

In the Court of the I Additional District Court, Madurai.

Present: Thiru.G.Muthukumaran, B.Sc., M.L.

I Additional District Judge, Madurai

On the 30th day of July 2025, Wednesday

I.A.No.2/2025

in

Probate OP No.15/2024

R.Pappammal, W/o.Late.Ramachandran,
Reddiar Street, Vadipatti, Vadipatti Taluk,
Madurai District.

... Petitioner/Respondent

///VS//

S.V.Gandhi, S/o.Srinivasan,
No.4-5-19 Neerethan Village, Vadipatti Taluk,
Madurai District.

.... Respondent/ Petitioner

In this Petition Advocate Thiru.D.Senthilkumar has appeared for the Petitioner and Advocate Mr.R.Suriyanarayanan has appeared for the Respondent. That this petition came up for final hearing before me 25.07.2025 and upon hearing the petitioner side and the Respondent side and on perusing the records having stood over for consideration of this court till this day , this court delivers today he following,

ORDER

1. This petition is filed by U/s 151 CPC to pass an order granting leave to file the Additional Written Statement on the side of Petitioner/Respondent.

2. Brief Statment of the petition averments :-

That the petitioner herein and Respondent in the main petition. The petitioner have already filed written statement in the above main petition through petitioner side previous counsel, at that time of filing the above said written statement due to my ill-health and he was not able to give proper instruction to my earlier counsel. Now, on

perusal of records, that we find that additional pleadings are required for the effective decision of the case. So petitioner side to file additional written statement along with documents through my new counsel. That the Respondent/Petitioner cannot have any valid objection to file the Additional Written Statement. This court may be pleased to pass an order granting leave to file the additional written statement on the side of petitioner.

The brief statement of the counter filed by the Respondent:

3. This petition is filed seeking leave to file additional written statement after the examination of Pw-1 and it is unsustainable in law. The petitioner has no locus-standi to file additional written statement in the above probate proceedings as like in a civil suit. This petition is liable to be dismissed this respondent is that in a probate proceedings the legate of the will has to prove the genuineness and validity of the will in accordance with law and in which the objection by way of filing written statement and additional statement are all irrelevant. Further the petitioner has not stated that reason for filing the additional statement after the examination of party in the probate proceedings except state that she was under ill health and so could not give proper instruction to her advisers to file written statement. The perusal of written statement shows that all the allegations and averments in the several para of statement are all false and baseless but also irrelevant for probating the subject will dated 04.03.2007 executed by deceased Ramachandran as a matter of fact the petitioner who is the respondent in the probate OP is estopped from saying all the allegations and averments after accepting the above said will dated 04.03.2007 by her own conduct and also by way of made documents in favour of this respondent. The will in question is a registered will and it is the last will of the deceased Ramachandran and the said will speaks about the relationship between the deceased Ramachandran and his estranged wife and his desire. The allegation that deceased Ramachandran is suffering with multiple ailments to make the will and under

coercion or undue influence it was made is false and baseless. Hence prayed to dismiss the petition with exemplary cost.

Point for consideration

4. Whether the petitioner is entitled to the relief claimed in the petition?

Findings for point for consideration:

5. The learned counsel for appearing on the petitioner has submitted that at the time of preparing the counter the petitioner was not able to give proper instruction to the counsel that now on perusal of the records of the case through new counsel the petitioner came to know that such an vital facts an not pleaded in the counter and hence prayed to allow this petition.

6. The learned counsel appearing for the respondent has submitted that the question to be decided is whether the will filed by the respondent executed by Ramachandran @ Ramachandra Kennedy and whether it is last will of the said Ramachandran @ Ramachandra Kennedy and that whether Ramachandra Kennady was of sound mind at the time of execution of the will. That now the petitioner want to introduce new facts which are not pleaded in the earlier pleadings and which are irrelevant for determination of the above said questions and prayed to dismiss the petition with exemplary cost.

7. On perusal of the main petition it appears that the respondent has filed the main OP 15/2024 for probating the will said to be executed by one Ramachandra kennedy on 04.03.2007. Whether the said will is executed by the said Ramachandra kennedy and whether he was of sound mind at that time of execution and whether it is the last will is a main question to be decided in the probate. In a probate proceedings the title of the testator to execute the will could not be decided. Further granting probate will not cloth any title to the petitioner obtaining probate. Further only the person who claims title under the testator can make any objection in the probate proceedings. Further it is settled law that new pleading which could be taken at the earlier could not be entertained. If this

kind of petitions are allowed there will be no end for reaching the finality of the litigation . Even if the mental capacity of the testator has not been taken as a defence it is the bounden duty of the person seeking probate to prove that the testator was of sound mind at the time of execution of the alleged will. In a probate proceedings one cannot dispute the title independent of the testator . Further at the stage of cross examination of the petitioner filing additional counter to introduce new fact could not be entertained hence this court finds that the petitioner is not entitled to file additional counter and point for consideration answered accordingly.

In the result this petition is dismissed and the petitioner is directed to pay cost of Rs.1000/- to the respondent for causing delay in disposal of the main petition.

Dictated to Steno-Typist and typed by her directly to in the computer, printed out corrected signed and pronounced by me in the Open court on this the 30th day of July 2025.

I Additional District Judge,
Madurai.