

**IN THE COURT OF THE PRINCIPAL SUBORDINATE JUDGE,
TIRUPPUR**

Present : Thiru. H.Mohamed Ansari, M.L.(IPR), PGDADR, PGDDF.,
Principal Subordinate Judge,
Tiruppur.

**Tuesday, the 4th day of August, 2026
(Thiruvalluvarandu 2057, Paraapava Varudam Aadi Thingal 19th Day)**

**I.A.No. 23/2026
OS.No.181/2015
(C.N.R. No. TNTI040008052015)**

- 1) R. Manoj
- 2) Gokul Prasanth (Died)
- 3) Rajendrakumar

...Applicants / Plaintiffs

Vs .

1. Rajalakshmi
2. Vani
3. Chitra

... Respondents / Defendants

On 31.07.2026, the application came up before me in the presence of Thiru. S.Devarajan, Counsel for the applicants, Thiru.C.M.Arunachalam, Counsel for the respondent No.1, Thiru.N.V.Giri, Counsel for respondent No.3, 2nd defendant being remained exparte in the suit and upon hearing the enquiry on both side and perusing connected records, having stood over for consideration, this Court delivers the following:

Date:04.08.2026

PSJ Court, Tpr.

I.A. No.23/2026 in
OS. No.181/2015

ORDER

This application is filed under Rule 76 of the Civil Rules of Practice to send for the application mentioned documents to the file of this Court.

2. The Gist of the application reads as follows:-

The applicants have filed the suit for declaration, partition and separate possession besides permanent injunction against the respondents herein. The respondents have produced the Will dated 14.03.2005 which is registered as document No.3/2005 on the file of the Joint I Sub Registrar, Tiruppur. The said Will is not true and genuine and the respondents forged the same and produced it into the Court. The signature found in the Will are not that of K.Palanisamy and he was not in good state of mind. He was not hale and healthy on the date of Will. He has no need to execute the same in favour of his wife Kamalam. The signatures found in the Will and the signatures found in the registration process are totally different. The Will is not registered in the office of the Joint I Sub Registrar, Tiruppur. On the contrary, the same was registered in the residence of Palanisamy at Muthusamy Street extension. The 2nd identifying witness is none other than the 3rd defendant in the suit. Therefore, the Will deed is shrouded with suspicious circumstances. The application has not produced any of the documents mentioned in the application sought to be sent for. On the face of the document, it should be presumed that the Will is forged one. The characters of the letters are different. In order to ascertain the same, the application mentioned documents are to be sent for from the file of Joint I Sub Registrar to the file of this Court for proper adjudication on the cost of the applicants

and they have undertaken to substitute them whenever received. The respondents will not be prejudiced in doing so. Hence, the application.

3) The gist of the Counter statement of the 1st respondent reads as follows:-

The application is not maintainable under law and the applicants have to prove the allegations in the application except those that are admitted by the respondents as true. The relationship between parties is admitted as true. This respondent's father Palanisamy gounder on his own wish, without the compulsion of anybody had executed a Will with respect to suit 1st item of property in favour of his wife Kamalam. It is false to state that at the time of execution of the said Will, he was not doing well and his wife Kamalam got the Will registered by cheating him. Later, the said Kamalam had executed a settlement deed in favour of her daughter Chithra, the 3rd defendant herein on 23.08.2007 on her own wish and without the compulsion of anybody else.

With respect to suit 2nd item of property, the same was purchased by the said Kamalam on 17.05.1991 and it was her private property. During the life time of the said Palanisamy and Kamalam, a family arrangement was entered into between this respondent and her three sisters viz, 2nd defendant, 3rd defendant Chithra and Rani, who is the mother of the plaintiffs. On receipt of proper consideration, an oral relinquishment of right was made in favour of the 3rd defendant Chithra by her three sisters with respect to 2nd item of suit property. As such the suit 2nd item property was belonged to the 3rd defendant, is in her absolute possession and enjoyment, she has paid the taxes for the same and also received rental income from it. She has also spent up to Rs.3,00,000/- for the developments in the suit property. The Will and settlement deed are admitted by

her three sisters at the time of family arrangement. The 3rd defendant has only looked after her parents till their life time by bearing medical expenses. Hence, either the plaintiffs or this respondent or 2nd defendant has no right in the suit properties. The plaintiffs have filed the suit after expiry of seven years from the death of Kamalam and the applicants have filed this application with an intention to drag on the case proceedings. There is no need to send the application mentioned documents for the opinion of handwriting experts. Hence, the application is liable to be dismissed.

