

SA(MD).No.763 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Judgment reserved on 05.06.2026	Judgment pronounced on 24.06.2026
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THE HON'BLE MR. JUSTICE P.B.BALAJI

SA(MD) No.763 of 2022 and
CMP(MD).Nos.11522, 11523 and 2022

A. Tamilselvi

... Appellant / defendant

Vs.

1. Premalatha

2.T. Kumar

.. Respondents / defendants

Prayer : Second Appeal filed under Section 100 CPC against the Judgment and Decree dated 12.01.2022 and made in A.S.No.86 of 2019 on the file of the learned Additional Subordinate Judge, Palani confirming the Judgment and decree dated 20.08.2019 and made in O.S.No.318 of 2013 on the file of the District Munsif Court, Palani.

For Appellant	: Mr.N.Dilip Kumar for Mr.S.R. Suresh Kumar
For respondent No. 1	: Mr.M. Ponniah
For respondent No.2	: Mr. A. Natarajan



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JUDGMENT

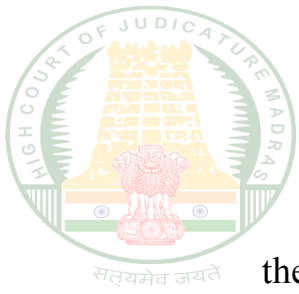
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The unsuccessful plaintiff in a suit for declaration and permanent injunction, aggrieved by the findings of the Trial Court as well as the First Appellate Court, has preferred the present Second Appeal under Section 100 CPC, seeking interference.

2. The Second Appeal was admitted by this Court on 19.12.2022 on the following substantial questions of law:

1) Whether the Courts below are right in rejecting the Will under EX.A3 debors the appellant satisfied the requirements mandated under Section 63 of the Indian Succession Act, 1925 and Section 68 of the Indian Evidence Act, 1872?

2) Whether the Courts below are right in holding that no reasons are given under Ex.A3 as to why the 1st defendant being one of the legal heirs is excluded especially when the specific reason was assigned tht the 1st defendant without maintaining cordial relationship with the parents living without maintaining



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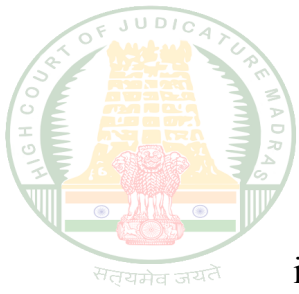
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the matrimonial relationship with her husband?”

3. I have heard Mr. N. Dilipkumar, assisted by Mr.S.R. Suresh Kumar, learned counsel appearing for the appellant; Mr. M. Ponnaiah, learned counsel appearing for the first respondent; and Mr. A. Natarajan, learned counsel appearing for the second respondent. I have gone through the records, including the pleadings, oral as well as documentary evidence, the judgments of the Courts below, and the authorities upon which reliance has been placed by the counsel for the parties.

4. The brief facts that may be necessary for adjudication of the substantial questions of law are as follows:

i) The plaintiff is the daughter of one Ponnammal, who was the original owner of the suit property, having purchased the same by a registered sale deed dated 30.03.1994. The plaintiff was born to the said Ponnammal and Palraj. Apart from the plaintiff, Ponnammal and Palraj were also blessed with a son, namely Lawrence Pitchai, and another daughter, Premalatha.



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ii) The plaintiff claimed that her mother, Ponnammal, had executed a Will on 29.07.2005, bequeathing the suit properties absolutely to the plaintiff, while providing a life interest in favour of her father, Palraj, without any power of alienation during his lifetime. Consequent upon the demise of her mother on 04.02.2005 and her father on 06.03.2009, the plaintiff mutated the revenue records in her name. She also executed a mortgage deed, exercising her alleged absolute right over the suit properties, on 14.02.2011, which was also subsequently redeemed on 27.11.2011. According to the plaintiff, her sister, suppressing the existence of the Will, created a sale deed, in collusion with the second defendant, on 09.04.2010, conveying a non-existent one-third share in the suit property. Complaining of interference with her possession and enjoyment of the suit properties in the year 2013, the plaintiff filed the suit seeking a declaration that she is the absolute owner of the suit properties, a declaration that the sale deed dated 09.04.2010 executed by the first defendant in favour of the second defendant is not binding on the plaintiff, and a consequential relief of permanent injunction.

