

BEFORE THE ADDITIONAL MASTER-III
HIGH COURT, MADRAS.

T.O.S.No.29 OF 2005

Date: 01.11.2023
Time: 11.10 A.M.

Name : Mr.J. Kuppusamy (PW1)

Continuation of cross Examination by Dr. S. Padma, Learned counsel for the defendant.

Solemnly Affirmed:

Q: (Ex.P1, Will is shown to the witness) Is it correct that your father's name is mentioned in the Will as Jagannatha Naicker?

A: Yes.

Q: What is your age now?

A: 78 years.

Q: Do you know whether your father was residing in the suit property prior to your birth?

A: I do not know.

Q: (Ex.P1, Will is shown to the witness) Is it correct that your father was residing in the suit property prior to your birth?

A: I do not know.

Q: When did you come to know that you have been residing in the suit property?

A: I came to know at the age of 15.

Q: At the age of fifteen what did you study?

A: I was studying 9th standard.

Q: Is it correct that you did not know about your residence till the age of 14?

A: Yes, I did not know.

Q: (Ex.P1, Will is shown to the witness) What is written in the 3rd line of the Will?

A: Witness reads 3rd line Door no.8 and the present address is inserted by writing in hand.

Q: Have you filed any proof to show that your father was residing in door no.23, Shanmugaraya Pillai street, Purasaivakkam, Chennai? (The learned counsel for the plaintiff has objected and stated that it is an irrelevant question since the witness did not execute the Will)

A: No.

Q: I put it to you that you do not know that where was your father residing in 1990.

A: I deny.

Q: Where did your father reside in 1990?

A: I do not remember.

Q: Can I say that there is no cordial relationship between you and your father in 1990?

A: It is not correct.

Q: I put it to you that you did not know where about your father and his requirements, medical treatment and the welfare of your parents.

A: It is not correct. I deny.

Q: How long you were residing with your father?

A: I do not remember.

Q: I put it to you that you were not residing with your father that is the reason why you say that you do not remember.

A: I deny.

Q: How old were you in 1990?

A: Approximately I was 45 years old.

Q: Whether you visited your father's house at Purasaivakkam at your age of 45?

A: I do not remember.

Q: Is it correct that your father was all along living in his own house?

A: Yes.

Q: Is it correct that the house at Shanmugaraya pillai street, Purasaivakkam was owned by your father?

A: I do not know.

Q: Whether after coming to know about the Will of your father, did you collect any facts regarding the ownership of the property situated at No.23, Shanmugaraya pillai street, Purasaivakkam?

A: Due to my old age I do not remember.

Q: I put it to you that you are giving false evidence that at the time of your father's death you were 47 years old, you are saying that you do not remember where your father was residing at the time of his death.

A: I deny.

Q: I put it to you that at the age of 47 your father expired, but your father executed the Will at your age of 45 but you are falsely saying that you do not remember the residence of your father.

A: I deny.

Time : 12.10 P.M.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER-III

BEFORE THE ADDITIONAL MASTER-III
HIGH COURT, MADRAS.

T.O.S.No.29 OF 2005

Date: 08.12.2023
Time: 12.25 P.M.

Name : Mr.J. Kuppusamy (PW1)

Continuation of cross Examination by Dr. S. Padma, Learned counsel for the defendant.

Solemnly Affirmed:

Q: (Ex.P1 is shown to the witness) I put it to you that prior to Ex.P1 Will dated 12.12.1990, your father was bed ridden.

A: I deny.

Q: I put it to you that you were residing in the ground floor and your parents were residing in the first floor hence there was no connection between you and your parents.

A: I deny.

Q: How did you maintain your father when he was bed ridden?

A: He was never bed ridden.

Q: Did you bring your father to any hospital?

A: No.

Q: (Ex.P1 is shown to the witness) In page 5 last para of Ex.P1, it is stated “நாங்கள் ஏற்கனவே மேலே குறிப்பிட்ட சாரத்தின் படி எங்கள் ஜீவிய காலத்திற்கு பிறகு 5 பேரும் ஷய் சொத்தினை சமமாக பகிர்ந்து கொள்ள நல்ல மனநிலையிலும் புத்தி சுவாதீனத்துடன் பிறர் தூண்டுதல் இன்றி இவ்வுயில் சாசனத்தை உறுதிப்படுத்துகின்றோம்” . is it correct?

A: Yes.

Q: On 10.08.2011 you have settled your share in favour of your son. Is it correct?

A: Yes. Witness adds: in this regard a case is pending.

Q: (Certified copy of the settlement Deed dated 10.08.2011 is shown to the

witness) Is it the certified copy of the settlement deed?

A: Yes. Certified copy of the settlement deed is marked as Ex.D1.

