

**BEFORE THE PRINCIPAL DISTRICT COURT
VELLORE DISTRICT**

Present:- Thiru.M.Elavarasan
Principal District Judge

Friday, the 27th day of February, 2026.

I.A.No. 1 of 2020 in Probate O.P. No.7 of 2018

1. Karthikeyan
2. Kalayanakumar
3. Chandrasekar . . . Petitioners/ 3rd Parties

-vs-

J. Umamaheswaran @ Umapathy . . . Respondent/Petitioner

This application was coming before me on 06.11.2025 for hearing in the presence of Thiru.J. Sridharan, counsel for the petitioner and, notice served to the respondent, called absent and set exparte on 05.11.2020 and, upon hearing the enquiry of petitioner's side and, upon perusing the relevant records, this court passes the following:-

O R D E R

This application is filed under section 263 of the Indian Succession Act, 1925 to revoke the Probate Certificate issued by this court in P.O.P.No.7 of 2018 dated 27.03.2019 and direct the

respondent to implead the petitioner as respondents in the main petition and proceed the main petition after let in both side evidence.

2. Brief facts from the affidavit of the 1st petitioner :-

The petitioners are third parties to the main Probate Petition. The petitioners 2 and 3 are the brothers of the 1st petitioner. The petition-mentioned property, along with other properties, originally belonged to one Varadharaja Mudaliar. The said Varadharaja Mudaliar married one Dhanammal, and out of the said lawful wedlock, a female child namely Andalammal was born. After the death of his first wife Dhanammal, the said Varadharaja Mudaliar married Kamalammal as his second wife, and out of the said lawful wedlock, a female child namely Narayaniammal was born. During his lifetime, the said Varadharaja Mudaliar executed a registered Will dated 21.10.1945, bequeathing his properties in favour of his second wife Tmt. Kamalammal and his daughters Andalammal and Narayaniammal. Under the said Will, the said Varadharaja Mudaliar specifically allotted a house situated at Velapadi bearing Door No.45, Kalanikattu Street, and two shops situated at Battai Street bearing Door Nos.62

and 63 to Andalammal. The said Varadharaja Mudaliar died in the year 1946, leaving behind the said Will as his last Will and testament.

2.2) After the demise of Varadharaja Mudaliar, the said Narayaniammal executed a registered settlement deed dated 29.12.1965 in respect of Door No.71 (Old Door No.39/A), namely the property mentioned in the main petition, in favour of Andalammal and handed over possession of the same to her. Thereafter, the said Narayaniammal died intestate on 13.01.2010, leaving behind her three sons, namely the petitioners herein, and a daughter, Selvi Bhanumathi. The husband of Narayaniammal, Thiru Thirunavukkarasu, predeceased her. The said Selvi Bhanumathi died unmarried and intestate on 22.01.2020, leaving behind her three brothers, namely the petitioners herein, as her legal heirs.

2.3) The said Andalammal married one Jagadeesan, and out of the lawful wedlock, a male child namely Arunachalam was born after a long period. The said Jagadeesan died on 06.04.1997, leaving behind his wife Andalammal and his only son Arunachalam. Thereafter, the said Arunachalam died intestate on 21.06.2011, leaving behind his

mother Andalammal as his sole legal heir. After the demise of Jagadeesan and Arunachalam, the petitioners alone took care of the said Andalammal throughout her lifetime. The said Andalammal was deeply affected by the death of her husband and her only son, and due to mental distress and emotional trauma, she was not of sound and disposing state of mind and was unable to independently manage her affairs. The 1st petitioner alone took care of the said Andalammal during her lifetime. The said Andalammal did not adopt any person and never executed any Will or testamentary document in respect of her properties. During her lifetime, Andalammal paid the house taxes in her own name and affixed her signatures in the tax receipts, which are her genuine and original signatures. The said Andalammal died intestate on 20.03.2012, leaving behind her second-class heirs, namely the petitioners herein, to succeed to her estate.