(iii) The sister of the plaintiff, namely the first defendant, filed a written statement, which was more or less adopted by the purchaser,



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namely the second defendant, as well. In the said written statement, the first defendant categorically denied the execution and genuineness of the Will dated 29.07.2005. It was further contended by the first defendant that the mother did not have any independent source of income and that it was only the father, Palraj, who had purchased the suit properties in the name of Ponnammal. Taking advantage of the absence of the first defendant at the time of the execution and the illness of Ponnammal, who was allegedly not in a sound state of mind, the Will is said to have been fraudulently brought about.

(iv) At trial, on the side of the plaintiff, the plaintiff examined herself as PW.1, one of the attesting witnesses to the Will dated 29.07.2005 as PW.2, the document writer as PW.3, and the Notary Public as PW.4. On the side of the defendants, three witnesses were examined and Exs.B1 to B17 were marked. The first defendant was examined as DW.1, Deiva Nayaki, wife of the brother, Lawrence Pitchai, was examined as DW.2, and D. Kumar, the second defendant, was examined as DW.3.

v) The Trial Court as well as the First Appellate Court, after considering the pleadings and all the oral and documentary evidence



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available on record, disbelieved the Will propounded by the plaintiff and denied the reliefs sought by her. Aggrieved by such concurrent findings of the Courts below, the present Second Appeal has been preferred.

5. Mr. N. Dilip Kumar, learned counsel appearing for the appellant, first and foremost contended that the defendants had taken a definite stand of total denial of the execution and validity of the Will, and that they had not pleaded any suspicious circumstances surrounding its execution. His primordial submission is, therefore, that in the absence of any pleading in the written statement questioning the due execution and attestation of the Will, the defendants could neither have led any amount of evidence during the trial on such aspects, nor could the Courts below have relied upon the same, to non-suit the plaintiff, when it came to proof of the due execution and attestation of the Will of Ponnammal. Mr. N. Dilip Kumar, learned counsel for the appellant, would also take me through the recitals of Ex.A3 - Will to fortify his submission that the testatrix, namely the mother of the plaintiff, had given valid reasons for disinheriting her son, Lawrence Pitchai, and the first defendant, her daughter Premalatha, who never chose to live with the mother, and that it was only the plaintiff who lived with the mother at Palani and took care of her during her last years. The learned



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counsel therefore contended that once the Will is proved by examining one of the attesting witnesses, the burden of proof on the propounder stands discharged, and in the instant case, by examining PW.2, the husband of the plaintiff, the said burden has been fully discharged by the plaintiff as the propounder. Further, he would also point out that even the husband of the testatrix, namely the father of the plaintiff and the first defendant, was one of the attesting witnesses to the Will, and in view of his subsequent demise, he could not be examined. Mr. Dilip Kumar, learned counsel, would further point out that Ponnammal, the mother, had also granted a life interest to her husband, who survived Ponnammal and died much later, only in the year 2009. He would therefore submit that there was nothing unnatural in the bequest made in favour of the appellant/plaintiff, and that the Courts below had misdirected themselves by giving undue weightage to the circumstances alleged to be suspicious and surrounding the execution of the Will, despite there being no pleadings to such effect.

