

A.S.No.660 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.07.2026

Pronounced on : 10.08.2026

CORAM :

The Hon'ble Mr.Justice N.SATHISH KUMAR
and
The Hon'ble Mr.Justice M.JOTHIRAMAN

A.S.No.660 of 2016
and
C.M.P.No.20073 of 2016

G.R.Thangavelu

.. Appellant

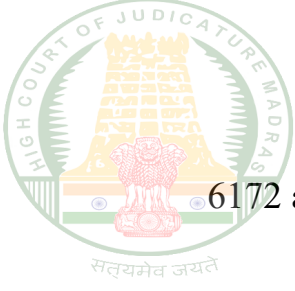
Vs.

- 1.G.R.Indira (died)
- 2.G.R.Balasubramaniam
- 3.Vasanthakumari @ Vasantha Bala
- 4.G.R.Girija
- 5.S.G.Ramkumar

S.G.Shanmugasundaram (died)

- 6.Gomathi Sundaram
- 7.Suresh Sundaram
- 8.Shobana Sundaram
- 9.P.Subramaniam
- 10.D.Hemalatha
- 11.U.Sundari
- 12.Sujatha R.Ramesh
- 13.S.Rathivel

[R1 died, RR9 to 13 are brought on record
as L.Rs of deceased R1 vide court order
dated 06.01.2026 made in CMP Nos.6170,



6172 and 6174 of 2023]

.. Respondents

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This appeal suit has been filed under Section 96 read with Order 41 Rule 1 of the Civil Procedure Code, 1908 against the judgment and decree made in O.S.No.529 of 2004 dated 05.10.2016 on the file of the III Additional District and Sessions Judge, Coimbatore.

For Appellant : Mr.V.Raghavachari, Senior Advocate
for Ms.V.Srimathi

For Respondents : R-1 died
Mr.D.Kanagasundaram for R-2
Mr.S.Mukunth, Senior Advocate
for Mr.S.Kaithamalai Kumaran for RR3 and 4
Mr.V.P.Sengottuvel, Senior Advocate
for Mr.N.Palanikumar for R-9
Mr.N.Manokaran for R-10
Mr.K.Karthikeyan
Mr.J.Madumitha for RR5 to 8
Mr.V.Srikanth
for Mr.S.Abhijeet Krishna for RR11 to 13

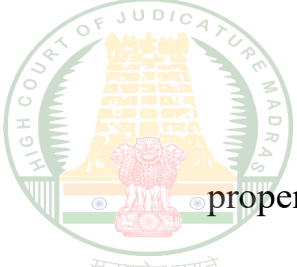
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JUDGMENT

N.SATHISH KUMAR, J.

Challenging the decree and judgment of the trial court granting the preliminary decree allotting 1/5th share to the plaintiff in respect of Item Nos. 1 to 7 of Schedule I of the plaint and Schedule II of the plaint and allotting a 1/15th share each to the plaintiff and defendants 1 to 3 in the

2/44



A.S.No.660 of 2016

properties in Schedule III of the plaint and also declaring the shares of other defendants, the fourth defendant in the suit has filed the present appeal.

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2.The plaintiff, who is arrayed as the first respondent, died during the pendency of the appeal and therefore, respondents 9 to 13 are impleaded as her legal heirs. Further, legal heirs were also impleaded on the death of one of the defendants pending trial.

3.The parties in this appeal are hereinafter referred to as per their rankings before the trial court.

4.Brief facts in filing this appeal are as follows: -

4.1.The plaintiff and the defendants 1 to 4 are the children of one Dr. S.G. Rajarathinam. Defendants 5 and 6 are the brothers of the plaintiff's father. The 6th defendant died during the pendency of the suit; the defendants 7 to 9 are impleaded as legal heirs of the sixth defendant. Schedule III of the plaint properties are the undivided properties of late S.G. Rajarathinam and the defendants 5 and 6. Other properties belong to her father, Dr. S.G. Rajarathinam. Her father died on 19.07.1999 intestate, leaving behind the plaintiff and the defendants 1 to 4 as his legal heirs. After the death of the late Dr. S.G. Rajarathinam, the defendants failed to account for the rents received from the schedule mentioned properties and



A.S.No.660 of 2016

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misused the profits from the Rajarathinam Nursing Home. The plaintiff demanded partition with the defendants several times, but the defendants evaded the same under the pretext of the will allegedly executed by the father of the plaintiff. The fourth defendant, who is managing the affairs of the Rajarathinam Nursing Home, Item 4 of Schedule I of the suit property, is misusing the profits. Further, the fourth defendant, without the participation of the plaintiff, sold away the machinery of S.G.R. Textiles and the mill owned by the father of the plaintiff. Therefore, the plaintiff issued a legal notice dated 10.02.2000 to the fourth defendant, calling upon him to deposit the rental income from the schedulementioned properties into the court. The fourth defendant issued a reply notice dated 25.02.2000 with vague allegations. The plaintiff has also issued a rejoinder, dated 02.03.2000 to the reply notice issued by the fourth defendant, clarifying her stand on the will allegedly executed by her father, the late Dr. S.G. Rajarathinam. Even after rejoinder, the fourth defendant kept silent for a long time and all of a sudden, on 30.06.2000, issued a notice to the plaintiff along with a pay order for the sum of Rs. 100,000/-. The plaintiff returned the pay order to the fourth defendant on 05.07.2000. Therefore, the plaintiff is entitled to a 1/5th share in Schedules I and II of the suit properties and a 1/15th share in Schedule III



of the suit property. Hence, the suit.

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4.2. Admitting the relationship of the parties, it is the contention of the fourth defendant that his father died on 19.07.1999, leaving behind the will dated 10.02.1993, bequeathing his self-acquired properties as well as a 1/3rd share in the HUF Joint Family Properties to the legal heirs of his choice. The plaintiff is aware of the existence of the will dated 10.02.1993 of her father, Dr. S.G. Rajarathinam. The plaintiff wants to question the validity/deny the existence of the will because she was given only money and no share in the immovable properties by her father in his will. The will dated 10.02.1993 is in the handwriting of his father, Dr. S.G. Rajarathanam, and two of his friends, namely Dr. T.K. Ganesan and Advocate Mr. M. Shanmugam, have attested to the will. The plaintiff is also aware and admits more than once that her father has left the will; since her father has given only money to her, she wants to contest the will. The parents of Dr. S.G. Rajarathinam and also the plaintiff's parents, by way of abundant caution and to avoid misunderstandings and disputes amongst their heirs, have left wills, both registered and unregistered, bequeathing the properties to the heirs of their choice. The grandfather of the plaintiff and defendants, A.S. Govidan Chettiar, has left a registered will dated 12.11.1936 bequeathing his properties to his existing sons and



A.S.No.660 of 2016

sons who may be born to him later for their life enjoyment and, after their lifetimes, to his grandsons through his sons absolutely, excluding his daughters. As per the will of their grandfather, a 1/3 share in Item Nos. 1 and 2 of Schedule III and Item No. 7 in Schedule I of the plaint is already succeeded by and vested with defendants 1 and 4 by the terms of the will, and his father had only the right of enjoyment, which terminated on his death. Therefore, the contention of the plaintiff that she is entitled to a 1/5th share in Item No. 7 in Schedule I and a 1/15th share in Items Nos. 1 and 2 in Schedule III is unsustainable.

