



A.S.(MD)Nos.115 & 116 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 25.03.2026

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**A.S.(MD)Nos.115 & 116 of 2013
&
M.P.(MD)No.1 of 2013**

In A.S.(MD)No.115 of 2013

- 1.PR.Kumarappan (died) ... 1st Appellant / 1st Plaintiff
- 2.PR.Nagappan @ Rathnam
- 3.M.Valliammai
- 4.M.Visalakshmi
- 5.M.Adaikkammai ... Appellants 2 to 5 /
Plaintiffs 3 to 6
- 6.KM.Periakaruppan
- 7.K.M.Chidambaram
- 8.Visalakshi ... Appellants
(Appellants 6 to 8 are brought on record as LR
of the deceased 1st appellant vide order dated 01.04.2024
made in C.M.P.(MD)Nos.10802, 10804 & 10805 of 2023
in A.S.(MD)No.115 of 2013 by NSSJ & PVMJ)



A.S.(MD)Nos.115 & 116 of 2013

Vs.

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1.PR.Venkatachalam (died)

... 1st Respondent /
1st Defendant

2.M.Vasantha

3.M.Umayal

4.R.Meenal

5.S.Kalaiselvi

6.N.K.N.Syed Suhara

7.A.K.S.Mohamed Farook

8.Jeevanandham

9.M/s.Pharmaceuticals and Chemicals,
(Trav) Private Limited,
Vanchiyoora (Post),
Thiruvananthapuram-695 035.

10.M/s.Maheswari Developer (P) Limited,
No.4, Kailash Bose Street,
Calcutta-700 006.

11.M/s.Maheswari Developer (P) Limited,
146, Mint Street,
Chennai-600 079.

12.Valliyammai

13.Visalakshi

14.K.Periakaruppan

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15.V.Visalakshi

16.V.Mohan

17.R.M.Suganya

... Respondents

(Respondents 15 to 17 are brought on record as LRs of the deceased 1st respondent vide Court order dated 23.09.2025 made in C.M.P.(MD)Nos.12608, 12609 & 12612 of 2025 in A.S.(MD)No.115 of 2013 by CVKJ & RVJ)

PRAYER: Appeal Suit filed under Section 96 of the Civil Procedure Code praying this Court, to pass a Judgment and decree allowing the appeal filed by the appellants, setting aside the Judgment and decree dated 27.03.2013 passed by the Principal District Court, Trichirappalli in O.S.No.91 of 2007, thereby decreeing the suit with costs.

For Appellants : Mr.Anand Chadraserkar
for M/s.Sarvabhman Associates

For Respondents : Mr.H.Lakshmi Shankar
for Mr.Karl Marx for R3 & R4

: Mr.H.Lakshmi Shankar
for Mr.M.Saravanan for R2

: Mr.H.Lakshmi Shankar
for Mr.R.Subramanian for R14

: Mr.H.Lakshmi Shankar
for Mr.M.Saravanan for R13

: Mr.H.Lakshmi Shankar
for Mr.A.Kavin Prasath for R12



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: No appearance for R5, R16 & R17

In A.S.(MD)No.116 of 2013

- | | |
|-------------------------|---|
| 1.PR.Kumarappan (died) | ... 1 st Appellant / 1 st Defendant |
| 2.PR.Nagappan @ Rathnam | ... 2 nd Appellant / 3 rd Defendant |
| 3.M.Valliammai | |
| 4.M.Visalakshmi | |
| 5.M.Adaikkammai | ... Appellants 3 to 5 /
Defendants 8 to 10 |
| 6.KM.Periakaruppan | |
| 7.K.M.Chidambaram | |
| 8.Visalakshi | ... Appellants |
- (Appellants 6 to 8 are brought on record as LR's
of the deceased 1st appellant vide order dated 01.04.2024
made in C.M.P.(MD)Nos.10808, 10810 & 10812 of 2023
in A.S.(MD)No.116 of 2013 by NSSJ & PVMJ)

Vs.