6. Mr. N. Dilip Kumar would also take me through the evidence of the attesting witness, namely the husband of the plaintiff, the evidence of the document writer, as well as that of the Notary Public, to contend that nothing more was required to be done by the plaintiff-propounder to prove



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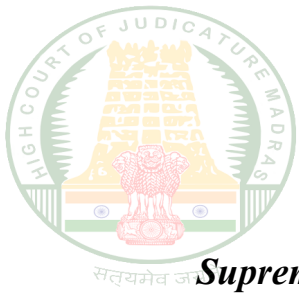
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the execution of the Will of Ponnammal. He would further submit that, suppressing the execution of the Will, the first defendant had fraudulently encumbered one-third share of the property in favour of the second defendant, and that the said document would clearly not bind the plaintiff, especially when the mother had bequeathed the entire suit properties in her favour by Ex.A3.

7. In short, Mr. Dilip Kumar, learned counsel for the appellant, would submit that all the requirements contemplated under Section 68 of the Indian Evidence Act and Section 63(c) of the Indian Succession Act have been proved beyond any *iota* of doubt. Unfortunately, however, the Trial Court as well as the First Appellate Court imputed several suspicious circumstances, which were not even pleaded in the written statement, against the plaintiff and proceeded to disbelieve the Will, ultimately resulting in the dismissal of the suit.

8. In support of his submissions, the learned counsel appearing for the appellant relied upon the following judgments:

1) The judgment of the Hon'ble Supreme Court, reported in **2017 (8)**



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Supreme Court Cases 592 in the case of **Jaspl Kaur Cheema and another.**

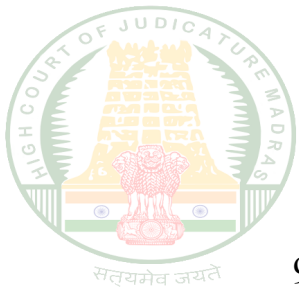
2) The judgment of the Hon'ble Supreme Court, reported in **2024 (15) Supreme Court Cases 202** in the case of **Derek A.C. Lobo and others Vs. Ulric M.A. Lobo (dead) by legal representatives and others.**

3) The judgment of the Hon'ble Supreme Court, reported in **2025(2) SCC 204** in the case of **Gopal Krishan and others Vs. Deaulat Ram and others.**

4) The judgment of the Hon'ble Supreme Court, reported in **2024(4) SCC 247** in the case of **Thangam and another Vs. Navamani Ammal.**

5) The judgment of the Hon'ble Supreme Court, reported in **2009(7) SCC 444** in the case of **Ramdas Vs. sitabai and others.**

6) The judgment of this Court dated **20.06.2022**, made in **SA(MD).Nos. 1134 and 1196 and 1198 of 2008**, in the case of **Chellasamy Vs. S. Manikandan and others.**



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9. In reply, Mr. M. Ponnaiah, learned counsel for the first respondent, sister of the plaintiff, would firstly contend that the Courts below have appreciated the pleadings in the light of oral and documentary evidence brought on record by the parties in a judicious manner and proper perspective, and that such concurrent findings of fact do not deserve interference under Section 100 of the Code of Civil Procedure. Mr. Ponnaiah, learned counsel, would also highlight the disinheritance of the son, Lawrence Pitchai, from any share, and the fact that no reasons were assigned for such disinheritance. He would also take me through the contents of the Will and contend that the contents clearly establish the fact that the Will was created after the lifetime of Ponnammal, and that was the reason why the marital discord between the first defendant and her husband was also referred to in the Will, and the same could not have been clearly referred to, if the Will had really been executed on the alleged date of execution.

10. Mr. Ponnaiah, learned counsel, in this regard, would take me through Ex.A15, the order passed in the divorce petition, and invite my specific attention to the stand taken by the husband of Ponnammal, illustrating the marital discord between the first defendant and her husband



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and would therefore rest his arguments, insofar as this issue is concerned, by stating that the Will was created after the demise of Ponnammal.

