Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	**07.09.2026**
Pronounced on	**30.10.2026**

CORAM

THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

TOS No. 26 of 2014

1.Sri Sutha Devi
Plot No.246, 22nd St,
Sri Krishna Nagar,
Maduravoyal,
Chennai - 600 095

2.Miss.Banasankari
Minor, aged 14 years,
Rep By Mother And Guardian Sri Sutha Devi,
Plot No.246, 22nd Street,
Sri Krishna nagar,
Maduravoyal,
Chennai -600095

..Petitioner(s)

Vs

1.M.Karthik Meyyappan
9-A, Dr.Radhakrishnan Salai,
AVM Avenue,
Mylapore,
Chennai - 600 004

2.Ranjini Murugan
9-A, Dr.Radhakrishnan Salai,
AVM Avenue,
Mylapore, Chennai - 600 004

3.Latha
9-A, Dr.Radhakrishnan Salai,
AVM Avenue,
Mylapore,
Chennai - 600 004

4.Ramadevi

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D4 Rep. by her Power of Attorney Agent
Ranjini Murugan, the 2nd Defendant herein

5.K. Rajendran

6.Vishnu Rajendran

7.Vinayak Rajendran

8.Vikram Rajendran
D5 TO D8 RESIDING AT 9-A Dr Radhakrishnan
Salai AVM Avenue Chennai 4. D5 TO D8
IMPLEADED AS PER ORDER DT 22.07.2015
IN A.4765 OF 15

..Respondent(s)

TOS No. 26 of 2014

TOS is filed under Sections 232 and 276 of the Indian Succession Act XXXIX of 1925 for the grant of Letters of Administration, against this petition the 1st Caveator filed a Caveat and supporting affidavit on 17th day of September 2013, the 2nd Caveator filed a Caveat and supporting affidavit on 13th day of December 2013, the 3rd and 4th Caveator filed a Caveat on 2nd day of June 2014. As per order of court dated 26.06.2014 in O.P.No.837 of 2013 the Original Petition is directed to be converted into Testamentary Original Suit.

TOS No. 26 of 2014

For Petitioner(s): M/s.K.Newlin Frederick

For Respondent(s): M/s.K.V.Babu
D1 To D8

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Judgment

This Testamentary Original Suit arises out of O.P.No.837 of 2013, filed by the plaintiffs seeking probate of the last Will and Testament of late A.V.M.Murugan, dated 24.11.2008, registered before the Sub Registrar, Kodambakkam.

2.The case of the plaintiffs is that, the deceased was the son of late A.V.Meiyappan and belonged to the A.V.M Family. He owned several movable and immovable properties. It is the case of the plaintiffs that the testator's relationship with his wife, the 2nd defendant, became strained and that he lived separately from her. He subsequently married one Vimala on 13.11.1978 and lived with her until her death on 18.06.1994.

3.The plaintiffs further state that the testator thereafter lived with his mother, late A.V.M.Rajeshwari, at A.V.M. Avenue, Mylapore. According to them, the 1st plaintiff was engaged as a care taker for the mother of the testator and subsequently took care of the testator as well. It is their case that the testator treated the 1st plaintiff as his daughter and arranged a marriage with P.K.Vinayagam in the year 2005. The 2nd plaintiff is also claimed to have been treated by the testator as his foster daughter.

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4.According to the plaintiffs, out of love and affection and in consideration of the care and assistance rendered by them, the testator executed the subject Will dated 24.11.2008. The Will was registered before the Sub Registrar, Kodambakkam. The plaintiffs contend that the testator was in a sound and disposing state of mind, understood the nature and consequences of the dispositions and executed the Will voluntarily and without coercion, undue influence or fraud. Hence, prayed for grant of Letters of Administration with the Will annexed.

5. On the other hand, the defendants dispute the relationship asserted by the plaintiffs. According to them, the 1st plaintiff was initially engaged as a caretaker and subsequently obtained access to the testator and his affairs. The further case of the defendants is that late A.V.M.Murugan is the son of late A.V.Meiyappan, who was the founder of AVM Studios in the year 1940s and a reputed cinema studio in India and AVM is called the pioneer in the cine photography industry and was running the business under the name and style of AVM Cine Lab, situate inside AVM studios ever since 1978. The said AVM Murugan belong to a reputed family and the present defendants are none other than his son, wife, daughter, son-in-law and grand children. There is absolutely no necessity or need for late A.V.M.Murugan to exclude the family and execute an alleged Will in favour of a seven maid and alleged foster daughter. Taking

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advantage of the family situation, the 1st plaintiff who was looking after AVM.Rajeshwari, had acquainted with the testator and by manipulating the circumstances for a benefit, created various documents and the present alleged Will is one among them. The alleged Will was brought about by fraud, undue influence and by persons who are no way related to the testator. Hence, prayed for dismissal of the suit.

