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T.O.S.No.11 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

T.O.S.No.11 of 2024

Mr.K.N.Ramanathan

...Plaintiff

Vs.

1. Lakshmi Ramachandran
2. S.Balasaraswathy
3. Mrs.R.Rajeshwari

... Defendants

For Plaintiff : Mr.K.Nataraj

For Defendants : Joseph Nihal Ravel
for M/s.AAV Partners

ORDER

Originally O.P.No.715 of 2021 had been filed by the plaintiff herein seeking Letters of Administration with the Will annexed relating to a Will dated 01.09.1995 said to have been executed by Mr.K.S.Narayanan, who died on 20.08.2001. On caveat being filed by the first, second and third respondents, O.P.No.715 of 2021 had been converted into T.O.S.No.11 of 2024.

2. In the written statement, the defendants had contended that even earlier, the plaintiff had filed O.P.No.721 of 2001 seeking Letters of



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Administration of another Will said to have been executed by K.S.Narayanan with respect to the same properties, but dated 06.12.2000.

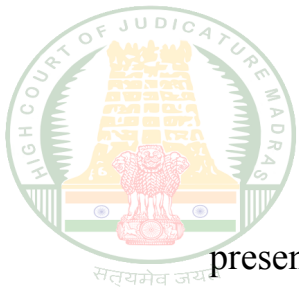
O.P.No.721 of 2001 had also been converted into TOS.No.21 of 2004 and after trial, by judgment dated 08.02.2017 the suit was dismissed. Thereafter, the plaintiff filed OSA.No.254 of 2018, which came up for consideration before the Division Bench of this Court on 17.04.2021 and the Division Bench passed the following judgment:

“Learned counsel appearing for the appellant seeks permission to withdraw the appeal with liberty to probate the earlier Will said to have been executed by the testator.

2. On the said request, we make it clear to the counsel that while there is no difficulty in giving permission to withdraw the appeal, it is only open to the appellant to probate the earlier Will. In that case, all the contentions are left open for both sides including the effect of the order passed by the learned single judge in the present proceedings.

3. The original side appeal is dismissed as withdrawn with the aforesaid liberty. No costs. Consequently, connected miscellaneous petition is closed.”

3. Claiming a right since the liberty had been granted, the



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present O.P.No.715 of 2021 had been filed seeking Letter of Administration with respect to the earlier Will dated 01.09.1995.

4. In the written statement, the defendants had contended that this Will stood revoked consequent to the subsequent Will dated 06.12.2000 and the suit filed seeking Letters of Administration relating to the Will having been dismissed, the plaintiff cannot maintain this suit. It is also contended that signatures of the Will itself differ from the signatures found in the Will dated 06.12.2000. It had also been contended that the testator could neither read nor write in English and he can only affix the signature in English.

5. Taking all these facts and circumstances into consideration, the following issues arise for trial:

a) Whether the Will dated 01.09.1995 is a true and genuine document?

b) Whether the Will dated 01.09.1995 stood automatically revoked by execution of the Will dated 06.12.2000 by the testator?

c) Whether the explanation given in the Will dated



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06.12.2000 that the Will dated 01.09.1995 could not be traced and therefore, the second Will has been executed is a true and genuine and correct reason?

d) Whether the contention raised by the defendants that the testator did not know either to write or read English has been established and whether such contention warrants rejection of the relief sought?

e) Whether the contention of the defendants that the signatures in the Will differ from the signatures as normally affixed by the testator and differs from page to page with the signatures affixed in the Will dated 06.12.2000 is correct?

f) Whether the Will dated 01.09.1995 had been proved in the manner known to law?

g) To what other reliefs the parties are entitled?

6. List of documents and list of witnesses in two weeks' time.

7. Post for trial before the learned Additional Master No.III for recording of evidence on 03.09.2025.



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Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No

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C.V.KARTHIKEYAN, J.

mp

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