4.3. Similarly, their grandmother has also executed a will dated 03.12.1980 bequeathing the properties to her sons only, namely Dr.S.G. Rajarathinam and defendants 5 and 6, excluding her daughters. Dr.S.G. Rajarathinam and defendants 5 and 6, under a family arrangement dated 05.04.1975, have divided the ancestral properties into three equal shares under a partition list and allotted specific shares to each of them. In the said family arrangement, S.G. Rajarathnam got Item 7 in the plaint Schedule I and a 1/3rd share in Items 1 and 2 in the plaint Schedule III properties. Similarly, the mother of the plaintiff and the defendants 1 to 4, during her lifetime, executed a registered will dated 06.10.1976, bequeathing her properties to her husband absolutely. Later by an



A.S.No.660 of 2016

unregistered will dated 19.06.1980, she cancelled the registered will and bequeathed all her properties, of which Item No. 6 in Schedule I of the Plaintiff formed a part, to her husband, Dr. S. G. Rajarathinam, failing him to the fourth defendant absolutely. She died on 10.04.1990 during the lifetime of her husband, and Dr. S.G. Rajarathnam succeeded to her properties under the will dated 19.06.1980 absolutely.

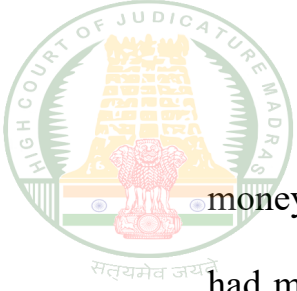
4.4.Dr. S.G. Rajarajathinam has executed the will dated 07.08.1976, bequeathing all his self-acquired properties absolutely to his wife. By a will dated 19.06.1980, he cancelled his previous will and bequeathed all his self-acquired properties to his wife, failing her to the fourth defendant absolutely. Later, he executed a will dated 10.02.1993, cancelling his previous will dated 07.08.1976, bequeathing Item No. 1 in Schedule I of the plaintiff to the second defendant, Item No. 2 in Schedule I to the fourth defendant, and Item No. 3 in Schedule I of the plaintiff to defendants 1 and 4. Item No. 4 in Schedule I of the plaintiff to the fourth defendant, Item No. 5 in Schedule I of the plaintiff to the fourth defendant, and Item No. 6 in Schedule I of the plaintiff consist of a terraced building in the front and 7 other linear residential houses in the back. This west-facing terraced building abutting Radhakrishna Road is bequeathed to the 3rd defendant, and the 7 line houses along with a vacant space are



A.S.No.660 of 2016

bequeathed to the fourth defendant with a right to the fourth defendant and the first defendant to put up 2nd and 3rd floors. Similarly, Item No. 7 is bequeathed to the fourth defendant. In the will dated 10.02.1993, the testator, Dr. S.G. Rajarathinam, has clearly stated that he has celebrated the marriages of his daughters, namely the plaintiff and defendants 2 and 3 with suitable jewels and other presentations according to their status and that he has also already provided them with properties and that he has made certain provisions for his daughters in his will also.

4.5.It is the further contention that during the lifetime of Dr. S.G. Rajarathinam, in the year 1979 itself, he made a gift of house properties now worth about Rs.60 to 75 lakhs by way of a sale deed dated 01.06.1979 without receiving any consideration to avoid gift tax and by way of a gift deed dated 11.07.1979 to the plaintiff. The said property is situated in Kattor, Coimbatore. The father has also to a large extent contributed to the welfare and marriage of the plaintiff and also to the education and marriages of the three daughters of the plaintiff. Since his father had already given immovable properties and cash to the plaintiff and he had not given any property to the other two daughters, namely defendants 2 and 3, he thought fit to bequeath immovable properties to defendants 2 and 3. His father had used his discretion in granting either



A.S.No.660 of 2016

money or immovable property to the children of his choice. His father had made the will dated 10.02.1993, which reflects his mind in allotting the properties to the heirs of his choice. The complaints and the allegations made by the plaintiff are self-serving, simply because she was bequeathed only money and not a share in any immovable property.

4.6.The plaintiff is aware that the will dated 10.02.1993 of Dr. S.G. Rajarathinam is in his own handwriting. The plaintiff is also aware that the attestors of the will, Dr.T.K.Ganesan and Advocate Mr.M. Shanmugam, are long-standing friends of her father. The complaints and the instances set out by the plaintiff in her letters, notices, rejoinders, legal notices, plaint, affidavit, and petitions are all imaginary and self-serving and betray her great expectations from her father of further properties. Since, in the will, their father has made some remarks against his daughter-in-law, the fourth defendant avoided reading the will immediately after the death of his father. The plaintiff was also informed about the will, and on 04.08.1999, the plaintiff and her husband wanted to create a situation to embarrass Mrs. Uma Maheswari/daughter-in-law and opened the topic about the father's will. When the fourth defendant sought to postpone reading of the will to avoid embarrassment to Mrs. Uma Maheswari, tensions amongst the members present built up, and the



A.S.No.660 of 2016

fourth defendant asked the people to disperse to avoid further problems.

In fact, the first defendant left India on 21.07.1999 itself, and Mrs. Uma Maheswari stayed in Coimbatore to attend the obsequies ceremonies and left India after the obsequies ceremony was over. On 08.08.1999, after Mrs. Uma Maheswari left to the USA, the will was read openly and the photocopy of the will was given to the plaintiff, and the plaintiff became fully aware of the contents of the will.

4.7. After coming to know that in the will dated 10.02.1993, her father had only left money and no share in the immovable property, she began to question the validity of the will, probably after getting advice from her advisers on all conceivable angles, contradicting herself and questioning the attestation of the will and the non-registration of the will, and to cap it all, she claimed that the will was fabricated by the defendants 4 and 5. The plaintiff became hysterical when she came to know about the bequests of money only provided by her father in the will dated 10.02.1993 and no share in the immovable property, and she went complaining, accusing, cursing and challenging everyone who came across her to appease her. The very many attempts made to appease the plaintiff by the very close acquaintances, friends, and well-wishers of their father were scorned by the plaintiff. Several attempts made by the



A.S.No.660 of 2016

defendants 1 and 4 to grant the plaintiff a decent property or money so as to calm her from the vituperative actions were not heeded by the plaintiff.

