jeeva

For Respondent(s): No appearance.

A No. 823 of 2026:

1.Mr.Arjun Santhanam and another
S/o.Mr.K.Santhanam,
Residing at C1, Teeracotta Apartments, 10. 2nd
Crescent Park Street,
Gandhinagar, Adyar, Chennai 600 020.
2.Mr.Ashwin Santhanam
S/o.Mr.K.Santhanam.

..Applicant(s)

Vs

1. Mr.C.R.Kumar
S/o.Late C.N.Prasad,
Residing at Chavali Nilayam,
No.68A, Greenways Road,
R.A.Puram,
Chennai - 600 028.
2. Malladi Leeleswari Devi
D/o.Late C.N.Prasad,
Residing at Eswar Sadan,
Flat 303, C-49, D.D.Colony,



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Hyderabad - 500 007.

3. Mrs.Josyula Sivasankari
D/o.Late C.N.Prasad,
Residing at Flat 1D, Srinivasa Terrace,
No.52, 2nd Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 020.

4. Malladi Lakshmi bhuvaneswari
D/o.Late C.N.Prasad,
Residing at Sanali Residency,
Flat 401, 6-3-1090/1/Q,
Rajbhavan Road,
Somajiguda,
Hyderabad - 500 082.

..Respondent(s)

PRAYER: To revoke the order dated 23/07/2025 passed in O.P.No.656 of 2023.

For Applicant(s): M/S.S. Rajmakesh

For Respondent(s): No appearance.

ORDER

These applications have been filed seeking revocation of the probate granted in favour of the 1st respondent by order dated 23.07.2025 in O.P. No.656 of 2023. Application No.822 of 2026 has been filed by the daughters of deceased C.N. Prasad, whereas .A. No.823 of 2026 has been filed by the purchaser of the property covered under the Will, who claims through the heirs of late C.N. Prasad.



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2. The revocation is sought mainly on the ground that the petitioner in O.P. No.656 of 2023 had suppressed the compromise decree passed in C.S. No.73 of 2022 dated 17.11.2023. According to the applicants, the petitioner had also suppressed the sale executed by the sisters and, by such suppression, obtained the probate.

3. It is a well-settled principle that a probate court cannot decide the title to the property left by the testator. The only question to be decided in probate proceedings is whether the Will propounded is genuine and whether it was executed and attested in accordance with law, as required under the provisions of the Indian Succession Act, 1925.

4. In the present case, the original petition was filed in the year 2023 after impleading all the legal heirs of the deceased, including the daughters, as respondents. According to the applicants, even after the compromise arrived at between the parties, which culminated in a decree, the 1st respondent proceeded with the original petition and obtained probate. The applicants find fault with such conduct on the part of the 1st respondent.



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5. However, there is no allegation whatsoever regarding the genuineness of the Will, its due execution, or its attestation. Even if the beneficiaries or legal heirs had conveyed the property in favour of third parties, obtaining probate on the basis of the Will left by the testator is not barred in law.

6. The purchasers of the property during the pendency of the probate proceedings are not necessary parties to the testamentary proceedings. Further, the grant of probate does not ipso facto nullify the sale deeds executed by the daughters of the deceased in favour of the purchasers based on the compromise decree.

7. The question regarding the validity of the sale deeds executed by the applicants, who are the daughters of the testator, in pursuance of the compromise decree, is entirely different from the question regarding the genuineness of the Will, its due execution, and attestation. Likewise, revocation of probate would not automatically determine the validity of the sale deeds executed pursuant to the compromise decree.



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8. Merely because a compromise was arrived at among the legal heirs of the testator and the properties were partitioned among themselves, it does not convert a testate succession into an intestate succession. It is always open to the beneficiaries either to accept the benefits conferred under the Will in toto or to waive certain benefits granted to them under the Will.

9. In the present case, the reasons stated by the applicants for revocation of probate do not fall within the “just cause” contemplated under Section 263 of the Indian Succession Act, 1925, nor do they satisfy any of the illustrations appended thereto.

10. In the absence of any plea regarding the genuineness of the Will, its execution, attestation, or non-implement of any legal heir of the deceased, the prayer for revocation of probate cannot be entertained.



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11. The applicants are at liberty to agitate their title or the alienations, if so advised, before the competent civil court. Such issues cannot be decided in testamentary proceedings. In the result, these applications are 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.

AY

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in
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