2.4) In the meantime, the respondent herein, namely J. Umamaheswaran @ Umapathy, filed a suit for permanent injunction against the 1st petitioner alone before the learned Additional District Munsif Court, Vellore, in O.S. No.238 of 2016, claiming title over the

suit property on the basis of an alleged Will dated 06.02.2012. After the 1st petitioner filed the written statement, the respondent clandestinely filed a memo stating that the matter would be settled out of Court and did not press the suit, for reasons best known to him. Thereafter, without impleading the petitioners or the other alleged beneficiary under the impugned Will dated 06.02.2012, namely Thiru Madhavan, the respondent instituted the main Probate Petition and fraudulently obtained an ex parte probate order by suppressing the pendency and disposal of O.S. No.238 of 2016 and by suppressing the existence of rival claimants. The respondent deliberately failed to implead the petitioners as well as the said Madhavan, despite being aware of their rights and rival claims.

2.5) Till date, the 1st petitioner alone is in peaceful possession and enjoyment of the entire suit property bearing Door No.71, Thukkaram Bhajanai Koil Street @ Filter Bed Road. Even after the death of Andalammal, the 1st petitioner alone has been paying the locker deposit and other charges to the State Bank of India, Main Branch, Vellore, in respect of the properties and valuables of the deceased

Andalammal. The respondent has played fraud and attempted to illegally grab the immovable property bearing Door No.71 by fabricating the alleged Will dated 06.02.2012. Hence, the 1st petitioner has lodged a police complaint against the respondent.

2.6) The respondent has taken inconsistent and contradictory stands in O.S. No.238 of 2016 and in the Probate proceedings. The respondent obtained the probate order in P.O.P. No.7 of 2018 dated 27.03.2019 by practising fraud, suppression of material facts, concealment of earlier litigation, and by making false averments, including a false claim that he is in peaceful possession and enjoyment of the suit property. The Will dated 06.02.2012 is forged and fabricated, created by the respondent in collusion with the said Madhavan, and a bare reading of the document itself would reveal its suspicious nature.

2.7) In view of the above facts and circumstances, the probate granted by this Hon'ble Court in P.O.P. No.7 of 2018 dated 27.03.2019 is liable to be revoked and set aside on the grounds of fraud, forgery, suppression of material facts, and abuse of process of

Court. Hence, this petition for revocation of probate.

3. After notice to the respondent, the respondent did not appear before this court and the respondent was set exparte on 05.11.2020.

4. Thereafter, in order to establish the facts, the 1st petitioner has been examined as PW1 and through him Exh.P1 to Exh.P19 have been marked. Thereafter, one Raghavendra Rao has been examined as PW2 and through him Exh.P20 to Exh.P22 have been marked. With the evidence of PW2, the petitioner side evidence was closed.

5. Heard the petitioner's side. Considered the submissions of the petitioner's side. Perused the records.

6. The point for consideration is as to whether the petition to revoke the Probate Certificate issued by this court and direct the respondent to implead them as respondents in the main petition is to be allowed or not ?

7. The petitioners filed this petition to revoke the Probate Certificate issued by this court in P.O.P.No.7 of 2018 dated 27.03.2019 and direct the respondent to implead the petitioner as respondents in the main petition and proceed the main petition after let in both side

evidence. The respondent remained absent and set exparte. In support of the petition averments, the 1st petitioner examined as PW1 and marked Exhibits P1 to P19. One Ragavendra Rao, Deputy Manager, State Bank of India, Vellore Main Branch is examined as PW2 and through him Ex.P20 to 22 were marked.

