



WEB COPY

A No. 6054 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-01-2026

CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

**A No. 6054 of 2025
in T.O.S.No.25 of 2022**

1. H.Rajkumar
S/o.Late Harichand K, No.6,
M.G.R.Salai, Palavakkam, ECR,
Chennai - 600 041.

Applicant(s)

Vs

1. H.Sanjay
S/o.Late Mr.Harichand K, flat No.18,
5th Floor, Gee Gee Castle, No.186,
Avvai Shamugam Salai, Gopalapuram,
Chennai 600 086.

Respondent(s)

PRAYER: Application is filed to grant an order summoning Mrs.Sunita Goyal, residing at 18, Gee Gee Castle, 186, Lloyds Road, Gopalapuram, Chennai 600 086 to tender evidence in T.O.S.No.25 of 2022 before this Honble Court.

For Applicant : Ms.M.Meenatchi
for Mr.U.Venkatesh

For Respondent: Mr.Duraikkan.S



ORDER

This application has been filed by the applicant / defendant seeking to summon a witness who is said to be one of the attestors of the subject Will.

2. Even though the plaintiff has to examine the attesting witnesses, the learned counsel for the respondent / plaintiff submitted that she has examined the first attesting witness and the scribe of the will and he has discharged his burden to prove the genuineness of the Will. So it is stated that summoning the other witness is an unnecessary exercise which is being done by the applicant / defendant to delay the proceedings.

3. The learned counsel for the applicant / defendant submitted that the first attesting witness had come to the witness box and stated that he does not know anything about the health condition of the testator and he is an insufficient witness to prove the genuineness of the Will.

4. The burden is on the plaintiff to prove the genuineness of the Will and the defendant can take advantage in case the plaintiff's evidence is not sufficient to discharge the burden, the defendant has come forward with this application by believing that the Will cannot be true.



5. After all, the witness is going to be summoned as one of the attesting witness and examining her will not cause any prejudice to the respondent / plaintiff. It is not the apprehension of the respondent / plaintiff that the witness sought to be summoned has got any hostility against the plaintiff. Even though the plaintiff has not opted to examine the above witness, the defendant is taking steps to summon the witness. Hence, I do not find any reason for not considering this application positively.

6. As the respondent / plaintiff is not apprehensive of any prejudice but only about the delay of the proceedings, the applicant / defendant has to ensure that all steps consequent to allowing this application be taken without causing any delay.

7. With these above observation, this application is allowed. Batta should be paid for summoning the witness.

12-01-2026

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

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R.N.MANJULA J.

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