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Even though the plaintiff expressed a desire by her letter, claiming Rs.1 crore for herself, the very many attempts made by all the close kith and kin to appease her and to accept a decent amount or a suitable property were scorned by the plaintiff.

4.8.It is the further contention that to a large extent, his father has his own views on many aspects of life and following his own method, he has attained a social status in life. He held one of the prestigious posts in Lions International. He occupied the posts of district President and State President of the Indian Medical Association. He was the President of Seva Nilayam, City Cooperative Bank Ltd., etc. He has stuck to his views against all odds, and to whatever office he was elected or occupied, he used to maintain his presence and make a mark and place in society. He had friends and well-wishers amongst doctors, chartered accountants, engineers, advocates, business people, and politicians of all political parties. Dr. S.G. Rajarathinam is found to have used his discretion in writing the will dated 10.09.1993 in his own way and without availing the expertise available from his friend Advocate M. Shanumgam, the attestor of the will. The rejoinder notice dated 02.03.2000 issued on behalf of the



A.S.No.660 of 2016

plaintiff discloses several points with which the plaintiff wants to attack the will written by their father in his own handwriting and in his own style. The fourth defendant is aware of the handwriting of his father, and defendants 1 to 4, children of Dr. S.G. Rajarathnam, and defendants 5 and 6 brothers of Dr. S.G. Rajarathnam affirm that the will is in the handwriting of Dr. S.G. Rajarathnam. One of the attestors to the will, M.Shanmugam, passed away on 16.01.2002, and the only attestor, Dr.T.K.Ganesan, is alive.

4.9.The allegations of the plaintiff that S.G.R. Textiles belonged to her father, the late Dr. S.G. Rajarathnam, are false, and she is not entitled to claim any share in S.G.R. Textiles. S.G.R. Textiles is a partnership firm in which Dr. S.G. Rajarathnam was not a partner. S.G.R. Textiles was formed for carrying on business in the manufacture and sale of textiles under a partnership deed dated 14.02.1996. The partners are the defendants 1 and 4; the third partner is Balakrishnan, and the fourth partner is R.Balasundaram. Some of the partners have retired. The partnership business having incurred a loss, the machinery and assets were sold, and the business was closed and ceased to carry on. The hospital service run by his father, Dr. S.G. Rajarathnam, is continued, and there are proper accounts for the income. There was no need or



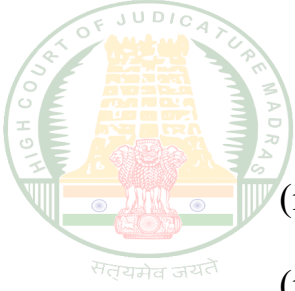
A.S.No.660 of 2016

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necessity to account to the plaintiff for any rent or income collected from the tenants or the professional charges collected from the patients. There was no need to misuse the profits of the Rajarathnam Nursing Home. The plaintiff was not given any immovable property in the will dated 10.02.1993 and the demands made by the plaintiff even after knowing that her father had not made any provisions in immovable properties betray the disappointed expectations of the plaintiff from her father, are not legal. The fourth defendant once again affirms that he and his brother the first defendant and two sisters defendants 3 and 4 have accepted that the will of the father is in his own handwriting and signed by him and duly attested by witnesses as genuine. Therefore, the plaintiff has no right to claim any partition. The fourth defendant, as per the bequests made by his father in his will dated 10.02.1993, sent a letter to the plaintiff along with a pay order for the sum of Rs.1 lakh, and the plaintiff has returned the pay order to the fourth defendant. Hence, disputed the claim of the plaintiff.

4.10.The defendants 2, 3, 5 & 6 adopted the written statement of the fourth defendant.

5.On the basis of the above pleadings, the trial court framed the following issues on 09.09.2009:



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- (i) Whether the description of the suit property is correct?
- (ii) Whether the plaintiff is entitled to partition as prayed for?
- (iii) Whether Dr. S.G. Rajarathinam executed a will dated 10.02.1993 as alleged by the defendant?
- (iv) To what other reliefs?

The following additional issues were framed on 02.11.2012:

- (i) Whether the plaintiff is entitled to claim any share in Item Nos. 8 of the suit property?
- (ii) Whether Item No. 8 is the self acquired property of Dr. S.G. Rajarathinam and whether the settlement deeds dated 03.06.1981 are valid.

6. On the side of the plaintiff, PW1 was examined, and Exs.A1 to A44 were marked. The fourth defendant has examined himself as DW2, and Exs. B1 to B23 were marked. DW3 and DW4 have been examined by the fourth defendant to prove the signatures of Dr. Ganesan and Mr. Shanmugam named as attestors in the will dated 10.02.1993. Though the third defendant has filed a proof affidavit as DW1, her evidence was eschewed as she did not turn up and subject herself to cross-examination.



A.S.No.660 of 2016

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7. On appreciation of the oral and documentary evidence and based on the evidence of the DW4 and other circumstances, the trial court has held that the propounder namely the fourth defendant has proved the Ex.B12 Will dated 10.02.1993, however, having held that the Will has been proved, the Trial Court disbelieved the Will on the ground that while writing the Will, page numbers in some portion has been written in English and in some portion is written in Tamil and there were also corrections made in the Will. Further, the testator has already registered the documents under Exs.A.36 to A.41 by visiting the Registrar Office on several occasions and even he went to the Registrar Office prior to the Will under Ex.B12 and therefore, non registration of the will under Ex.B12 is held to be one of the suspicious circumstances. The Trial Court has also held that having written the will, he would not have kept it aside for nearly 6 years till his death, this is also one of the suspicious circumstances and similarly, some interpolations were made in the Will, therefore, the trial court held that the propounder has not dispelled the suspicious circumstances and granted partition. Challenging the said finding, the fourth defendant has come up with this appeal suit.

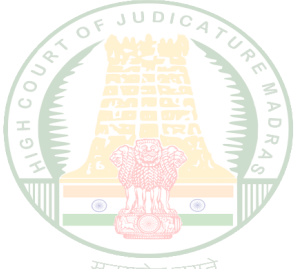
8. Mr.V.Raghavachari, learned senior counsel for the appellant submitted that the subject matter of the Will namely Ex.B12 is a



A.S.No.660 of 2016

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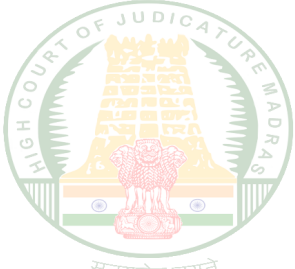
holographic will. The Handwriting and signature of the testator is not disputed by any of the legal heirs including the plaintiff. The plaintiff has clearly admitted in her evidence with regard to the handwriting of her father and signature in the entire Will and all the other legal heirs including the defendants 1 to 4 also admitted the Holographic Will left by their father. According to the learned senior counsel, Dr.S.G.Rajarathinam is a respected person and he has distributed the properties to all the legal heirs as per his choice. The plaintiff was already given two properties during the lifetime of Dr.S.G.Rajarathinam, one by way of Sale Deed dated 01.06.1979/Ex.A.43 and also Settlement Deed dated 11.07.1979/Ex.A.44. These properties were already given to the plaintiff by her father. The two properties transferred in the name of the plaintiff by her father by way of Gift and sale deed were conveniently suppressed by her in the entire pleadings. Since the other daughters were not given any immovable properties, S.G.Rajarathinam under Ex.B12 has bequeathed some immovable properties and the nature and the value of the bequeath made to the other daughters and the properties given to the plaintiff as early as in the year 1979, is almost equal, therefore, the testator in his wisdom has equally distributed the properties to the daughters and other properties have been given to the sons.