4) The gist of the Counter statement of the 3rd respondent reads as follows:-

The application is not maintainable under law and the applicants have to prove the allegations in the application except those that are admitted by the respondents as true. The father of the 3rd respondent had executed a Will dated 14.03.2005 in her favour on his own wish and without any compulsion and the signature and thumb impression found therein are of him. It is admitted that the said Will was registered in the residence of the said Palanisamy and it is not valid that the its execution is under suspicion since the 3rd respondent herein has put her signature as one of identifying witnesses. The said Will was executed and registered as per law and the same came into force after the death of Palanisamy. The documents sought to be sent for are unnecessary documents and since the said Will was executed before several years, there is no chance for availability of those documents in the Sub Registrar Office concerned. This application was filed by the applicants with a view to drag on the case. Also, the certified copy of the said Will was produced by the 3rd respondent and was

marked as an exhibit on her side and hence, it is needless to file the present application. Thus, the same is liable to be dismissed with costs.

5) **The Point for consideration is**

Whether the application mentioned documents have to be sent for from the file of the Joint I Sub Registrar, Tiruppur or not?

6) No oral or documentary evidence was let in from both side.

7) **POINT:-**

Heard both side. Perused the available records. This interlocutory application is filed seeking permission of this Court to send for the application mentioned documents from the custody of the Joint I Sub Registrar, Tiruppur.

8) It is in the affidavit filed in support of the application that a Will dated 14.03.2005 a copy of which is produced on the other side is not true and genuine but a forgery one. Therefore, for proper adjudication, the application mentioned documents have to be sent for from the above mentioned public office.

9) On the contrary, respondents No.1 and 3 have vehemently opposed this application by stating that the above Will is properly registered one and therefore, there is no necessity to send for the application mentioned documents which shall no way be helpful to decide the case. Their stand is that only to prolong the case further, this application is filed.

10) Before going into the merits of this application, it would be imperative on the part of this Court to state here first the above suit which is over 10

years is filed for partition and the defendants No.1 and 3 are challenging the same on the strength of a registered Will dated 14.03.2005.

11) It is settled law that a Will either registered or unregistered has to be proved before the Court by following the procedures contemplated u/s. 67 to 70 of Bharatiya Sakshya Adhiniyam, 2023. Admittedly, in present case, the beneficiary of the Will was examined and thereafter one of its witnesses viz. Mahalingam was examined in chief as DW.4 and the above case is posted for his cross-examination by the plaintiff side. In this stage, the applicants seek to send for the applicant mentioned documents to check its genuinity. Sec. 115(e) of Bharatiya Sakshya Adhiniyam, 2023, authorizes the Court to presume that the judicial and official acts have been regularly performed. In the present case, the above Will was admittedly a registered one. Therefore, just because the registration took place in the residence of the propounder, the Court need not send for all the documents and registers maintained in the Sub-registrar office to suspect a quasi judicial function exercised by the Registrar in the Registration Act.

12) The burden of proving the above Will lies only on the defendants and needless to say if they fail so, they shall loose the case. The applicants / plaintiffs are at liberty to challenge the Will and put questions to its attestors if examined as witness before the Court and shall dispute its creditability and genuineness

13) Here the attesting witness DW4 was also before the Court and the applicants/ plaintiffs have every right to put questions regarding its genuineness. But instead of the same, they have come forward with this application with a prayer to send for the application mentioned documents which according to this Court shall in no way be helpful to decide the case.

14) In the light of the above discussions, this Court is not inclined to allow this application and which devoid any merits.

In the result, this application is dismissed. No costs.

Dictated to the Steno-typist, typed by her as directly on Computer, corrected and pronounced by me in the open Court, dated this the 4th day of August, 2026.

Principal Subordinate Judge,
Tiruppur.

List of witnesses & exhibits on both sides: Nil

P.S.J., Tiruppur.

Draft / Fair Order
I.A. No.23/2026
O.S. No.181/2015
Dt.:4.08.2026
P.S.J. Court, Tiruppur.