11. Mr. Ponnaiah, learned counsel, would also point out the manner in which Ex.A3 – the Will has been executed, especially the spacing on the last page of the Will and the regular spacing throughout, as well as the attestation by four witnesses, which itself is unusual. He would also point out that a casual perusal of the Will suggests that the signatures of two witnesses were merely *juxta-posed*, which, according to him, was done to add strength to the fabricated Will.

12. Apart from the above, he would also take me through the evidence of the witnesses examined on the side of the plaintiff to contend that not only has the due execution and attestation of the Will not been proved, but the suspicious circumstances surrounding its execution have also not been dispelled by the propounder. Additionally, he would point out that the son's name was Lawrence Pitchai and not Lawrence, and that he was never referred to as Lawrence alone anywhere by the mother and strongly, the Will describes the son merely as Lawrence, and this was yet another serious suspicious circumstance projected by the learned counsel



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13. Mr. Ponnaiah, learned counsel, would further contend that there is no evidence with regard to the custody of the Will and the delay in disclosing the said Will. He would further state that, despite alleging and claiming that the father, Palraj, himself had attested the Will and was a beneficiary thereunder, during the lifetime of the father, the Will was never disclosed either to the first defendant or to the brother, Lawrence Pitchai, which again creates serious doubts with regard to the genuineness of the claim of the plaintiff under Ex.A3 Will. In such circumstances, it is argued by Mr. Ponnaiah that the alienation of a one-third share devolving upon the first defendant on the demise of Ponnammal intestate, cannot be faulted or questioned by the plaintiff. He would also state that though the first defendant executed a sale deed in favour of the second defendant on 09.04.2010, the same was not challenged within the period of limitation.

14. He would further contend that there was no necessity for the plaintiff to borrow any money, much less a sum of Rs.50,000/-, by mortgaging the property, and it is his forceful submission that the mortgage was created and subsequently discharged within a few months

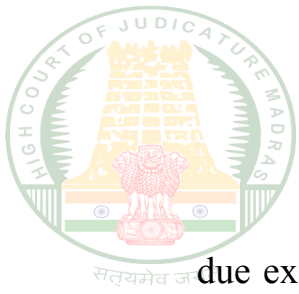


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only in order to give a colour of genuineness to the said Will. Pointing out to the fact that the very same document writer had been assisting the family throughout, he would contend that there was no necessity for Ponnammal, the mother, to engage the services of PW.3 solely for the purpose of preparing Ex.A3 Will, which again highlights the suspicious circumstances surrounding the document. He would also take me through the Will and point out that the address of the scribe was not mentioned therein and that the plaintiff was successful in mentioning the correct address of the scribe and serving summons upon him in the year 2018, when there was no occasion for the plaintiff to know the whereabouts of the scribe of Ex.A3, leave alone his address. This circumstance, according to the learned counsel, further strengthens the suspicion surrounding the Will.

15. Mr. Ponnaiah, learned counsel, would further state that the first defendant had categorically denied not only the signature of the mother but also that of the father, who is alleged to have attested the Will, and in such circumstances, the burden heavily rested upon the propounder to prove the due execution and attestation of the Will as required under law. In this regard, it is his submission that the evidence of PW.2 falls short of proving

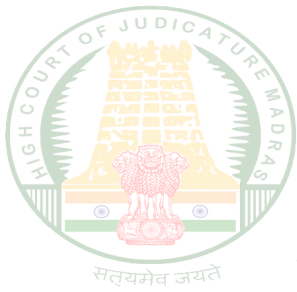


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due execution and attestation of the Will. He would also take me through the apparent differences in the signatures of the father found in the Will and those found in the admitted documents marked before the Trial Court. He would also further point out inconsistencies in the evidence of PW.2 and PW.3.