A.S.No.660 of 2016

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9.The testator is a respectable doctor and he was a respectable person in the Coimbatore City. He had a strong views and opinion and he himself has written the will in his own handwriting distributing the properties. It is not the case of the plaintiff that Ex.B12 was not written by her father. Her original stand was that when the Will was read out after the obsequies ceremony, the Will did not contain signatures of the attestors and the copy of the said Will alone furnished to her and only later, signatures of the attestors were obtained; such being the stand, there was no reason as to why she has not produced the copy of the Will furnished to her without the signature of the attesting witnesses. These facts clearly prove the stand of the defendants that the Will is true and genuine and there is no suspicious circumstances exist. When the handwriting of the father has not been disputed, merely because there are some corrections which is also attested by him, add more strength to the genuineness of the document and that cannot be construed as suspicious circumstances. Hence, the learned senior counsel would submit that having found that the Will has been duly proved by examining the witnesses who proved the signatures of the attesting witnesses, further the testator's signature and the handwriting are admitted by the plaintiff herself, the Trial Court has non-suited the Will on the irrelevant materials.



A.S.No.660 of 2016

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10. Notices sent by the plaintiff clearly show that she has also enquired the attesting witnesses about their signatures in the Will and she has also alleged that they proclaimed to support her father, in that case, the conduct of the plaintiff remaining silent even without sending notice to the attesting witnesses clearly show that her entire case is a false one. Further, in the entire plaint, absolutely, there is no pleadings whatsoever made about the genuineness of the Will. In exchange of notices, she has clearly admitted the Will, whereas, in the plaint, in one line, she has stated that the Will is not true without any allegation challenging the Will. Hence would submit that merely because the testator has executed two other wills in earlier point of time by way of registered documents, that cannot be a ground to suspect the entire will when the Will was written in his own handwriting and the attestation is also proved in the manner known to law. Hence, would submit that the Holographic Will written by father and admitted by all the legal heirs including the plaintiff has to be given due credence and the intention of the testator has to be respected.

11. The testator being a respectable man, he has distributed his assets to two of his sons, merely because one of his sons who was in Coimbatore was given excess properties, that cannot be a ground to disbelieve the entire Will. Admittedly, another son of the testator is

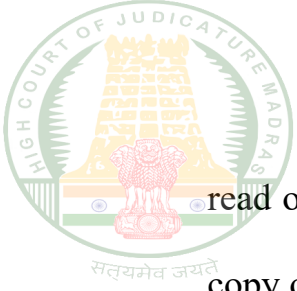


A.S.No.660 of 2016

residing in America, properties bequeathed in his favour is already dealt by him and sold out, these facts clearly proves the genuineness of the Will. Hence, the learned senior counsel would submit that the Holographic Will carries presumption of genuineness. In support of his submissions, he placed reliance upon the following judgments:-

- (i) Joyce Primrose Prestor vs. Vera Marie Vas, (1996) 9 SCC 324
- (ii) Dr. Lodd Surendardas vs. Lodd Narendardas & Anr, (2009) 5 Mad LJ 747
- (iii) Ajit Chandra Majumdar vs. Akhil Chandra Majumdar AIR 1960 Cal 551
- (iv) K. Sadagopan vs. K. Yamunam (2002) 2 CTC 641
- (v) Pentakota Satyanarayana v. Pentakota Seetharaman, (2005) 8 SCC 67
- (vi) Meena Pradhan and others Vs. Kamla Pradhan and another (2023) 9 SCC 734.
- (vii) V. Prabhakara Vs. Basavaraj K (dead) by Lrs. And another, (2022) 1 SCC 115.

12. Mr. V. Sengottuvel, learned senior counsel for Mr. N. Palanikumar, learned counsel for the 9th respondent submitted that Ex.B12 will was



A.S.No.660 of 2016

read out only after the 13th day ceremony of the death of the testator. The copy of the Will was not given on that day. When the Will was read out to the plaintiff and others, Ex.B12 did not contain attesting witnesses' signature. Attesting witnesses signatures were obtained at later point of time. The copy of the Will was given only on 14.08.1999 and in the meanwhile, signatures of the attesting witnesses were obtained and therefore, according to him, Ex.B12 at the most, is only a statement without any attestation and therefore, the same cannot be treated as Will of the father. Ex.B11 dated 26.08.1999, letter addressed by the plaintiff to her brother shows that on 08.08.1999, when the Will was read out, copy was not given. The above letter clearly show that the Will did not contain attestation of the witnesses on that day and therefore, his contention is that a copy of the will was given later after obtaining signatures of the witnesses. Therefore, Ex.B12 cannot be treated as a Will at all.

13.Further, it is his contention that even assuming that Ex.B12 is a Will, the same contains serious suspicious circumstances. The testator is a respectable person, highly educated doctor and he is in the habit of registering documents frequently, there was no reason for him to write such handwritten will, this is also one of the suspicious circumstances. Further, page numbers are written in English and Tamil and the



A.S.No.660 of 2016

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corrections and interpolations made in the Will also creates serious doubts. In every page, the Will is written in one side, whereas, the attesting witnesses signatures have been obtained in the last page, that itself clearly creates serious doubt about the Will and further, disinheriting the plaintiff alone in the Will also creates serious doubt about the Will. In fact, all other defendants have engaged same lawyer and therefore, other defendants though having paid the Court Fee could not take different stand. Hence, it is the contention that other defendants also are now supporting the case of the plaintiff. Therefore, would submit that the Trial Court has assessed the demeanour of the witnesses and disbelieved the Will. In support of his submissions, he placed reliance on the following judgments:-

- (i) Meena Pradhan vs. Kamla Pradhan (2023) 9 SCC 734
- (ii) Shivakumar and others vs. Sharanabasappa and others, (2021) 11 SCC 277.