8. The brief case of the petitioners, as per the petition averments, is that they are third parties to the Probate proceedings in P.O.P. No.7 of 2018. The suit property originally belonged to Varadharaja Mudaliar, who, through his first wife Dhanammal, had a daughter, Andalammal, and through his second wife Kamalammal, had a daughter, Narayaniammal. Varadharaja Mudaliar executed a registered Will dated 21.10.1945, marked as Ex.P3, bequeathing his properties in favour of his second wife Kamalammal and his daughters Andalammal and Narayaniammal. The Death Certificate of Varadharaja Mudaliar is marked as Ex.P2. Under the said Will, Andalammal was allotted specific properties, and thereafter Narayaniammal executed a registered settlement deed dated 29.12.1965 in favour of Andalammal in respect of Door No.71 (Old

Door No.39/A), Thukkaram Bhajanai Koil Street @ Filter Bed Road, and delivered possession to her. The said Narayaniammal died intestate on 13.01.2010, leaving behind her three sons, namely the petitioners herein, and a daughter, Selvi Bhanumathi, who later died unmarried and intestate on 22.01.2020. The Death Certificate of Narayaniammal and the copy of the Legal Heir Certificate of Narayaniammal are marked as Exs.P4 and P5. The said Andalammal married Jagadeesan and had a son, Arunachalam. Jagadeesan died on 06.04.1997, and Arunachalam died intestate on 21.06.2011. The Death Certificates of Bhanumathi Jagadeesan and Arunachalam are marked as Exs.P6, P7 and P9, and the Legal Heir Certificate of Jagadeesan is marked as Ex.P8. The said Andalammal thereafter lived alone and was taken care of by the petitioners, particularly the 1st petitioner. Andalammal was not of sound disposing state of mind after the death of her husband and only son, did not adopt any person, and never executed any Will. Andalammal paid house tax in her name during her lifetime and affixed her genuine signatures in the receipts. Andalammal died intestate on 20.03.2012, leaving behind the

petitioners as her second-class heirs to succeed to her estate. The Death Certificates of Thirunavukkarasu and Andalammal are marked as Exs.P10 and P11.

9. The further case of the petitioners is that the respondent, J.Umamaheswaran @ Umapathy, set up a forged Will dated 06.02.2012, alleged to have been executed by Andalammal. On the basis of the said Will, the respondent filed O.S. No.238 of 2016 before the learned Additional District Munsif, Vellore, against the 1st petitioner alone, seeking permanent injunction. After the petitioners entered appearance and filed written statement, the respondent abandoned the suit by filing a memo stating that the matter would be settled out of Court. The certified copies of the Plaint and Written Statement in O.S. No.238 of 2016 are marked as Exs.P13 and P14.

10. The further case of the petitioners is that, suppressing the said prior proceedings, the respondent thereafter filed the main Probate Petition and fraudulently obtained an ex parte order of probate in P.O.P. No.7 of 2018 dated 27.03.2019, without impleading the petitioners or the other alleged beneficiary under the impugned Will,

namely Thiru Madhavan, who are necessary and proper parties and rival claimants. The 1st petitioner continues to be in peaceful possession and enjoyment of the suit property bearing Door No.71, Thukkaram Bhajanai Koil Street @ Filter Bed Road, and has been paying the locker deposit to the State Bank of India, Main Branch, Vellore, even after the death of Andalammal. The respondent has taken inconsistent stands in the civil suit and in the probate proceedings, falsely claimed possession, suppressed material facts, and practised fraud upon this Hon'ble Court to obtain probate. The alleged Will dated 06.02.2012 is forged and fabricated, having been created by the respondent in collusion with Thiru Madhavan. The probate obtained in P.O.P. No.7 of 2018 dated 27.03.2019 is therefore liable to be revoked on the grounds of fraud, forgery, suppression of material facts, non-impleadment of necessary parties, and abuse of the process of Court.

11. Further, the 1st petitioner's Nativity Certificate is marked as Ex.P15. Telephone Bills, Property Tax Receipts, TNEB Receipt, and SBI Locker Deposit payment receipts are marked as Exs.P16 to P19.