16. As regards the argument of Mr. Dilip Kumar that suspicious circumstances had not been pleaded, Mr. Ponnaiah would contend that when fraud itself has been alleged, the same would necessarily encompass suspicious circumstances as well. Therefore, according to him, the Courts below cannot be faulted for discussing the several suspicious circumstances that were highlighted during the trial of the suit and rendering a finding that the Will was neither a true nor a genuine testamentary instrument. Lastly, the learned counsel would contend that the non-impleadment of Lawrence Pitchai is also fatal, particularly when a declaration has been sought. Regarding the maintainability of the suit, he would further contend that Jeyasurya, a party to Ex.A11 sale deed, has also not been impleaded, despite the plaintiff seeking a declaration that the said sale deed is not valid and binding, and more particularly when the plaintiff seeks a declaration that the sale deed dated 09.04.2010 is null and void.



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17. In support of his contentions, he relied upon the following judgments:

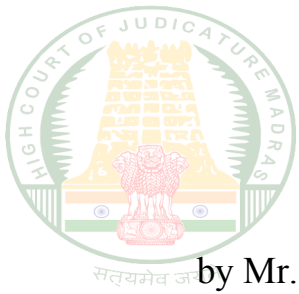
1) The judgment of this Court, reported in **2024 Supreme (Online) (MAD) 4014** in the case of **M.Ramadoss Vs. M. Sarada devi.**

2) The Judgment of this Court, reported in **2024 Supreme (Mad) 2024** in the case of **Bommi Vs. Dhinakaran.**

3) The Judgment of the Hon'ble Supreme Court, reported in **2017 SAR (Civil) 165** in the case of **Ramesh Verma (D) through Lrs Vs. Lajesh Saxena (D) by Lrs and another.**

18. I have carefully considered the submissions of the learned counsel on either side. Mr. A. Natarajan, learned counsel appearing for the second respondent, adopted the submissions of Mr. Ponnaiah. He would submit that he is only a purchaser claiming under the first respondent herein and prayed for dismissal of the Second Appeal.

19. Insofar as the additional substantial questions of law suggested



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by Mr. Ponnaiah during the course of arguments, pertaining to the issues of non-joinder of necessary parties and limitation, are concerned, considering that the Second Appeal has been admitted on the substantial questions of law touching upon the due execution and attestation of Ex.A3-Will, and that the dispute revolves primarily around the said Ex.A3-Will, I do not deem it necessary to frame any other additional substantial questions of law. If the appellant ultimately succeeds in this case and is able to convince this Court that Ex.A3-Will has been duly proved in a manner known to law, then alone would the questions relating to the challenge to the sale deed executed by the first defendant in favour of the second defendant and the issue of non-joinder would arise for consideration. In view of the above, in the present case, I shall first deal with Ex.A3-Will, the testamentary document marked as Ex.A3, and examine whether the plaintiff has been successful in discharging the burden insofar as due execution and attestation of Ex.A3-Will is concerned.

20. The relationship between the parties is not in dispute. The plaintiff is one of the daughters of Ponnammal and Palraj, who claims absolute entitlement to the suit properties under Ex.A3-Will. Ex.A3-Will is said to have been executed by the mother, Ponnammal. No doubt, the first



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defendant had initially taken a plea in the written statement that the mother did not have any independent source of income and that it was a benami purchase made by the father, Palraj, in her name. However, no evidence has been adduced with regard to the plea of benami, and the Courts below have rightly proceeded on the footing that the property was the absolute property of Ponnammal, the mother. The question that therefore remains is whether the mother had actually executed her last Will and testament under Ex.A3, bequeathing the suit properties exclusively to one daughter, namely the plaintiff, while disinheriting the son, Lawrence Pitchai, and the other daughter, the first defendant, Premalatha. Firstly, I shall deal with the argument of Mr. Dilip Kumar, with regard to the absence of pleadings relating to suspicious circumstances. Even according to Mr. Dilip Kumar, in the written statement, the defendants had taken a plea of total denial of the execution of the Will. They disputed the very factum of execution of the Will by the mother, Ponnammal, as well as the alleged attestation by the father, Palraj. In such circumstances, it became incumbent upon the plaintiff to prove the due execution and attestation of the Will by leading satisfactory oral evidence and such documentary evidence as may be available and admissible in law. It was only in the course of such an attempt to prove Ex.A3-Will that evidence was adduced on the side of the



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plaintiff with regard to its execution and attestation.

