

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, THANJAVUR.

Present: **Thiru.P.Velmurugan, B.A.,B.L.,**
Principal District Judge, Thanjavur.

Wednesday, the 25th day of March, 2026.
(Thiruvalluvarandu 2057 Sri Visuwavasu Varudam Panguni Thingal 11th day)

Probate Original Petition No.52/2023
(CNR NO.TNTJ01 010519 2022)

(In the matter of probate of Will executed by Meenakshi on 13.07.2022)

Narasimman

...

Petitioner

Versus

1) Seetharaman

2) Pavithra Iyer

...

Respondents

3) Hema Iyer

This Probate Original Petition having come up for final hearing before me on 11.03.2026 in the presence of Mr.K.R.Vasudevan, Learned Advocate appearing for the Petitioner and the respondents 1 to 3 remained exparte and upon hearing the arguments on the side of the petitioner and upon perusing the oral and documentary evidence of the petitioner and having stood over for consideration till date, this Court passed the following...

ORDER

1) This Probate Original Petition is filed by the petitioner u/s 232 and 276 of Indian Succession Act, 39/1925 seeking an order of probate the Will executed by the deceased Meenakshi on 13.07.2022 in favour of the petitioner.

2) **Brief averments of the petition, in brief, are as follows:**

2.1) The petition mentioned properties originally belonged to the petitioner's mother, namely Meenakshi. She acquired the said properties by way of various registered sale deeds dated 06.03.2008, 21.07.2008, 27.03.2012 and 28.09.2016, and also by a rectification deed dated 05.02.2015 and a settlement deed dated 26.11.2012. Thus, the said properties are the absolute properties of the said Meenakshi.

2.2) While so, the said Meenakshi executed an unregistered Will dated 13.07.2022 in respect of her properties in the presence of attesting witnesses, including her husband, the 1st respondent herein, and one Seenivasan. Thereafter, the said Meenakshi died on 21.09.2022. The petitioner and the respondents 1 to 3 herein are the legal heirs of the deceased Meenakshi.

2.3) The 1st respondent is the husband of the deceased Meenakshi, the petitioner is her son, and the respondents 2 and 3 are her daughters.

2.4) As per the said Will dated 13.07.2022, the said Meenakshi bequeathed all her properties absolutely in favour of the petitioner herein. The said Will came into effect upon her demise, and the same is well within the knowledge of all the legal heirs. The said Will is the last Will and testament of the deceased Meenakshi.

2.5) The attesting witnesses to the said Will have given their respective statements, and the same are filed along with this petition. The parents of the

deceased Meenakshi had predeceased her, and therefore all her legal heirs have been arrayed as parties to this petition.

2.6) As per the said Will, the petitioner has become the absolute owner of the properties left behind by the deceased Meenakshi, and no other person has been given any right or share therein. Hence, the petitioner has filed this petition seeking probate of the Will dated 13.07.2022 executed by the deceased Meenakshi, so as to secure full possession and enjoyment of the properties.

3) Though notice was served on respondents 1 to 3, they remained absent and were set exparte.

4) In order to prove his claim, the petitioner filed his proof affidavit and examined himself as PW1. He marked twelve documents as Ex.P1 to Ex.P12, namely, the unregistered Will executed by his mother Meenakshi, online downloaded copies of the death certificate and legal heirship certificate of Meenakshi, five sale deeds standing in the name of Meenakshi, a rectification deed standing in her name, a settlement deed executed by the 1st respondent in favour of his wife Meenakshi, a xerox copy of the petitioner's Aadhaar card and xerox copies of five jewel loan receipts affixed on a single sheet pledged at Indian Overseas Bank, Thanjavur North Street Branch. One of the attesting witnesses to the said Will, namely Srinivasan was examined as PW2, and a copy of his Aadhaar card was marked as Ex.P13.

- 5) Point that arises for consideration in this Probate Original Petition is that
Whether the petitioner is entitled to get the relief as sought for?

Point:

- 6) Heard. Perused the records.