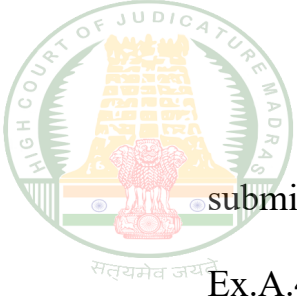
14.Mr.N.Manokaran, learned counsel for the 10th respondent submitted that Ex.B12 though said to be Holographic Will has not referred the earlier wills dated 07.08.1976 and 19.06.1980. Page numbers are written in English and Tamil and there are series of interpolations and corrections in the Will and in one of the pages, the testator has not signed,



A.S.No.660 of 2016

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all these facts creates serious doubt. Even few days prior to the Will, the testator visited the Registering authorities for registering the sale deed, such being the position, there was no need for him to leave Ex.B.12 as unregistered will. The testator was in the habit of registering the wills in earlier occasions, whereas, the last will is not registered, this also creates serious doubt about the genuineness of the Will. In all the previous documents, testator's close friend Michael had signed as attesting witness, such being the position, if really, the so-called last Will is said to be left by the testator, there was no reason for the testator to leave Michael as one of the attesting witness, this also creates serious doubt about the genuineness of the Will. The Trial Court has given cogent reasons in disbelieving the Will and submitted that merely because the execution of the Will has been established by the witnesses by proving the signature of the attesting witness, that will not dispense with the proof of entire will, suspicion which are inherent in the document has not been dispelled by the propounder. It is the further contention that the requirement of Section 69 of the Indian Evidence Act, 1872 is also not complied, whereas, the witness has only identified the signature of the attesting witness and testator's signature has not been identified, therefore, the will cannot be admitted in evidence. At any event, it is



submitted that Will is shrouded with suspicious circumstances. Though

Ex.A.43, settlement deed was executed in the name of the plaintiff,

consideration has been received by the father, hence, submitted that

merely because those documents stand in the name of the plaintiff, the

same cannot be the reason to disinherit the plaintiff in the entire property.

In support of his submissions, he placed reliance on the following

judgments:

(i) Ramesh Verma (Dead) through Legal Representatives vs.

Lajesh Saxena (Dead) by legal representatives (2017) 1 SCC

257

(ii) Saurav Jain and another vs. A.B.P.Design and another

(2022) 18 SCC 633;

(iii) Shashikumar Banerjee vs. Subodh Kumar, AIR 1964 SC

529

(iv) Chinu Rani Ghosh vs. Subash Ghosh and ors (2024) 20

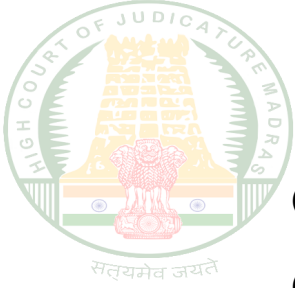
SCC 125

(v) T. Shanmugasundaram and another vs. Smt. Palaniammal

and others, 2026-1-LW 514;

(vi) Joyce Primrose Prestor (Mrs) (NEE VAS) Vs. Vera Marie

Vas (Ms) and others (1996) 9 SCC 324;



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- (vii) Shivakumar and others vs. Sharanabasappa and others,
(2021) 11 SCC 277;
(viii) Kasthuri Bhai Vs. Ashok Kumar (2017) 2 CTC 35.

15. Mr. V. Srikanth learned counsel for the respondents 11 to 13 submitted that they sail with the submissions of Mr. N. Manokaran, learned counsel for 10th respondent.

16. In light of the above submissions, now the points arise for consideration are as follows:-

- (i) Whether the Holographic Will dated 10.02.1993 is true, valid and proved in accordance with law? If so, are there any suspicious circumstances attached to the Will and the same has been dispelled by the so-called propounder?
- (ii) Whether the plaintiff is entitled to any share in the property?
- (iii) To what other reliefs, parties are entitled?

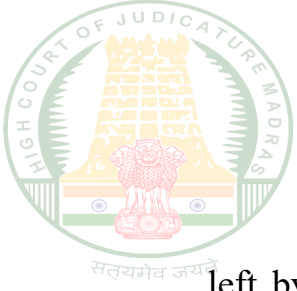
17. The relationship of the parties are not in dispute. The plaintiff and defendants 1 to 4 are children of one Dr. Rajarathinam. It is also



A.S.No.660 of 2016

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admitted by both sides that the said Rajarathinam is a well known person in Coimbatore and he held various posts in Lions Club and other societies, etc., It is also admitted that he is an independent man and he decides things on his own. Though in the plaint, there is bereft of details as to the nature of the character of the properties, it is admitted case of the plaintiff that Schedules I and II of the suit properties are the properties of Rajarathinam and in Schedule III of the suit property, the said Rajarathinam had 1/3rd share. In the entire plaint, there is no specific instance brought by the plaintiff as to the nature of the Will executed, except stating that she has clarified about the Will in her reply notice. She has not raised any pleadings with regard to Ex.B.12, holographic will. The entire issue revolves around Ex.B.12 Will said to have been executed by the father Rajarathinam in his own handwriting. Though much has been emphasised that Rajarathinam had executed prior Wills in 1976 and 1980, bequeathing the properties to the legal heirs of his choice and the Wills said to have been executed by Rajarathinam and R.Sivagamasundari have been marked as Exs.B.5, B.6, B.7 and B.8, those Wills have not been established in the manner known to law and the attesting witnesses have not been examined.



A.S.No.660 of 2016

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18. Now the entire suit revolves around Ex.B12, holographic will left by the father Rajarathinam, dated 10.02.1993, wherein most of the properties have been bequeathed to other legal heirs except the plaintiff. The reason for excluding the plaintiff is stated that her marriage was conducted well and besides, certain immovable properties were given to her. The other two daughters, who were not given immovable properties, were allotted certain properties. As per Ex.B.12 Will, item nos.2,4,5 and 8 in Schedule I was bequeathed to the 4th defendant G.R.Thangavelu. Similarly, item no.3 in Schedule I was bequeathed to both the sons, namely defendants 1 and 4. Item no.1 in Schedule I was bequeathed to second defendant, one of the daughters. Besides, the first defendant was given the other property in Coonoor with Bungalow. The item no.7 in schedule I was bequeathed to first defendant for life time and thereafter to the fourth defendant's son Vinodkumar. Item nos.1 and 2 in schedule III were bequeathed to defendants 1 and 4. Item no.6 in schedule I was bequeathed to third and fourth defendants. 1/3rd share in Item no.8 in schedule I was given to first defendant. Most of the properties in the Will were given to sons and the 4th defendant is the highest beneficiary. Besides, from the evidence, it can also be seen that under Exs.A.31 and A.32, the properties were gifted to the first defendant. Further, under



A.S.No.660 of 2016

Ex.A.43, the sale deed was also executed in favour of the plaintiff in respect of Katoor village. Under Ex.A.44, settlement deed was executed by Dr.Rajarathinam to the plaintiff on 11.07.1979. These facts clearly show that already the properties have been given to all the legal heirs. While the other two daughters were not provided any properties earlier, item no.6 in Schedule I was bequeathed to third defendant and item no.1 in schedule I was bequeathed to second defendant Vasanthakumari as per the holographic Will.