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21. Therefore, the first opportunity available to the first defendant to raise suspicions with regard to the execution and attestation of the Will arose only during the course of the trial, when attempts were made to prove its execution and attestation in the manner required under law. In such circumstances, in a case of this nature, where the execution of the Will itself has been denied, I do not find the absence of specific pleadings regarding suspicious circumstances to be fatal to the defence of the defendants. It is by now a settled position of law that even when a Will is proved to have been duly executed and attested in a manner known to law, if the Court finds suspicious circumstances surrounding the execution of the said Will, the propounder is duty-bound to dispel the same by adducing satisfactory evidence. In view of the above discussion, I am unable to accept the forceful arguments of Mr. N. Dilip Kumar that, in the absence of any pleading with regard to suspicious circumstances, it was not open to the defendants to project the same in order to non-suit the plaintiff and persuade the Court to disbelieve the Will.

22. Coming to the aspect of proof of execution and attestation of the

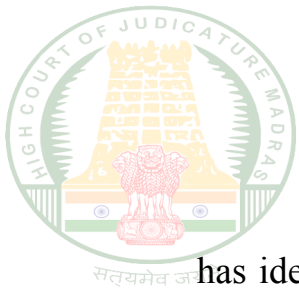


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Will, Section 68 of the Indian Evidence Act, read with Section 63(c) of the Indian Succession Act, specifically sets out the manner in which a testamentary instrument, such as a Will, has to be proved in a Court of law. In this regard, the evidence of PW.2 assumes significance. He is one of the four attesting witnesses alleged to have attested Ex.A3-Will. An argument was also advanced by Mr. Ponnaiah, learned counsel for the first respondent, that the said witness is an interested witness, being the husband of the sole beneficiary, and therefore no credence can be given to his evidence. There is no straight-jacket formula with regard to the choice of attesting witnesses, and merely because the husband of the sole beneficiary is one of the attesting witnesses it cannot, by itself, be a sole ground to disbelieve the Will. However, at this juncture, I shall proceed to examine his evidence, which assumes significance.

23. In his chief examination, the husband of the appellant has chosen to file a proof affidavit. On going through the said proof affidavit, I find that although an elaborate narration has been set out with regard to the manner in which the testatrix, Ponnammal, executed Ex.A3-Will, there is not even a whisper regarding the identification of the signature of the testatrix by PW.2. There is absolutely no *iota* of evidence by which PW.2



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has identified the signature of the testatrix, leave alone his own signature, which is one of the fundamental requirements under Section 63(c) of the Indian Succession Act.

24. Though Mr. N. Dilip Kumar, in his reply, pointed out certain suggestions put to the attesting witness during cross-examination, I do not find the same to be sufficient to satisfy the mandate of Section 63(c) of the Indian Succession Act. The attesting witness is required to come before the Court and assert about due execution of the Will in the manner contemplated under Section 63(c) of the Indian Succession Act. He has to identify the signature of the testatrix as well as his own signature, neither of which has been done in the present case.

25. In fact, this Court, in *Bommi's case*, held that the attestation mandated under Section 63(c) of the Indian Succession Act is not an empty formality and that the attesting witness will have to speak about his attestation in the manner contemplated under law. This Court also did not approve the general submission in the chief examination that a mere statement regarding execution and attestation would be sufficient to discharge the burden cast upon the propounder, through the attesting