7) The petitioner has filed this petition seeking probate of the Will executed by the deceased mother Meenakshi on 13.07.2022 in his favour. The said Will, which is unregistered, has been marked as Ex.P1.

8) At this juncture, this court relied upon the decision reported in “ (2022) 3 Supreme Court Cases pages 209 *Murthy and others Vs C.Saradambal and others* ” wherein at Page Nos.219 to 222 in Para Nos.31 to 33, it was held as follows:

31. One of the celebrated decisions of this Court on proof of a will, reported in **AIR B.N.Thimmajamma**, The relevant portion of the said judgment reads as under:-

"18.The party propounding a will or otherwise making a claim under a will is no doubt seeking to prove a document and, in deciding how it is to be proved, we must inevitably refer to the statutory provisions which govern the proof of documents. Sections 67 and 68, Evidence Act are relevant for this purpose. Under Section 67, if a document is alleged to be signed by any person, the signature of the said person must be proved to be in his handwriting, and for proving such a handwriting under Sections 45 and 47 of the Act the opinions of experts and of persons acquainted with the handwriting of the person concerned are made relevant. Section 68 deals with the proof of the execution of the document required by law to be attested; and it provides that such a document shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution. These provisions prescribe the requirements and the nature

of proof which must be satisfied by the party who relies on a document in a court of law. Similarly, Sections 59 and 63 of the Indian Succession Act are also relevant. Section 59 provides that every person of sound mind, not being a minor, may dispose of his property by will and the three illustrations to this section indicate what is meant by the expression "a person of sound mind" in the context. Section 63 requires that the testator shall sign or affix his mark to the will or it shall be signed by some other person in his presence and by his direction and that the signature or mark shall be so made that it shall appear that it was intended thereby to give effect to the writing as a will. This section also requires that the will shall be attested by two or more witnesses as prescribed. Thus the question as to whether the will set up by the propounder is proved to be the last will of the testator has to be decided in the light of these provisions. Has the testator signed the will? Did he understand the nature and effect of the dispositions in the will? Did he put his signature to the will knowing what it contained? Stated broadly it is the decision of these questions which determines the nature of the finding on the question of the proof of wills. It would prima facie be true to say that the prescribed by Section 63 of the Indian Succession Act. As in the case of proof of other documents so in the case of proof of wills it would be idle to expect proof with mathematical certainty. The test to be applied would be the usual test of the satisfaction of the prudent mind in such matters.

32. In fact, the legal principles with regard to the proof of a will are no longer res integra. Section 63 of the Indian Succession Act, 1925 and Section 68 of the Evidence Act, 1872, are relevant in this regard. The propounder of the will must examine one or more attesting witnesses and the onus is placed on the propounder to remove all suspicious circumstances with regard to the execution of the will.

33. In the above noted case, this Court has stated that the following three aspects must be proved by a propounder:-
(Bharpur Singh Case, SCC Page 696, para 16)

" 16.(i) that the will was signed by the testator in a sound and disposing state of mind duly understanding the nature and effect of disposition and he put his signature on the document of his own free will, and

(ii) when the evidence adduced in support of the will is

disinterested, satisfactory and sufficient to prove the sound and disposing state of the testator's mind and his signature as required by law, courts would be justified in making a finding in favour of propounder, and

(iii) if a will is challenged as surrounded by suspicious circumstances, all such legitimate doubts have to be removed by cogent, satisfactory and sufficient evidence to dispel suspicion. In other words, the onus on the propounded can be taken to be discharged on proof of the essential facts indicated therein."

9) Further the decision reported in “ **2007(5) CTC page 318 in a case between J.Mathew (died) and others Versus Leela Joseph**, wherein it was held as follows:-

Will – Execution of – Proof - “Execution” does not merely mean signature – Mere proof of signature and attestation not proof of execution – Propounder required to prove that Testator signed Will after understanding contents and nature of disposition – Execution can be proved by indirect evidence – And, can be inferred from other surrounding circumstances – Fact that Will is registered, not conclusive proof of due execution – However, Court can justifiably infer about proper execution coupled with other relevant circumstances – Burden also on Propounder to dispel suspicious circumstances surrounding execution of Will.