6.Based on the above pleadings, the following issues were framed by this Court on 09.06.2015:

(i) Whether the Plaintiffs are entitled to the grant of Letters of Administration with the WILL as prayed for?

(ii) Whether the suit is bad for non-joinder of Class-I legal heirs of Late. AVM.Murugan?

(iii) Whether the WILL has been executed in a suspicious, surreptitious circumstances?

(iv) Whether the WILL produced is genuine and legally enforceable one?

(v) To what other reliefs the parties are entitled to?

(vi) Whether the WILL dated 24.11.2008 was executed by the Testator in a sound and disposing state of mind and understanding?

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7.On the side of the plaintiffs, the 1st plaintiff was examined as P.W1.

Exs.P1 to P3 were marked.

Ex.P1 is the original Death Certificate of AVM.Murugan dated 10.09.2012.

Ex.P2 is the registered original WILL dated 24.11.2008.

Ex.P3 is the original letter dated 08.10.2012 issued by Mr.K.S.Dhinakaran, Advocate, renouncing his Executorship.

The said PW1 was extensively cross-examined and during the cross-examination, Ex.D1 to D8 were marked in the cross-examination through PW1.

Ex.D1 is the Birth Certificate of the 2nd Plaintiff Banasankari issued by Perungalathur Town Panchayat.

Ex.D2 is the Birth Certificate issued by the Corporation of Chennai for the 2nd Plaintiff Banasankari.

Ex. D3 is the order granting divorce between the Plaintiff and Mr.Ramesh.

Ex.D4 is the copy of Settlement Deed dated 22.03.2005 executed by AVM.Murugan in favour of the 1st Plaintiff.

Ex.D5 is the Sale Deed dated 04.08.2006 executed by the 1st Plaintiff in favour of Mr. Kishore and Padmini Kishore.

Ex.D6 is the Certificate of Marriage issued by the Marriage Registrar, Second Line Beach, Chennai 600 001, between the 1st Plaintiff and Mr.Vinayagam

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dated 10.06.2005.

Ex.D7 is the Destitution Certificate dated 28.08.1991 issued by the Tahsildar, Mambalam-Guindy Taluk, stating that the 1st Plaintiff is an orphan.

Ex.D8 is a Notice dated 26.09.2012 issued by the then Counsel of the Plaintiffs, to the 1st Defendant.

Ex.D9 is the Affidavit of Assets.

Issue Nos.1 to 6:

8.The plaintiffs claim to be the foster daughters of the deceased testator and the principal beneficiaries under the Will. The defendants, who are the legal heirs of the deceased, entered caveat disputing the genuineness and due execution of the Will. Consequently, the original petition stood converted into the present testamentary original suit.

9.It is the case of the plaintiffs that the testator's relationship with his wife, the 2nd defendant became strained and that he lived separately from her. He subsequently married one Vimala on 13.11.1978 and lived with her until her death on 18.06.1994. The plaintiffs rely upon Ex.P.7 to contend that the testator himself described the plaintiffs as his foster daughters and P.K.Vinayagam as his son-in-law. The specific contention of the plaintiffs is that the testator executed Ex.P.2 Will dated 24.11.2008 out of love and affection and in consideration of the care and assistance rendered by them. It is not in dispute that the said Will is registered.

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10.Mr.K.Newlin Frederick, the learned counsel for the plaintiffs rely principally upon the evidence of one K.Ragavendran, examined as C.W.1, one of the attesting witnesses. According to C.W.1, the testator brought the Will to the Sub Registrar's Office, signed the same and the attesting witnesses thereafter attested it.

11.He would further contend that the mere fact that the defendants, being natural heirs, were not substantially benefited under the Will cannot constitute a suspicious circumstance. He further rely upon the strained relationship between the testator and certain members of his family as explaining the testamentary disposition. He had also explained Ex.D4, settlement deed dated 22.03.2005 and Ex.D5, sale deed dated 04.08.2006, wherein the 1st plaintiff is described as the wife of the testator. According to him, those descriptions were not made by the 1st plaintiff and the documents had been prepared by others. He further relied upon Ex.P3, letter dated 08.10.2012 issued by a Senior Advocate namely Mr.K.S.Dhinakaran, the executor named in the Will, stating that he was unable to act as executor and handing over the Will for further action. The learned counsel has relied upon the following judgments:

1.1990 Law Weekly (Crl) 409

2.(1995) 4 SCC 459

3 2024(5) CTC 67

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12.Per contra, Mr.K.V.Babu, learned counsel for the defendants contends that Ex.P2 is surrounded by suspicious circumstances and that the plaintiffs have failed to establish that the Will represents the free and voluntary testamentary act of the deceased. Particular reliance is placed upon Ex.D4 and Ex,D5, wherein the 1st plaintiff is described as the wife of the testator, notwithstanding the fact that Ex.D6 records her marriage with P.K.Vinayagam and the testator himself is an attesting witness thereto. He also relied upon the chronology of Ex.D8 dated 26.09.2012 and Ex.P.3 dated 08.10.2012. According to him, Ex.D8 refers to the Will and proposed probate proceedings even before the executor allegedly handed over the original Will to the counsel under Ex.P.3.He further challenged the reliability of C.W1 and contend that the circumstances in which he was summoned and examined cast doubt upon his evidence. The learned counsel has relied upon the following judgments:

1.2026 SCC Online Sc 1266

2.2025 SCC Online SC 1466

3.MANU/SC/1090/2023

4.MANU/SC/1219/2021

5.MANU/SC/0450/2020

6.MANU/SC/0395/2020

7.MANU/TN/0895/2017

8.MANU/SC/1671/1994

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9.MANU/SC/0115/1958

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13.Heard and records perused.

14.The law governing proof of a Will is well settled. Under Section 63 (c) of the Indian Succession Act, 1925, the Will must be attested by two or more witnesses in the manner prescribed therein. Under Section 68 of the Indian Evidence Act, 1872, at least one attesting witness is required to be examined for proving execution of a document which is required by law to be attested.

15.In ***H.Vengatachala Iyyangar Vs. B.N.Thinmmajamma,*** reported in ***AIR 1959 SC 443,*** the Hon'ble Supreme Court held that the propounder has to establish that the Will was duly executed and that the testator possessed a sound and disposing state of mind and understood the nature and effect of the dispositions. Where suspicious circumstances surrounded the execution, the propounder has to remove those circumstances by satisfactory evidence.

16.In the present case, C.W.1 has spoken about the execution of Ex.P.2 Will and has stated that the testator signed the Will and that the attesting witnesses attested it. His evidence, if considered in isolation, may establish substantial compliance with the formal requirement of proof. However, the Court is required to examine the entire evidence because the defendants have

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specifically raised circumstances which, according to them, cast legitimate doubt upon the testamentary document.

17.The first circumstance relates to the nature of the relationship between the testator and the principal beneficiaries. The plaintiffs assert that they were the foster daughters of the testator and that the 1st plaintiff had been treated as a daughter. The defendants, however, contend that the 1st plaintiff initially entered the household as a caretaker. Ex.P.7 lends some support to the plaintiffs' assertion that the testator described them as his foster daughters. However, this document has to be considered along with the other documentary evidence. Ex.D4, the settlement deed dated 22.03.2005, describes the 1st plaintiff as the wife of AVM.Murugan. Ex.D5, the sale deed dated 04.08.2006 contains a similar description. Ex.D.6, however, records the marriage of the 1st plaintiff with P.K.Vinayagam on 10.06.2005, with the testator himself being an attesting witness.

18.The plaintiffs have explained that the description in Ex.D4 and Ex.D5 was not supplied by them and that the documents had been prepared by others. This explanation cannot be rejected merely because the description appears in those documents. Nevertheless, the Court cannot ignore the fact that there are materially inconsistent descriptions of the relationship of the 1st plaintiff with the deceased in contemporaneous document. When the entire estate is

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substantially bequeathed to the plaintiffs, the circumstance assumes relevance in examining the overall genuineness of the testamentary dispositions.

19.The second circumstance relates to the chronology of Ex.D8 and Ex.P3. Ex.D8 is dated 26.09.2012 and was issued by the erstwhile counsel referring to the Will and the proposed probate proceedings. Ex.P3 is dated 08.10.2012 and is the letter of the executor named in the Will stating that he was unable to act and handing over the Will for further action. The plaintiffs have offered an explanation that they had already approached the executor and their counsel and that the letter Ex.P.3 was only a formal communication regarding the handing over of the Will. The explanation is not inherently impossible. However, when the chronology is specifically challenged, the plaintiffs were required to establish by cogent evidence the circumstances in which the original Will was obtained, when it was shown to the executor, when the counsel was instructed and why Ex.D8 preceded Ex.P3. The evidence on record does not satisfactorily establish this sequence.