Q: (Ex.D1 is shown to the witness) How much you have stated as your share in page 2 para 2 of Ex.D1?

A: Out of 1065 sq.feet, my share 579 sq.feet settled in favour of my son.

Q: Is it correct to say that your share and your 2 sister's share equal to 579 sq.feet?

A: Yes.

Q: (A document is shown to the witness) Is it correct that on the basis of that you have drawn this plan?

A: No, it is not relevant.

Q: Is it correct that you have filed suit in OS. No. 1307/2013 before the 12th Assistant City Civil court?

A: I do not remember.

Q: I put it to you that you have filed the suit in OS 1307/2013 before the 12th Assistant City Civil court against the engineer, Nanda gopal.

A: Yes.

Q: (A sketch is shown to the witness) In that suit in OS 1307/2013 you have marked this sketch as Ex.A1. What do you say?

A: I do not know.

Q: (Certified copy of the plaint in OS 1307/2013 is shown to the witness) Is it correct that it is the plaint filed by you?

A: Yes. Certified copy of the plaint is marked as Ex.D2.

Q: (Ex.D2 and a certified copy of the sketch are shown to the witness) In the list of documents of the plaint, is it correct that you have shown this sketch as the first document?

A: Yes. Certified copy of the sketch is marked as Ex.D3.

Q: (Ex.D2 is shown to the witness) In para 3 line 4 of the plaint you have

stated that your parents died intestate leaving behind Ethiraj, Krishnaveni, Kuppusamy, Saraswathy and Chenkalvarayan as their legal heirs , is it correct?

A: Yes.

Q: (Ex.D2 is shown to the witness) In the following lines you have stated “the plaintiff acquired 1/5th share”. Is it correct?

A: Yes.

Q: (Ex.D2 is shown to the witness) Further you have stated in your plaint that your both the sisters have executed settlement deed and given their each 1/5th share to you. Is it correct?

A: Yes.

Q: Is it correct that that is why you got 3/5th share in the suit property?

A: Yes.

Q: (Ex.D2 is shown to the witness) In para 4 of the plaint you have stated “he engaged the defendant to measure the suit property into 5 equal shares. Out of the 5shares , 3/5 share is yours and 1/5 share is your elder brother Ethiraj and 1/5 share is your younger brother Chengalvarayan. Is it correct?

A: Yes.

Q: Is it correct that you have stated the above said fact in Ex.D3?

A: Yes.

Q: (Ex.D3 is shown to the witness) Whose names are mentioned in it?

A: Ethirajan, Chengalvarayan, kuppusamy.

Q: Therefore I put it to you that Ex.P1 Will was not executed by your parents but you stood somebody else in the registrar office as your parents and fabricated the Ex.P1, Will.

A: I deny.

Q: I put it to you that your parents were continuously for 60 years residing in 21/8, grace garden, 3rd street, Royapuram but you have stated new address as temporary address as 23, Shanmuga Raya Pillai street, Purasaivakkam and brought somebody else as your parents to Purasaivakkam Sub-Registrar office and registered the Ex.P1, Will.

A: I deny. Witness adds: I am not aware of this Will, after the death of my father, my mother had given me that Will.

Q: When did your mother give you Ex.P1, Will?

A: I do not remember.

Q: When did you file this case?

A: I do not remember.

Q: I put it to you that in 2004 you have filed OP for this TOS 29/2005.

A: I do not remember.

Q: When did the Will, Ex.P1 execute?

A: On 12.12.1990.

Q: After the date of Will, how many years later you have filed the OP?

A: 14 years later.

Q: Therefore I put it to you that this suit is not maintainable.

A: I deny.

Q: Is it correct that in Ex.P1 Will it is stated that the Will mentioned property was given to your parents by your grandmother, Kanniammal by way of settlement deed?

A: Yes.

Q: Therefore I put it to you that the suit property is not a self acquired property of your parents.

A: I deny.

Q: Therefore I put it to you that your parents had no rights to execute any Will in respect of the suit property.

A: I deny.

Time : 01.50 P.M.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER-III

BEFORE THE ADDITIONAL MASTER-III
HIGH COURT, MADRAS.

T.O.S.No.29 OF 2005

Date: 03.01.2024

Time: 12.55 P.M.

Name : Mr.J. Kuppusamy (PW1)

Continuation of cross Examination by Dr. S. Padma, Learned counsel for the defendant.

Solemnly Affirmed:

Q: How many suits you have filed in respect of the suit property?

A: I do not know.

Q: I put it to you that you have filed OS 6931/2007 before the 8th Assistant City Civil Court, Chennai and OS 3472/2008 before the 8th Assistant City Civil Court, Chennai and OS 1452/2013 before the 8th Assistant City Civil Court, Chennai against the defendant. What do you say?