Indian Succession Act, 1925(39 of 1925), Section 63 – Evidence Act, 1872 (1 of 1872), Section 68 – Proof of signature on Will and proof of attestation thereof by two attesting witness may not amount to proof of execution of Will – Propounder of Will is required to prove that Testator has signed Will after understanding contents thereof or after understanding nature of disposition – Execution of Will can be proved by direct evidence such as evidence to effect that Testator himself had written Will or Will has been scribed or typed according to instructions of Testator or that Will has been read over and explained to Testator where after he puts his signature – It can also be proved by indirect evidence by examining person who was present at the time of execution of Will or scribe or attesting witness would testify that Testator had given such instructions or understood its contents – It can also be proved from other surrounding

circumstances – Registration of Will has some value but cannot lead to inexorable conclusion that due execution of Will is proved and it is genuine – Will contained endorsement that it had been prepared by Testator himself and he was conversant with English and Testator's friend examined as Defence Witness admitted in examination that Testator had talked to him about execution of Will that forms the subject matter of Suit – Attestation of will by person known to Propounder and coming from some other place would not impeach execution of Will and such circumstance had been explained by Propounder – Nature of disposition disclosed no partial disposition – Will held to be proved.

10) On the pleadings and submissions of the petitioner, as well as the oral and documentary evidence available on record, it is revealed that the petitioner's mother, Meenakshi, allegedly executed a Will in respect of the properties mentioned in the petition in favour of her son, the petitioner, on 13.07.2022, in the presence of two witnesses, namely, her husband, the 1st respondent, and Srinivasan, examined as PW2. The Will, marked as Ex.P1, is admittedly an unregistered document.

11) As per **Section 63 of the Indian Succession Act, 1925** read with **Section 68 of the Indian Evidence Act, 1872**, proof of the signature of the testator and attestation by two witnesses alone is not sufficient to establish the execution of a Will. The propounder is required to prove that the testator executed the Will with full knowledge and understanding of its contents and of the nature of the disposition. Execution of a Will can be proved by direct evidence, such as showing that the testator herself wrote the Will, or that it was scribed or typed according to her instructions, or that the contents of the Will were read over and explained to her before she affixed her signature.

12) In the light of the above settled legal principles, and on careful consideration of the oral and documentary evidence on record, this Court finds that the petitioner has failed to satisfactorily prove the due execution of the Will dated 13.07.2022 by the deceased Meenakshi. The evidence adduced is insufficient to establish that the testator executed the Will in a sound and disposing state of mind and with full knowledge of its contents.

13) Further, the Will is an unregistered document, and the signature of the testator found therein differs from the signatures available in the sale deeds marked as Ex.P4 to Ex.P8 and the rectification deed marked as Ex.P9. Moreover, the Will does not disclose the name of the document writer or the person who typed it. One of the attesting witnesses to the Will was examined as PW2, who deposed as follows:

“1) மனுதாரரின் தாயார் மீனாட்சி அவர்கள், அவருக்கு சொந்தமான சொத்துக்களைப் பொருத்து, அவர் உயிருடன் இருந்த காலத்திலேயே 13.07.2022 அன்று உயில் எழுதி வைத்தார்.

2) அந்த உயிலில், மீனாட்சியின் கணவர் 1 வது சாட்சியாகவும், நான் 2 வது சாட்சியாகவும் கையொப்பம் செய்தோம். மீனாட்சி கையொப்பமிட்டதை நானும் சீதாராமனும் பார்த்தோம். நான் 2 வது சாட்சியாக கையொப்பமிட்டதை மீனாட்சியும் 1 வது சாட்சி சீதாராமனும் பார்த்தனர். சீதாராமன் 1 வது சாட்சியாக கையொப்பமிட்டதை நானும் மீனாட்சியும் பார்த்தோம்.

3) உயிலில் கண்ட சொத்துக்கள் யாவும் மீனாட்சிக்கு மட்டுமே பாத்தியப்பட்டதாக மீனாட்சி கூறினார். ”

However, PW2 has not stated that the Will was written as per the instructions of the testator, or that the contents of the Will were read over and explained to her, and that

she, having understood the same, affixed her signature thereto. Moreover, the scribe who prepared or typed the Will has not been examined.