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witness. This Court has specifically held that the attesting witness should identify his own signature as well as the signature of the testatrix found in the Will. Finding that there was no such evidence, this Court held that the evidence of the attesting witness did not satisfy the mandatory requirements of Section 63(c) of the Indian Succession Act and Section 68 of the Indian Evidence Act, and consequently held that the Will had not been duly proved. On going through the evidence of PW.2 in the present case as well, it appears that the attesting witness has only filed his proof affidavit in lieu of chief examination, and the Will was not even shown to him at the stage of recording his proof affidavit for the purpose of identifying his signature as well as the signature of the testatrix. Therefore, in the present case also, similar to *Bommi's case*, there is absolutely no evidence with regard to the attesting witness identifying the signature of the testatrix as well as his own signature. In such circumstances, the propounder cannot claim to have satisfied the mandate of Section 63(c) of the Indian Succession Act read with Section 68 of the Indian Evidence Act.

26. Once the propounder fails to discharge the burden of proof with regard to the due execution and attestation of the Will, there is hardly any



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necessity for the Court to delve deeper into the suspicious circumstances surrounding the Will. Be that as it may, the Courts below have found serious suspicious circumstances surrounding its execution, particularly the peculiar manner in which the signatures of the four attesting witnesses are found in the Will and the differences noticed in the signature of the father, who was no more, when the Will came to be propounded. I do not find that such findings are perverse or based on no evidence. On the contrary, they are findings rendered upon appreciation of the oral and documentary evidence available on record and, therefore, do not warrant interference under Section 100 of the Code of Civil Procedure.

27. Coming to the decisions relied upon by the learned counsel for the appellant, in ***Derek A.C. Lobo and Others***, the Hon'ble Supreme Court held that once the burden is discharged by the propounder in terms of Section 63 of the Indian Succession Act and Section 68 of the Indian Evidence Act, by adducing prima facie evidence proving the competence of the testator and the due execution of the Will, the onus would shift to the contestant opposing the Will, to show the prima facie existence of suspicious circumstances, whereupon the burden would again shift to the propounder to dispel the same. I do not find any difficulty with the ratio



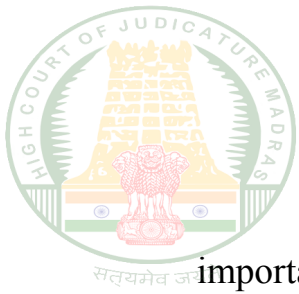
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laid down by the Hon'ble Supreme Court. However, the said decision does not come to the rescue of the appellant. In the present case, the propounder has miserably failed to prove the due execution and attestation of the Will in the first instance itself. Therefore, the question of shifting the burden to the defendants does not arise.

28. In *Jaspal Kaur Cheema and another's case*, the Honourable Supreme Court held that a general denial would not be sufficient in a written statement, and that the mandate of Order VIII Rules 3 and 5 of the CPC requires the written statement to specifically deal with each and every allegation of fact made in the plaint, and that failure to make a specific denial would amount to an admission. This decision was rendered in the context of a tenancy dispute. Though I am in entire agreement with the ratio laid down by the Hon'ble Supreme Court, I am unable to see how the said principle can be applied to the facts of the present case, especially when the propounder has not even succeeded in proving due execution and attestation of the Will.

29. In *Thangam's case*, the Hon'ble Supreme Court again referred to the mandate of Order VIII Rules 3 and 5 CPC and reiterated the



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importance of specific denials in a written statement. In the present case, the first defendant has specifically denied the execution of the Will by the mother, Ponnammal, and has also denied the signature of the father, Palraj, who is alleged to have attested the Will. In matters relating to testamentary succession, once the execution of the Will is denied, the burden squarely rests upon the propounder to prove the same by adducing satisfactory evidence and by complying with the requirements of Section 63(c) of the Indian Succession Act and Section 68 of the Indian Evidence Act. In such circumstances, I do not see how the plaintiff can derive any advantage from the pleadings contained in the written statement filed by the first defendant.