19.It is relevant to note that all the legal heirs of Dr.Rajarathinam admitted the holographic Will except the plaintiff, who was not given any immovable property. It is the case of the defendants that some provisions have been made for marriage expenses of unmarried children of the daughters. That apart, daughters were given a sum of Rs.1,00,000/- each. Further, some immovable properties were bequeathed to two daughters in the holographic will. The reason for excluding the plaintiff is that the plaintiff had already been provided properties under Exs.A.43 and A.44 by the father during his life time. All other legal heirs have admitted the holographic will, whereas the contention of the plaintiff is that though the Will was read over after the 13th day ceremony, the holographic Will did not contain the signatures of the attesting witnesses and later, the

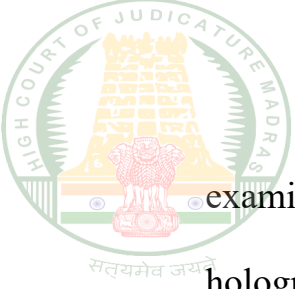


A.S.No.660 of 2016

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signatures of the attesting witnesses were obtained. Ex.B.11 is the first letter, dated 26.08.1999 sent by the plaintiff to his brother, wherein she has clearly admitted that on 08.08.1999, the holographic will was read over and she came to know that the first defendant and others have already known about the holographic will and despite some remarks made, the first defendant has not raised any objection and left to the USA. The plaintiff has further alleged in the said letter that as per lawyer's advice, the will did not contain the signatures of the attesting witnesses and their signatures were obtained later. Further, it is alleged in the letter by the plaintiff that till 14.08.1999, a copy of the will was not given to her and only after obtaining the signatures of the witnesses in the Will, the copy was furnished to the plaintiff. Therefore, according to the plaintiff, she decided to file the suit. In the letter Ex.B.11, it was clearly stated that she is aware of the Will. But the only contention that was raised by her was that the Will did not contain the signatures of the attesting witnesses when it was read over to her.

20.Though in Ex.B.11, the plaintiff took the stand as if the copy was given after obtaining the signatures later, but the contents of the plaintiff's letter dated 26.08.1999 was not even pleaded in the plaint. Whereas in her evidence before the court, particularly in the cross



A.S.No.660 of 2016

WEB COPY

examination, it is the stand of the plaintiff that the copy of the holographic Will of the father was handed over to her by her uncle Ramkumar on 16.08.1999. It is also the specific admission of the plaintiff that the copy of the holographic Will furnished to the plaintiff did not contain the signatures of the attesting witnesses. It is relevant to note that the handwriting and signature of the father in the holographic Will is not disputed. The specific admission of the plaintiff is as follows:

‘10.2.93 ஆவணத்திலுள்ள கையொப்பம் என் அப்பாவுடையது .அந்த ஆவணத்தில் உள்ள எழுத்துக்கள் என் தகப்பனார் எழுதியது தான்.என்னிடம் கொடுத்த பிதசாஆ.12 உயிலின் நகலில் சாட்சி கையொப்பம் இல்லாமல்தான் கொடுக்கப்பட்டது.’

21.Further, a perusal of the evidence of P.W.1 would indicate that she never disputed the signature and handwriting of her father in the entire Will which was marked as Ex.B.12. It is her contention that without the signatures of the attesting witnesses, the copy was furnished to her. If really the Will did not contain the attesting witnesses’ signatures and a copy of the same has been furnished to the plaintiff as admitted by her, nothing prevented the plaintiff to produce the copy of the Will, which did not contain the signatures of the attesting witnesses. There was no



reason as to why she has not produced the copy of the Will furnished to her by the defendants. Absolutely, there is no explanation whatever on the part of the plaintiff in this regard. It is further to be noted that the testator is a very famous doctor in Coimbatore. This fact is admitted by all the parties. He held various posts in various social clubs and also in cooperative societies and also had been the President of Indian Medical Association, etc. It is not the case of the plaintiff that her father has any mental issues and he was not in a position to take any rational decision.

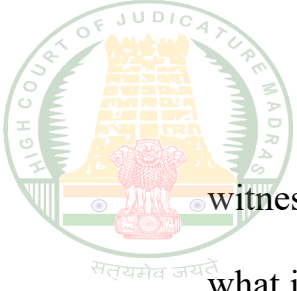
22.The handwriting and signature of the father was not disputed by the plaintiff. When the Will is analysed with this backdrop, one of the attesting witnesses in the Will is admittedly a famous Doctor, namely Dr.T.K.Ganesan, who is known to the plaintiff's father and the other one is Mr.Shanmugam, a lawyer, who is also known to her father. Therefore, the professions of the attesting witnesses is not disputed. It is also established on record that both attesting witnesses are not alive. Therefore, to prove the signatures of the attesting witnesses, D.Ws.3 and 4 were examined before this court. D.W.3 is the daughter of Dr.Ganesan, one of the attesting witnesses. She has identified the signature of her father and her evidence also shows that her father is a famous doctor in Coimbatore and he was also the State President of Indian Medical



A.S.No.660 of 2016

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Association and he had also worked in Rajarathinam hospital owned by the testator and he is also a family friend of Rajarathinam. It is further stated that Rajarathinam and her uncle are classmates and they are very close to each other. Similarly, D.W.4 has identified the signature of his father M.Shanmugam, who was lawyer by profession and he died on 16.01.2002. His evidence also clearly shows that Rajarathinam and his father were friends and he has identified the signature of his father. The evidence of D.W.3 and D.W.4 clearly establish the signatures of the attesting witnesses. Therefore, once the factum of the signatures of the attesting witnesses under the Will is established, besides proof of signature of the testator, the requirement of section 69 of the Indian Evidence Act, 1872 is also clearly complied with. In that case, not only the signatures of attesting witness in his handwriting has been proved, but also P.W.1 herself has admitted that the signature of the testator contained in the Will is in the handwriting of her father. Therefore, in the absence of the attesting witnesses, the twin requirements contemplated under section 69 of the Indian Evidence Act, 1872, i.e., one proving the handwriting of the attesting witnesses and the signature of the person executing the document is in the handwriting of that person, have been duly complied with. Therefore, the contention raised by Mr.N.Manokaran that only the



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witness has to prove the signature of the testator has no basis. Further, what is to be proved is the attestation of one attesting witness at least is in his handwriting and that the signature of the person executing the document is in the handwriting of that person. Section 69 does not contemplate that both requirements should be done only by one person. The law requires proof of signature and handwriting of attesting witnesses as well as the testator. Therefore, proving of attesting witness's signature and handwriting and the signature of the person executing the document and his handwriting would satisfy the requirement of section 69, which has been done in this case.