12. The Deputy Manager, State Bank of India, Vellore, was examined as PW2 and deposed that, as per the order passed in Probate O.P. No.07 of 2019, the Bank transferred the amounts from the Deposit Accounts and SB Account of Andalammal, and the Statement of Account is marked as Ex.P21 series. Further, the locker opened and maintained in the name of Andalammal was opened, and the gold jewels, silver articles, and cash (demonetised currency of Rs.1,000 – 100 numbers and Rs.500 – 80 numbers) were taken into custody. The details of the gold and silver jewels are as follows:

1.	வெள்ளி குத்துவிளக்குகள் 2
2.	வெள்ளி தட்டு சிறியது 1
3.	தங்க மோதிரம் 1
4.	தங்க வளையல்கள் நான்கு
5.	இரண்டு தங்க மோதிரங்கள் கல் பதித்தது
6.	இரண்டு தங்க கம்மல் கல் பதித்தது (ஒரு ஜோடி)
7.	ஒரு வெள்ளி தட்டு
8.	ஒரு வெள்ளி டம்ளர்
9.	ஒரு வெள்ளி சந்தனக் கிண்ணம் சிறியது ஒன்று
10.	ஒரு வெள்ளி சந்தனக் கிண்ணம் பெரியது ஒன்று
11.	வெள்ளிக் குங்குமச் சிமிழ்கள் 2
12.	வெள்ளி கீ செயின் ஒன்று
13.	ஆயிரம் ரூபாய் நோட்டுகள் 100 (மதிப்பிழந்த ரூபாய் நோட்டுகள்)
14.	ஐநூறு ரூபாய் நோட்டுகள் 80 (மதிப்பிழந்த ரூபாய் நோட்டுகள்)

13. PW2 further deposed that the Bank obtained a Consent Letter from the respondent, Umapathy, marked as Ex.P22, and also deposed that Ex.P19, being the Locker Deposit Payment receipt, evidences that the locker deposit was paid by the 1st petitioner alone.

14. A perusal of the records would go to show that the respondent received Court notice and, having remained absent, was set ex parte on 05.11.2020. A further perusal of the case records would reveal that the respondent filed the main Probate O.P. in the year 2018 seeking grant of Probate in respect of the alleged Will dated 06.02.2012. It is evident that the respondent had not impleaded any of the legal heirs of Andalammal as respondents in the main Probate O.P., who are necessary and proper parties to the proceedings. The respondent had issued notice to the Bank, and the Bank had replied stating that probate was required to operate the accounts. The respondent did not disclose the earlier proceedings in O.S. No.238 of 2016 and the subsequent withdrawal thereof. Thus, there is clear and cogent material to show that the respondent practised fraud upon this Hon'ble Court, suppressed material facts, deliberately omitted to implead the

legal heirs of Andalammal, and fraudulently obtained the Probate Certificate from this Court.

15. Despite receipt of notice from this Court in the present proceedings, the respondent remained absent and did not come forward to file any counter or objections, which further fortifies the petitioners' case that the main Probate O.P. was filed by suppressing material facts and by practising fraud upon the Court.

16. Upon careful consideration of the pleadings, oral and documentary evidence, and the submissions made, this Court finds that the grant of probate in P.O.P. No.7 of 2018 dated 27.03.2019 is vitiated by multiple legal infirmities. The respondent obtained the probate without the knowledge the petitioners, who are persons having a clear caveatable interest in the estate of late Andalammal, and without impleading the other alleged beneficiary under the impugned Will dated 06.02.2012, namely Thiru Madhavan, who is a necessary and proper party. Further, it is very clear that the respondent further suppressed the earlier civil proceedings in O.S. No.238 of 2016 relating to the very same property and between the same parties,

which had been withdrawn by him after filing of written statement by the 1st petitioner. Suppression of prior litigation and material facts amounts to playing fraud upon the Court. Further, as per the evidence of PW1, Andalammal was not in a sound disposing state of mind after the demise of her husband and only son; that she had never adopted any person; that she had not executed any Will during her lifetime; and that the petitioners, particularly the 1st petitioner, were taking care of her till her death. The respondent, who is the propounder of the Will, has failed to dispel these suspicious circumstances.