- | | |
|---------------------------|---|
| 1.Valliammai | |
| 2.Visalakshi | |
| 3.K.Periakaruppan | ... Respondents 1 to 3 /
Plaintiffs 2 to 4 |
| 4.PR.Venkatachalam (died) | |
| 5.M.Vasantha | |
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6.Umayal

7.R.Meenal

... Respondents 4 to 7 /
Defendants 4 to 7

8.V.Visalakshi

9.V.Mohan

10.RM.Suganya

... Respondents

(Respondents 8 to 10 are brought on record as LR's
of the deceased 4th respondent vide Court order dated
14.10.2025 made in C.M.P.(MD)Nos.12613, 12615 & 12616 of
2025 in A.S.(MD)No.116 of 2013 by CVKJ & RVJ)

PRAYER: Appeal Suit filed under Section 96 of the Civil Procedure Code praying this Court, to pass a Judgment and decree allowing the appeal filed by the appellants, setting aside the Judgment and decree dated 27.03.2013 passed by the Principal District Court, Trichirappalli in T.O.S.No.1 of 2007, thereby decreeing the suit with costs.

For Appellants : Mr.Anand Chadraserkar
for M/s.Sarvabhuman Associates

For Respondents : Mr.H.Lakshmi Shankar
for Mr.A.Kathiresan for R1

: Mr.H.Lakshmi Shankar
for M.Saravanan for R2

: Mr.H.Lakshmi Shankar
for Mr.R.Subramanian for R3



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: Mr.H.Lakshmi Shankar
for Mr.M.Karl Mark for R6 & R7

: No appearance for R5, R8 & R9

COMMON JUDGMENT

(By G.R.SWAMINATHAN, J.)

This appeal pertains to the estate of One KM.Periakaruppan Chettiar. He died on 03.12.1999 leaving behind five sons and three daughters. The five sons are PR.Kumarappan, PR.Muthu Veerappan, PR.Nagappan @ Rathnam, PR.Venkatachalam and PR.Kannan. The daughters are Vasantha, Umayal and Meenal. PR.Kumarappan, PR.Muthu Veerappan & PR.Nagappan @ Rathnam filed O.S.No.297 of 2000 on the file of the Sub Court, Pudukottai seeking the relief of partition and separate possession and mean profits. This suit was subsequently transferred to the Principal District Court, Pudukkottai and renumbered as O.S.No.34 of 2004. In the meanwhile, PR.Kannan who was shown as the second defendant in the partition suit propounded that Periakaruppan Chettiyar had executed a registered Will dated 27.05.1994 in his favor. Seeking letters of administration, he filed O.P.No.482 of



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2002 on the file of the original side of the Madras High Court. Since the respondents in that OP contested the due execution of the Will, the OP was converted as T.O.S.No.41 of 2002. Vide order dated 03.04.2007, the TOS as well as the partition suit were transferred to the Principal District Judge, Trichy and they were renumbered as O.S No.91 of 2007 and T.O.S.No.1 of 2007.

2.The case of the plaintiffs in the partition suit was that Periyakarupan Chettiyar died leaving behind five items of immovable property. According to them, the Will dated 27.05.1994 said to have been executed by Periyakaruppan Chettiyar was not valid or genuine. They specifically alleged that it was a product of undue influence brought about by PR.Kannan and his wife. The plaint averments were controverted by PR.Kannan. The three daughters supported the stand of PR.Kannan. During the pendency of the suit, PR.Kannan passed away and his legal heirs were brought on record. However, before his demise, PR.Kannan had examined himself as P.W.1. The attestors of the Will, namely, K.Soundararajan and Rajagopal were examined as P.W.2 and P.W.3. Ex.A1 to Ex.A6 were marked. On the side of the defendants,



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PR.Kumarappan and PR.Venkatachalam were examined as D.W.1 and D.W.3. A family friend, by name, Kumar was examined as DW.2. Ex.B1 to Ex.B29 were marked on the side of defendants in TOS. The learned Trial Judge, after considering the evidence on record, vide judgment and decree dated 27.03.2013, dismissed the partition suit and allowed T.O.S.No.1 of 2007 and granted letters of administration. Aggrieved by the same, these appeals have been filed. A.S.(MD)No.115 of 2013 is directed against the dismissal of the partition suit, while A.S.(MD)No. 116 of 2013 is directed against the allowing of T.O.S.No.1 of 2007.