30. In *Ramdas's case*, the Hon'ble Supreme Court held, while considering the provisions of the Transfer of Property Act, that a purchaser cannot acquire a better title than that possessed by the vendor and that a co-sharer cannot put the vendee in exclusive possession, although such co-sharer may have a right to transfer his or her undivided share to the vendee. In the present case, the first defendant, being a co-sharer and disputing the alleged Will, and in fact having no knowledge of the said Will on the date of execution of the sale deed in favour of the second



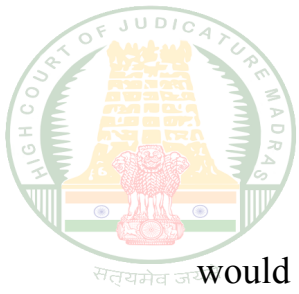
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defendant, had alienated only her alleged one-third share in the property.

Therefore, I do not see how the said decision would apply to the facts of the present case.

31. In **Gopal Krishnan's case**, the Hon'ble Supreme Court held that a Will need not be proved with mathematical precision and that it would be sufficient if the Court, upon application of its judicial mind to the evidence on record, is satisfied about its due execution and genuineness. Even in the said decision, the Hon'ble Supreme Court did not dispense with the mandatory requirements prescribed under Section 63(c) of the Indian Succession Act. Therefore, this decision is also of no avail to the appellant.

32. Coming to the decision relied on by Mr.Ponnaiah, I have already dealt with the decision of this Court in **Bommi's case** and have found the same to be directly applicable to the facts of the present case. In **Ramesh Verma's case**, the Hon'ble Supreme Court dealt with the proof of a Will and reiterated the principles governing testamentary succession. The observations made therein are, in fact, consistent with the conclusions reached by this Court in **Bommi's case**, and the ratio laid down therein



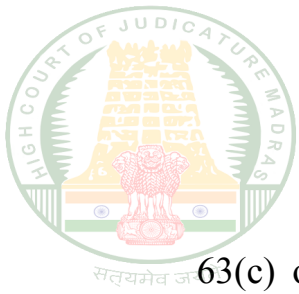
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would clearly apply to the facts of the present case.

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33. In *Ramesh Verma's case*, the Hon'ble Supreme Court, while dealing with the proof of a Will, held that the propounder has to establish by satisfactory evidence that the Will was signed by the testator, that the testator was, at the relevant point of time, in a sound and disposing state of mind, that the testator understood the nature and effect of the dispositions made under the document, and that he executed the same of his own free will. The Hon'ble Supreme Court further reiterated that the mandate of Section 68 of the Indian Evidence Act continues to apply even in cases where there is no specific denial of the execution of the Will. In the present case, where there is a categorical denial of the execution of the Will, the burden resting upon the propounder is even more onerous, and for the reasons already discussed, the plaintiff has failed to discharge the said burden in the manner known to law.

34. In *Ramadoss's case*, I had an occasion to deal with the very same issue relating to the execution and attestation of a Will and the obligation of the propounder to dispel suspicious circumstances surrounding its execution and held that when the requirements of Section



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63(c) of the Indian Succession Act are not satisfied and the suspicious circumstances surrounding the execution of the Will remain unexplained, the Will cannot be held to have been duly proved. This decision also applies in full force to the facts of the present case, for all the reasons discussed above. I do not deem it necessary to frame any further substantial questions of law, though two questions were suggested by Mr. Ponnaiah, learned counsel for the first respondent, for the reasons already discussed.

35. In fine, the Second Appeal stands dismissed, and the judgment and decree dated 12.01.2022 passed in A.S. No. 86 of 2019 on the file of the learned Additional Subordinate Judge, Palani, confirming the judgment and decree dated 20.08.2019 passed in O.S. No. 318 of 2013 on the file of the District Munsif Court, Palani, are hereby confirmed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

24.06.2026

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

1. The Additional Subordinate Judge, Palani.
2. The District Munsif Court, Palani.



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P.B.BALAJI.J.

trp

Pre-delivery Judgment made in
SA(MD) No.763 of 2022 and
CMP(MD).Nos.11522, 11523 and 2022

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