23.The main contention of the plaintiff is that her father's Will when read over did not contain the signatures of attesting witnesses, later it has been obtained. Admittedly, it is the case of the plaintiff that a copy of the Will without the signature of the attesting witnesses has been furnished to her by her uncle. Such being the position, there was no reason as to why she has not produced the said copy before the court. Therefore, her contention that the Will did not contain the signatures of the attesting witnesses at the relevant point of time is highly improbable. It is relevant to note that a rejoinder notice sent by the plaintiff, dated 02.03.2000 specifically alleged that "the attestors are the trusted chelas of



A.S.No.660 of 2016

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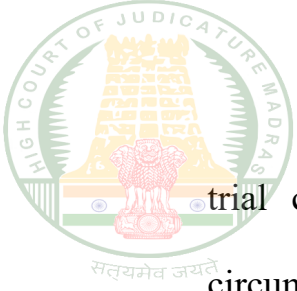
Doctor and have openly proclaimed that they would even sacrifice their fair name and reputation for the sake of Dr.S.G.Rajarathinam and when the request was made by your client and his uncle, in the name of mentor Dr.S.G.Rajarathinam, the Chelas succumbed to the request to attest forsaking equanimity and their standing, that under the guise of family settlement, the request to the chelas to attest the Will belatedly yielded result, giving place to emotional attachment and blind love for Dr.S.G.Rajarathinam submerging their fairness and good conduct.” The very allegations indicate as though the plaintiff was already aware that the attesting witnesses signed belatedly. Such being the position, remaining silent even without sending any legal notice to attesting witnesses falsify the stand of the plaintiff. Having admitted that the Will was read over to her at the initial stage and at the relevant time, the Will has not been attested by the attesting witnesses, but whereas in her letter dated 10.07.2000 after rejoinder dated 02.03.2000 which was marked as Ex.A.5, the plaintiff has alleged as if the Will was prepared in the Hotel Residency from July 15th to 20th by the fourth defendant with the help of his uncle Ramkumar. Therefore, different stands taken by the plaintiff clearly shows that her stand is not correct. It is relevant to note that the first defendant is settled in the USA and certain properties were already



A.S.No.660 of 2016

gifted to him even before the Will and the other sisters of the plaintiff were given only small properties. Though a large share is bequeathed to the fourth defendant, the other sisters of the plaintiff who were given only a small share in the properties under the Will, have not even disputed anything. It is further to be noted that all legal heirs have not disputed the Will of their father.

24.It is relevant to note that the first defendant is Doctor by profession and is settled in the USA. Similarly, even as per the evidence of P.W.1, P.W.1 is also a degree holder and out of three daughters, two of them are in foreign country and they are well settled. The second defendant is also a degree holder and she is settled in England. The third defendant is also a degree holder and her husband is also in finance business. The 4th defendant alone is not a graduate in the family and he was residing with his parents. Therefore, since all other children are graduates and settled well in their life, 4th defendant is not graduate and all along residing with his parents, it may be one of the reasons that the testator would have bequeathed more properties to the fourth defendant. In fact, the trial court has rejected the contention of the plaintiff that the attesting witnesses have not signed and the trial court has in fact held that the execution of the Will has been proved under section 69. However, the



A.S.No.660 of 2016

trial court has non suited the Will on the ground that suspicious circumstances are not dispelled by the propounder of the Will.

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25.It is relevant to note that admittedly Ex.B.12 is the holographic will. Though it contains 12 pages, the handwriting of the testator has not been disputed by any of the parties. Even the plaintiff though initially disputed the Will, in the cross examination has clearly admitted the handwriting and the signature of her father. The testator has in fact signed the document in each page, except the 7th page. However, in the same 7th page, he made a correction where he signed on both sides. Of course, some schedules have been included in different ink. It is relevant to note that the signature and the other corrections were made in the own handwriting and he has detailed various schedules and corrected it and signed. However, in pages 11 and 7, some corrections were made in different ink, but the fact remains that all corrections are made by him and signature also contained in the corrections wherever it was made. Therefore, from the very beginning to end, the testator has made serious deliberations in allotting the properties and in fact, the manner in which the Will containing 12 pages and every minute details have been included in his own handwriting and corrections made, clearly indicate that the testator had applied his mind to bequeath his properties taking note of



A.S.No.660 of 2016

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earlier allotments, etc. He has also indicated that though uneven distribution has been made in the Will, the properties were already gifted to the first defendant under Exs.A.31 and A.32. Similarly, a settlement has also been executed in favour of the plaintiff as early as 11.07.1979, besides a sale deed dated 01.06.1979 in favour of the plaintiff. Therefore, after taking note of all these things, the testator has given minute details and bequeathed all his properties very minutely. Except the plaintiff, the other daughters were also given properties and the testator has also clearly indicated that the daughters were already given some properties. That may be the reason for the testator to exclude the plaintiff from allotting immovable property. However, he has also indicated that Rs.50,000/- each to be deposited to the unmarried daughters of the testator's daughters and further, the 4th defendant, namely the second son G.R.Thangavelu to give Rs.1,00,000/- each to all his sisters. No doubt, the attesting witnesses have not signed on the same page and they have signed in the next page on the same day, of course in different ink. The attesting witnesses admittedly are well known persons, one is a Doctor by profession and as per the evidence of D.W.3, he was also a family friend of the testator and he was also attending the hospital run by the testator. Similarly, the other attesting witness is a lawyer by profession, who is



A.S.No.660 of 2016

also a friend of the testator. Therefore, merely because the Will has not been prepared in its usual standard, the signatures of the attesting witnesses cannot be found fault with, particularly when the Will prepared by the father is known to all the legal heirs immediately after his death.

26.The plaintiff has also admitted that the Will was originally read over and at that time, signatures were not found. In the rejoinder dated 02.03.2000 under Ex.A.5, the plaintiff has alleged that the attesting witnesses openly proclaimed that they support her father. That being the case, the least prudent demands the plaintiff to question them. Whereas different stand has been taken by her on 10.07.2000 alleging that the Will has been prepared by 4th defendant and his uncle Ramkumar in Hotel Residency from July 15th to 20th. These facts creates serious doubt about the plaintiff's stand. When the attesting witnesses are men of repute and experienced professionals, there was no reason for them to sign the document belatedly. Though the Will contains some inclusion in different ink, it is relevant to note that it is not the case of the plaintiff that his father was not having mental faculty at the relevant point of time. Therefore, merely because different ink was used in including certain properties in the Will, the same cannot be a ground to suspect the Will. What was the circumstances under which different ink was used is known



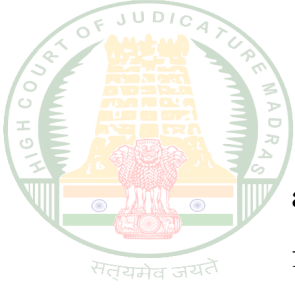
only to the testator, since nobody has disputed his handwriting and signature.