17. Further, the respondent falsely claimed possession over the property in the probate proceedings, whereas the materials on record show that the 1st petitioner continues to be in possession and enjoyment of the property and has been paying statutory dues and locker deposits even after the death of Andalammal. Such false pleadings and misrepresentation of material facts also vitiate the grant of probate. When serious allegations of forgery, fraud, and suppression of material facts are raised, the burden lies heavily on the propounder of the Will to affirmatively prove its due execution and

attestation, which the respondent has failed to discharge. So, it is proved by the petitioners that the grant of probate, having been obtained by fraud, concealment of material facts, non-impleadment of necessary parties, misrepresentation of possession, and in the presence of grave suspicious circumstances surrounding the alleged Will, is clearly liable to be revoked. Accordingly, this Court holds that the probate granted in P.O.P. No.7 of 2018 dated 27.03.2019 is liable to be revoked, and thus the point is answered accordingly.

18. In the result;-

- (i) this petition is allowed;**
- (ii) The Probate granted by this Court in Pr.O.P. No.7 of 2018 dated 27.03.2019 in respect of the alleged Will dated 06.02.2012 is hereby revoked and set aside.**
- (iii) The petitioners are permitted to get impleaded in the main petition as respondents and to proceed with the petition in accordance with law;**
- (iv) That there is no order as to costs.**

Dictated to the Steno-typist, typed by him directly, corrected and pronounced by me in the Open Court, on this day the 27th day of February, 2026.

Principal District Judge
Vellore District

Petitioner Side Witnesses Examined:-

PW1 - Tr.Karthikeyan

PW2 - Tr.Raghavendra Rao

Petitioner Side Documents Marked :--

Exh.P1/PW1	-	Photocopy of the Aadhar Card of the 1 st Petitioner
Exh.P2/PW1	09.04.2012	Photocopy of Death Certificate of Varadaraj Mudaliyar
Exh.P3/PW1	21.10.1945	Registration copy of Will executed by Varadharaja Mudaliyar
Exh.P4/PW1	13.05.2010	Death Certificate of Narayani Ammal
Exh.P5/PW1	17.11.2021	Photocopy of Legal heir certificate of Narayani Ammal
Exh.P6/PW1	27.09.2021	Photocopy of Death Certificate of Banumathi
Exh.P7/PW1	19.02.2015	Death Certificate of Jagadeesan
Exh.P8/PW1	09.07.1997	Photocopy of Legal heir certificate of Jagadeesan
Exh.P9/PW1	07.10.2021	Photocopy of Death Certificate of Arunachalam

Exh.P10/PW1	29.05.2008	Death Certificate of Thirunavukarasu
Exh.P11/PW1	12.10.2021	Death Certificate of Andalammal
Exh.P12/PW1	-	Property Tax receipts (10 Nos.)
Exh.P13/PW1	-	Certified copy of Complaint in O.S.No.238 of 2016
Exh.P14/PW1	-	Copy of written statement filed in O.S.No.238 of 2016.
Exh.P15/PW1	28.11.2016	Nativity Certificate of Karthikeyan
Exh.P16/PW1	-	Telephone Bills in the name of Karthikeyan (2 Nos.)
Exh.P17/PW1	-	Property Tax Receipts (6 Nos.)
Exh.P18/PW1	-	Tamil Nadu Electricity Board receipts (19 Nos.)
Exh.P19/PW1	-	Photocopy of Letter of SBI Locker deposit payment
Exh.P20/PW2	-	Photocopy of Identity Card of P.W.2
Exh.P21/PW2	-	Bank Account Statement of Andalammal
Exh.P22/PW2	-	Photocopy of receipt of received for jewels from State Bank of India

Respondent: Exparte

P D J
Vlr