3.The learned counsel appearing for the appellants reiterated the grounds set out in the grounds of appeal. He contended that the Will was not duly executed and that the Court below failed to take into account the suspicious circumstances surrounding the alleged execution of the Will. According to him, the following are the suspicious circumstances :

A) Place of execution: - Periakaruppan Chettiar was based in Bangalore but the Will was registered in Rasipuram;



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- B) Language of the Will: Even though Periakaruppan Chettiar had studied only up to intermediate, the language of the Will was in English which was of a fairly high order;
- C) Preparation of the Will: There was nothing on record to show who had prepared the Will.
- D) The evidence on record does not indicate that the executant had understood the contents of the Will before his signature was affixed;
- E) The executant was residing with P.R Kannan. It was only on account of the undue influence brought about by P.R Kannan and his wife, the Will came to be executed and registered.
- F) Even though the executant was blessed with five sons, he had disinherited four of them. One reason given in the Will was that the sons had filed a partition suit against the testator during his lifetime. While this might be true in the case of in the case of three of the sons, PR.Kumarappan was not the plaintiff in the partition suit.
- G) Periyakaruppan Chettiyar had executed a power of attorney in favour of Kumarappan authorizing him to manage the day-to-day



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administration of the PKN Trust that was run by the family. This indicates that there was good will between the father and the sons and therefore, bequest made in favour of one son to the exclusion of others does not appear to be normal.

4. According to the learned counsel for the appellants, the testimonies of P.W.2 and P.W.3 are not sufficient to prove the due execution of the Will in terms of Section 68 of the Indian Evidence Act, 1872. He pointed out that once the Will is eschewed and held to be not proved, the partition suit should have been decreed as prayed for. He called upon this Court to set aside the impugned judgment and decree passed by the Court below.

5. Per Contra, the learned counsel appearing for the contesting respondents submitted that the Judgment of the Court below is well reasoned and that it does not call for interference.

6. We carefully considered the rival contentions and went through



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the evidence on record.

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7.The primary point that arises for determination is whether the suit Will Ex.A1 had been duly proved by the propounder of the Will. It is well settled that the person who is propounding the Will has to prove the same and this legal burden cannot shift.

8.Let us address the suspicious circumstances pointed out by the learned counsel appearing for the appellants by applying the standard set out in the decision reported in (1982) 1 SCC 20. It was held therein that a circumstance would be “suspicious” when it is not normal and it is not normally expected in a normal situation or is not expected of a normal person.

9.It is true that even though Periyakaruppan Chettiyar was blessed with five sons, apart from three daughters, he chose to disinherit as many as four of them. It is well settled that deprivation of a natural heir, by itself, may not amount to a suspicious circumstance because the whole idea behind the execution of the Will is to interfere with the normal line of succession (vide ***Rabindra Nath Mukherjee v. Panchanan Banerjee, (1995) 4 SCC 459***). Therefore, from the fact of disinheritance, one



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cannot disbelieve the due execution of the Will.