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27.It is settled proposition of law, as held by the Hon'ble Supreme Court in *Joyce Primrose Prestor Vs. Vera Marie Vas* reported in (1996) 9 SCC 324 that the holograph Will is the one which is wholly in the handwriting of the testator, while there is a presumption in the case of ordinary wills, the presumption is all the more, a greater presumption. In *Dr.Lodd Surendardas Vs. Lodd Narendradas* reported in 2009 (4) CTC 1, a Division Bench of this Court has held that as far as the holograph Will is concerned, presumption is greater in favour of the genuineness of the Will and the entire Will is in handwriting of the testator and the over writings found in the Will can be attributed only to the age of the testator and definitely does not go against the genuineness of the Will.

28.In *K.Sadagopan Vs. K.Yamunan* reported in 2002 (2) CTC 641, a division bench of this Court has held as follows:

‘18. In the matter of writing wills, the language employed in making known one's intention, the brevity or the prolixity in making that intention known, the things to which reference is made or omitted, are all matters entirely for the testator to decide. The law does not prescribe a standard format which every testator should comply with when he or she writes a will. All that the law requires is that the will be executed by the testator when he is in a fit and disposing state of mind; that the will record his intention



A.S.No.660 of 2016

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and that such a will be attested. The requirements of law were fully met when the testator executed the will and had the same attested. ‘

29.It is well settled that whenever suspicious circumstances exists in the Will, the same has to be dispelled by the propounder of the Will. Admittedly, there is no dispute with regard to the above proposition. Mr.N.Manokaran, learned counsel has relied on a Constitution Bench judgment of the Hon’ble Supreme Court in *Shashi Kumar Banerjee Vs. Subodh Kumar Banerjee* reported in *AIR 1964 SC 529*, to show that even when there is no plea by the parties, but the circumstances give rise to doubts, it is for the propounder to satisfy the conscience of the Court. The suspicious circumstance may be as to the genuineness of the signature of the testator, the condition of the testator’s mind, the dispositions made in the will being unnatural improbable or unfair in the light of relevant circumstances or there might be other indications in the will to show that the testator’s mind was not free. In such case, the court would naturally expect that all legitimate suspicion should be completely removed before the document is accepted as the last will of the testator. Absolutely, there is no dispute with regard to the above proposition of law. In the case on hand, the Will is a holograph Will. It is nobody’s case



A.S.No.660 of 2016

that the father was having any mental illness and not in a position to take rational decision. Whereas he was a respectful person. Though he had executed certain wills earlier by way of registration, that alone cannot be a ground to show that the Will in question is not genuine. It is contended that since the father was in the habit of registering the documents and in all the document, one Mr.Michael was the witness and therefore, if the holograph will was true, the same Mr.Michael would have been the witness to the Will and earlier, the father had executed registered Will and person having the knowledge about the registration and execution of those documents would not have left the unregistered Will.

30.It is relevant to note that merely because earlier some documents have been executed, registered, the same cannot be put against the testator to contend that the will should have been registered by him. It was the intention of the testator to bequeath the properties and it was the choice of the testator as to whether the Will should be registered or not. As long as the handwriting and signature of the father is not in dispute in Ex.B.12, some minor corrections, interpolations and some alterations made by him in his own handwriting per se would not be the suspicious circumstance. That correction and interpolation or even a different ink was used by him, all would have been taken place in the peculiar



A.S.No.660 of 2016

circumstances depending on the nature of pen used by the father and the availability of sufficient ink in the pen, etc., Therefore, merely because the page numbers are written in English and Tamil in different pages, that cannot be the suspicious circumstance when it was nobody's case that he was not having mental faculty at the relevant point of time including the plaintiff.

31.We are of the view that when the entire handwriting and signature are not in dispute by any of the legal heirs and the Will is also not disputed at an earlier point of time by the plaintiff, her contention that the attesting witnesses signatures were found later is found to be false. The evidence as discussed above would clearly indicate that the testator had already gifted some immovable properties to the plaintiff by way of sale deed and settlement deed. Though it is contended by the plaintiff that even for the gift, she paid sale consideration, she is not in a position to say what is the nature of the sale consideration paid by her in her evidence.

32.Therefore, all these facts clearly show that the father has made a Will depending on the status of the parties. Admittedly, the fourth defendant alone is not a graduate in the family and he is all along living with his parents and the other legal heirs are all well settled in his life



A.S.No.660 of 2016

time and that would have prompted the father to bequeath sufficiently to the fourth defendant who is not a graduate and was living with parents.

That was the reason, all other legal heirs have not challenged the Will and in fact, they supported the case of the fourth defendant in the trial. Accordingly, the points are answered.

33.For all these reasons, we are of the view that the judgment and decree of the trial court non suiting the Will on irrelevant doubts and suspicious circumstances cannot be sustained as far as Ex.B.12 is concerned.

34.Accordingly, the judgment and decree of the trial court granting 1/5th share in respect of item nos.1 to 7 of Schedule I of the plaint and also the properties mentioned in Schedule II of the plaint are set aside. However, the judgment and decree of the trial court granting 1/15th share to the plaintiff and defendants 1 to 3 in Schedule III are confirmed. Similarly, the judgment and decree in respect of the relief that the 5th defendant is allotted 5/15th share in Schedule III of the plaint and defendants 7 to 9 are jointly allotted 5/15th share in Schedule III of the plaint are confirmed. Though it is stated that the above properties are also subject matter of the Wills of the father and mother and though those Wills were filed as exhibits, those wills have not been established as per



A.S.No.660 of 2016

the law, in such view of the matter, merely because the parties have not disputed the will and as long as the wills are not proved in the manner required under the law, the same cannot be given any weightage. Hence, the trial court's judgment and decree in respect of the 8th item of schedule-I is confirmed. Accordingly, this appeal suit is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

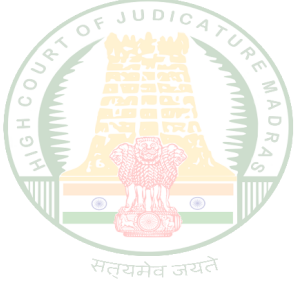
(N.S.K., J.) (M.J.R., J.)
10.08.2026

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

1.The III Additional District
and Sessions Judge, Coimbatore .

2.Section Officer,
VR Section,
Madras High Court,
Chennai.



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A.S.No.660 of 2016

N.SATHISH KUMAR, J.
and
M.JOTHIRAMAN, J.

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Pre delivery judgment in
A.S.No.660 of 2016

10.08.2026