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## MERE REGISTRATION DOES NOT VALIDATE A WILL

The Supreme Court (“SC”), in *Leela and others* case,<sup>1</sup> held that a will is not deemed valid simply by being registered. Rather, it must be proven in compliance with Section 68<sup>2</sup> of the Evidence Act, 1872 and Section 63<sup>3</sup> of the Indian Succession Act, 1925.

### **Brief Facts.**

Balasubramaniya Thanthiriyar (“**Thanthiriyar**”) had two wives, Rajammal and Leela. Thanthiriyar had three sons and one daughter from Rajammal and three sons with Leela. In 1989, he executed partition deed dividing properties into four schedules. Certain properties were partitioned in favour of Thanthiriyar.

Thanthiriyar died in 1991. Rajammal, along with her children, filed suit before Trial Court (“**TC**”) seeking partition of properties allotted to Thanthiriyar. Leela and her children produced a Will in 1990 (“**Will**”) and claimed their share. TC, as well as the Madras High Court (“**HC**”), rejected Leela’s claim based on the Will, leading her to appeal before the SC.

### **Parties Contentions.**

Rajammal contended that the Will was forged.

Leela asserted that the Will was valid and that Thanthiriyar intended to bequeath his properties to her and her children.

### **Judgment & Reasoning.**

The SC:

- Relied on the suspicious circumstances pointed out by TC & HC below:
  - (i) *“That [Leela] one of the beneficiaries and the mother of the other beneficiaries played active role in the execution of the Will in question and concealed this fact before the Court;*
  - (ii) *Contradictory recitals on the health of [Thanthiriyar] in the Will and the evidence of [Leela] herself strengthening the same;*
  - (iii) *Non-matching of the signature of [Thanthiriyar] in... the partition deed and...the Will;*
  - (iv) *Non-examination of the person who typed the Will;*

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<sup>1</sup>*Leela & Ors vs Muruganatham & Ors.* (2025) INSC 10.

<sup>2</sup> Section 68: Proof of execution of document required by law to be attested. Equivalent to Section 67 of the Bhartiya Sakshiya Adhamiya, 2023 of the same section title.

<sup>3</sup> Section 63: Execution of unprivileged Wills.

(v) *Non-examination of the scribe;*  
(vi) *Incongruity with respect to the place of execution of the Will; and*  
(vii) *Failure to prove that the [Thantiriyar] executed the Will after understanding its contents.”*<sup>4</sup>

- Framed the main question as to whether the suspicious circumstances surrounding the Will had been sufficiently addressed.
- Relied on *Derek A. C. Lobo* case<sup>5</sup> and stated that upon objection, it is for the propounder to remove any suspicious circumstances.
- Noted that mere proof of execution of a will does not automatically validate it. It is the propounder’s responsibility to establish its execution.
- Dismissed the appeal and upheld the concurrent findings of the TC and the HC and concluded that Leela failed to prove that Thantiriyar executed the Will.

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<sup>4</sup> Paragraph 15 of the Judgment.

<sup>5</sup> *Derek A.C. Lobo v. Utric M.A. Lobo (Dead) by LRS.* (2023)SCC Online 1893