

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. /2026
(@ SLP (C) NO. 4361/2024)

ANNIE THOMAS

.....

APPELLANT(S)

VERSUS

RANI THOMAS & ORS.

.....

RESPONDENT(S)

O R D E R

Leave granted.

Challenge in this appeal is to the final judgment/order dated 30.06.2023, passed by the High Court of Kerala at Ernakulam in O.P. (C) No. 1676/2022, setting aside the order of the trial court and directing that the Will in question be sent to a handwriting expert for an opinion as to the authenticity of the signature(s) of the testator therein.

We are now informed by the learned counsel for the appellant, Annie Thomas, that she does not dispute the fact that the Will bears the signatures of her father, Late E.J. Thomas.

Our attention is also drawn to the plaint filed by the appellant in O.S. No. 258/2020 wherein, in paragraph 4, she stated as follows:-

“The plaintiff’s father E.J. Thomas did not execute or create any such document as one bearing No. 89/3/2008 on the file of the S.R.O., Maradu with his free will and consent.”

In the light of the aforestated averment in the plaint to the effect that only the testator's free will and consent were in issue and not his signature(s), as such; now buttressed by the submission of the learned counsel for the appellant, we find that the signature(s) of the appellant's father are not in dispute in the aforestated Will but the said Will still requires to be proved, in terms of Section 68 of the Evidence Act, 1872 and Section 63(c) of the Indian Succession Act, 1925.

The impugned order/judgment passed by the High Court is, accordingly, set aside and the appeal is allowed, leaving it open to the parties to agitate all other issues before the trial court.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJAY KUMAR)

.....J.
(K. VINOD CHANDRAN)

NEW DELHI;
JANUARY 27, 2026.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No. 4361/2024

[Arising out of impugned final judgment and order dated 30-06-2023 in OPC No. 1676/2022 passed by the High Court of Kerala at Ernakulam]

ANNIE THOMAS

Petitioner(s)

VERSUS

RANI THOMAS & ORS.

Respondent(s)

Date : 27-01-2026 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KUMAR
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) Mr. Sanand Ramakrishnan, Adv.
Mr. Rajeev Mishra, Adv.
Mr. Sunil Narayanan, Adv.
Mr. Thomas Martin K, Adv.
M/s Axess Legal Corp, AOR

For Respondent(s) Mr. V Chitambaresh, Sr. Adv.
Mr. Jogy Scaria, AOR
Mrs. Beena Victor, Adv.
Mr. C Govind Venugopal, Adv.
Mr. Ravi Lomod, Adv.
Mr. Ashwani Kumar Soni, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(BABITA PANDEY)
AR-cum-PS

(PREETI SAXENA)
COURT MASTER (NSH)
(Signed order is placed on the file)