20.The third circumstance concerns the evidence of C.W.1. This Court is conscious that merely because an attesting witness is examined pursuant to summons or subpoena, his evidence cannot automatically be rejected. The Court must examine the substance of his testimony. However, the evidence of P.W1 and C.W1 regarding the circumstances in which C.W1 came to be contacted and

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examined is not entirely consistent. P.W1's evidence regarding her contact with the attesting witness and C.W1's evidence regarding his acquaintance with P.W1 require scrutiny. This Court does not hold that C.W.1 has deliberately given false evidence or that he was procured by the plaintiffs. Such a finding cannot be recorded without positive evidence. Nevertheless, when his evidence is considered along with the other circumstances, the Court is unable to treat his evidence as sufficient by itself to dispel the doubts arising from the surrounding circumstances.

21.The fourth circumstance relates to the testamentary capacity of the deceased. The plaintiffs' rely upon C.W1's evidence that the testator was in a sound state of mind. The defendants have not produced convincing medical evidence establishing that the testator lacked testamentary capacity on 24.11.2008. Therefore, this Court does not record a finding that the testator was mentally incapable of executing a Will. However, the absence of proof of incapacity does not automatically establish the genuineness of the Will. The plaintiffs must establish that Ex.P2 was the free and conscious testamentary act of the deceased, particularly when other circumstances require explanation.

22.The fifth circumstance is the substantial benefit conferred upon the plaintiffs. As already stated, the Court does not regard an unequal distribution or

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exclusion of natural heirs as invalid in law. A testator is entitled to dispose of his property as he chooses. However, the substantial benefit received by the propounders becomes a relevance circumstance when coupled with other features surrounding the execution. The Court therefore considers it only as a component of the cumulative circumstances and not as an independent ground for rejecting the Will.

23.The Court has also considered the contention that the testator had a strained relationship with his wife and other members of his family. If established, such strained relationship could provide a perfectly legitimate explanation for excluding or reducing the benefit of natural heirs. But that circumstance does not answer the other questions arising from the documentary inconsistencies and the chronology surrounding the Will.

24.Therefore, it is required to determine whether the circumstances relied upon by the defendants are real, germane and valid, rather than matters arising merely from suspicion or conjecture. In the considered view of this Court, the following circumstances, when taken cumulatively, require satisfactory explanation:

(i) the substantial testamentary benefit conferred upon the plaintiffs;

(ii) the disputed nature of the relationship between the plaintiffs and the

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deceased;

(iii) the inconsistent description of the 1st plaintiff in Ex.D4 and Ex.D5 when compared with Ex.D6;

(iv) the chronology between Ex.D8 dated 26.09.2012 and Ex.P3 dated 08.10.2012;

(v) the inconsistencies concerning the circumstances in which the attesting witness came to be contacted and examined; and

(vi) the absence of sufficiently satisfactory independent evidence explaining the circumstances in which the original Will came to be acted upon immediately after the death of the testator.

25.None of these circumstances, considered individually, would necessarily invalidate a Will. The question, however, is whether the propounder have satisfactorily removed the cumulative doubt created by them. On an overall assessment of the evidence, this Court is unable to hold that the plaintiffs have discharged that burden. The plaintiffs, as propounders of Ex.P2, have failed to dispel the legitimate suspicious circumstances surrounding the Will to the satisfaction of the Court.

26.The mere fact that Ex.P.2 is registered cannot alter this conclusion. Registration may constitute a circumstance supporting genuineness, particularly

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where the evidence of registration demonstrates that the testator admitted execution with knowledge of the document. But registration does not dispense with the statutory requirement of proof of due execution and attestation. Likewise, the evidence of one attesting witness satisfies the mode of proof only if that evidence establishes the statutory requirements. In the present case, although C.W.1 has spoken to execution and attestation, his evidence must be viewed against the other circumstances, and the Court is not satisfied that his testimony, by itself, removes the doubts arising from the surrounding evidence.

27.The Hon'ble Supreme Court has reiterated that in testamentary proceedings the Court must ultimately satisfy its conscience, having regard to the totality of circumstances, as to whether the document propounded is in fact the last Will of the deceased and is the product of his free and sound disposing mind. Applying the above principles, this Court finds that the plaintiffs have failed to establish Ex.P2 to the standard required in a contested testamentary proceeding. The plaintiffs have miserably failed to remove the cloud over the issue of suspicious, surreptitious, surrounding circumstances. As rightly pointed out by the learned counsel for the defendants, it is apparently made clear that, taking advantage of the family situations and the old age of AVM.Murugan, the plaintiffs have influenced the testator and created Ex.P2 Will.

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28.As regards non-joinder, the natural heirs of the deceased who are necessary parties to the testamentary proceedings are before the Court. The objection regarding non-joinder therefore does not survive for consideration.

29.In view of the findings recorded above, the plaintiffs are not entitled to grant of Letters of Administration with the Will dated 24.11.2008 annexed thereto.

30.In the result, TOS.No.26 of 2014 is dismissed. No costs.

30-10-2026

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

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K.GOVINDARAJAN THILAKAVADI J.

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