14) In view of Section 63 of the Indian Succession Act, 1925, and Section 68 of the Indian Evidence Act, 1872, the due execution and attestation of a Will must be strictly proved by examining at least one attesting witness, who should testify that the testator signed the Will and that the attestors signed in the presence of the testator.

15) In the present case, though PW2 has been examined as one of the attesting witnesses, his evidence does not satisfactorily establish that the Will was executed in accordance with the mandatory requirements of law, particularly that the contents of the Will were read over and explained to the testator, and that she, having understood the same, affixed her signature. Further, the suspicious circumstances surrounding the Will, including the discrepancy in signatures and absence of details regarding its preparation have not been adequately explained.

16) Furthermore, the guideline value in respect of items 9 and 10 of the petition schedule has not been furnished. As per the Will and the pleadings, item No.9 relates to jewels allegedly pledged by the testator Meenakshi for availing a loan. However, on perusal of Ex.P12, being photocopies of five jewel loan receipts affixed on a single sheet, it is seen that the jewels were pledged in the name of G.K. Seetharaman at Indian Overseas Bank, Thanjavur North Street Branch. This discrepancy further casts doubt on the petitioner's claim regarding the pledged jewels.

17) Hence, in view of the above discussion, the settled legal principles, and the facts and circumstances of this case, this Court holds that the petitioner has failed to discharge the burden of proving the execution of the Will dated 13.07.2022 in the manner known to law. Hence, this Court is not inclined to allow the petition as prayed for. Thus, the point is answered accordingly.

18) In the result, this Probate Original Petition is dismissed. No costs.

This Order is dictated to the Stenographer Grade-I of this court, directly typed by her in Computer, corrected and pronounced by me in open Court, this the 25th day of March, 2026.

Principal District Judge,
Thanjavur.

Witness examined on the side of the Petitioner:

- 1 PW1 Narasimman, S/o.Seetharaman. (petitioner)
- 2 PW2 Srinivasan S/o.Swarnakaleeswaran. (one of the attestors of the Will)

Documents marked on the side of the Petitioner:

- | | | |
|-------|------------|--|
| Ex.P1 | 13.07.2022 | Original Unregistered Will executed by Meenakshi. |
| Ex.P2 | 23.09.2022 | Xerox copy of Death certificate of Meenakshi, died on 21.09.2022. |
| Ex.P3 | 24.09.2022 | Downloaded copy of of legal heirship certificate of Meenakshi. |
| Ex.P4 | 06.03.2008 | Original sale deed bearing Document No.572/2008 stands in the name of Meenakshi. |
| Ex.P5 | 06.03.2008 | Original sale deed bearing Document No.573/2008 stands in the name of Meenakshi. |
| Ex.P6 | 27.03.2012 | Original sale deed bearing Document No.487/2012 stands in the name of Meenakshi. |

Ex.P7	28.09.2016	Original sale deed bearing Document No.1608/2016 stands in the name of Meenakshi.
Ex.P8	21.07.2008	Original sale deed bearing Document No.2102/2008 stands in the name of Meenakshi.
Ex.P9	05.02.2015	Original rectification deed bearing Document No.146/2015 stands in the name of Meenakshi.
Ex.P10	26.11.2012	Original settlement deed bearing Document No.1730/2012 in favour of Meenakshi by her husband Seetharaman.
Ex.P11	--	Xerox copy of Aadhaar card of the petitioner.
Ex.P12	30.01.2023 & 01.02.2023	Xerox copy of five jewel loan receipts pledged at Indian Overseas Bank, Thanjavur North Street Branch in the name of G.K.Seetharaman.
Ex.P13	05.06.2012	Xerox copy of Aadhaar card of PW2 S.Srinivasan.

PDJ

Draft / Fair Order in
 Prob. No: 52/2023
 PDC, Thanjavur.
 Dated :25.03.2026