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10. During his lifetime, three of the sons, namely, PR.Muthu Veerappan, PR.Nagappan @ Rathnam and PR.Venkatachalam had instituted a partition suit against the father on the ground that the suit properties herein are joint family properties and not the self acquired properties of Periyakaruppan Chettiyar. The contest went right upto LPA before the Madras High Court and was eventually dismissed. Therefore, Periyakaruppan Chettiar naturally harboured resentment against those sons and disinherited them. It is true that Kumarappan did not figure as one of the plaintiffs in the partition suit. But the father entertained a strong notion that Kumarappan was also actively supporting the plaintiffs in that suit. In fact, the averments in the written statement filed by Periyakaruppan Chettiar in O.S.No.124 of 1984 bear this out. The copies of the Judgment rendered in O.S.No.124 of 1984, Appeal No.126 of 1986 and L.P.A.No.124 of 1997 were marked as Ex.A3 to Ex.A6. From this one can safely conclude that the testator had sufficient justification for disinheriting four out of the five sons.

11. It is true that Periyakaruppan Chettiyar was residing at



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Bangalore. But one of the daughters, namely, Umayal was residing in Rasipuram. It is also admitted in the evidence of DW.1 and DW.3 that their father visited his daughters frequently. We do not, therefore, find anything unusual or amiss in the registration of Ex A1-Will at Rasipuram Sub Registrar Office.

12.It is true that the Will has been drafted in English. We went through the contents of the Will. It is definitely in chaste English and it has probably been drafted by a lawyer. But a person who had studied in the pre-independent days upto intermediate can be attributed with good knowledge of English.

13.The burden cast on the propounder of the Will is to examine at least one of the attestors of the Will. Soundarrajan, Advocate and E.Rajagopal, Advocate-Clerk had attested the Will. Both of them had been examined as PW.2 and PW.3. PW.2 deposed that he knew the testator right from 1984. He further testified that the suit Will was prepared on the basis of the instructions given by the testator himself. According to him, the testator was in a sound and disposing state of mind



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when he executed the Will. He clearly deposed that he saw the testator affixed signature in the Will and that he attested the Will in the presense of the testator. The testimony of PW.3 is also on the same lines. The attestors testified that the testator came to the office of PW.2 on 27.05.1994 at about 10.00 A.M and that the Will was prepared by around 01.00 P.M and that it was presented for registration at 04.00 PM and registered as 04.30 P.M on the same day. Their testimony could not be shaken during cross examination.

14.The learned counsel appearing for the appellant strongly contended that Kannan / beneficiary of the Will and his wife had exerted undue influence on Periyakaruppan Chettiyar. It was held in ***Sashi Kumar Banerjee v. Subodh Kumar Banerjee (AIR 1964 SC 529)*** that while the onus of proving the Will is on the propounder, the onus of proving the allegation of undue influence, fraud and coercion would be on the person making it. The allegation of undue influence has not at all been established by adducing sufficient and convincing evidence.

15.What clinches the issue in favour of the contesting respondents



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is that the Will was executed as early as on 27.05.1994. The death of the testator took place 5½ years later ie., on 03.12.1999. It is quite possible that some kind of rapprochement took place during the intervening years between the father and the sons. Probably, that was why Thiru.P.R.Kumarappan was authorised to take care of the day to day administration of the family trust. But this rapprochement was not sufficient enough to cause revocation of the Will that was already executed and registered on 27.05.1994.

16. Another clinching evidence in favour of the legatee P.R.Kannan is Ex.A2 Paper Publication which was given on 16.06.1994. This paper publication was given in the name of Periyakaruppan Chettiyar by PW2-Soundararajan who was also his advocate. The paper publication was not made in some little known newspaper. It was made in Dhina Thanthi which has very wide circulation. In the said notification, the testator had specifically referred to the Will dated 27.05.1994. This paper publication was made on 16.06.1994 which was within a month from the date of the execution of the Will.



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17.All these factors had satisfied the judicial conscience of the trial judge in coming to the conclusion that Ex.A1-Will had been duly proved by the propounder. We respectfully concur with the reasons assigned by the learned Trial Judge. Once we hold that Ex.A1 Will had been duly proved, the natural corollary is that the partition suit has to be dismissed. We do not find any merit in both these appeals.

18.The Appeal Suits stand dismissed. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (R.P., J.)
25.03.2026

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To

The Principal District Judge, Trichirappalli.

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