A: I do not know.

Q: Any suit filed by you against the defendant is pending before any court?

A: I do not know.

Q: I put it to you that as court bird you have filed so many cases against your tenants and against your brother, so you know the court proceedings and you know how to drag the cases.

A: I deny.

Q: I put it to you that since you worked as Kumastha under Advocate Hari krishnan you have filed several unnecessary cases against your tenants and brothers.

A: I deny.

Q: (A document is shown to the witness) I put it to you that you have filed OS 1307/2013 against an Engineer, in that case you have sent a legal notice to Nanda gopal and the same is marked as exhibits Ex.A5. What do you say?

A: I do not properly know what it is.

Q: (The same document is shown to the witness) Whether your signature and your seal are found in the document?

A: I do not know whether it is my signature or not.

Q: (The same document is shown to the witness) Please read it and say what is it?

A: I have read but I do not know what is it. (Witness is adamantly stating that I do not know)

Q: Is it correct that the defendant has filed a suit in OS 1414/2000 against you?

A: Yes.

Q: How many suits the defendant has filed against you?

A: I do not know.

Q: I put it to you that after the defendant has filed the suit OS 1414/2000 you have filed this suit for probating the Will.

A: I do not know.

Q: (Will, Ex.P1 is shown to the witness) Please read last line in the 2nd paragraph of Ex.P1?

A: witness reads “கன்னியம்மாள் மேற் சொன்ன ஓட்டுவீட்டை பி. ஜெகன்னாத நாயகருக்கும் அவர் மனைவி தனம்மாளுக்கு 14.05.49ல் தான் செட்டில்மென்ட் பத்திரம் பிரியப்பட்டு செய்தார்கள். என் மனைவி திருமதி. தனம்மாள் தாயார் தான் கன்னியம்மாள் என்பவராகும்”.

Q: What do you say about the above said statement found in the Will?

A: I do not know anything about that.

Time : 01.35 P.M.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER-III

BEFORE THE ADDITIONAL MASTER-III
HIGH COURT, MADRAS.

T.O.S.No.29 OF 2005

Date: 01.03.2024

Time: 12.55 P.M.

Name : Mr.J. Kuppusamy (PW1)

Continuation of cross Examination by Dr. S. Padma, Learned counsel for the defendant.

Solemnly Affirmed:

Q: Is it correct to state that your parents were residing at the first floor and you are residing in the ground floor and your younger brother Chengalvarayan also residing in the first floor next his parents house?

A: Yes.

Q: I put it to you that your younger brother only taking care of your parents because he is residing next to his parents house.

A: I deny.

Q: Your father usually signed his name as Jaganatha Naicker. Is it correct?

A: No.

Q: Have you filed any document to show that your father has signed as Jaganathan?

A: No.

Q: (Ex.P1 is shown to the witness) How the testator signed the Will?

A: Jaganathan.

Q: (Ex.P1 is shown to the witness) Whether 'ன்' is present in the signature?

A: No. It is mentioned as 'ஜெகன்னாத'.

Q: (Ex.P1 is shown to the witness) Whether the signature is shaky or not?

A: No.

Q: I put it to you that this signature is not by your parents and you have produced some other people in the registration office.

A: I deny.

Q: I put it to you that you have not taken welfare of your parents and you are not in good terms with your parents so that they were not execute the Will in the register office.

A: I deny.

Q: I put it to you that your father Jaganatha Naicker will sign as Jaganatha Naicker in all the documents not as Jaganatha or Jaganathan.

A: I deny.

Q: I put it to you that the signature in the Will is not your parents' original signature so it is forged and fabricated documents.

A: I deny.

Q: I put it to you that even before the case is not settled before the Hon'ble High Court, you have settled your share and your two sisters share so totally 3/5th share settled in favour of your son, this shows the Will execution proceedings has not been affected.

A: I deny.

Q: What is the date of the execution of the settlement deed in favour of your son?

A: I do not remember.

Q: During the pendency of this case you have settled the property in favour of your son?

A: Yes.

Q: I put it to you that you decided all the legal heirs of Jaganatha Naicker have equal share i.e., 1. Ethiraja Naicker, 2. Kuppusamy, 3. Chenkalvarayan, 4. Saraswathy, 5. Krishnaveni, so out of the 5 for your one share and the sisters 2 shares you purchased from your sister, so totally 3/5 shares you have in the suit property.

A: I agree.

Q: I put it to you that this suit is not maintainable under letters of administration based on the Will.

A: I deny.

Q: I put it to you that this case itself is a false and fabricated case and to harass the brothers.

A: I deny.

Re-examination: Nil.

Time : 01.30 P.M.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER-III