

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.((PD) No.1124 of 2014
and M.P.No.1 of 2014

Balamuthuvel

.... Petitioner

vs.

1.Devarasu @ Veerappan
Mohanambal (died)

2.Sundaram Reddiar
3.Pandurangam
4.Halil Batcha
5.K. Munirathinam
6.S. Selvaraj
7.Stella Shanthini
8.D. Vijayan
9.S. Vaidyanathan
10.K. Anandaraman
11.P. Sumathy
12.A.H. Radhika Ikalikar
13.N. Viswanathan
14.T.P. Kameswaran
15.R. Sakunthala
16.Daniel Muthu
17.V. Ramasamy

.... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decreetal order dated 15.7.2013 made in I.A.No.126 of 2009 in A.S.No.14 of 2006 on the file of II Additional District Court, Puducherry.

For Petitioner : Mr.R. Subramanian
For 1st respondent : Mr.Sairaman

ORDER

Challenging the fair and final order passed in I.A.No.126 of 2009 in A.S.No.14 of 2006 on the file of II Additional District Court, Puducherry, the third party petitioner has filed the above Civil Revision Petition.

2. The plaintiff filed a suit in O.S.No.483 of 1983, for Specific Performance, which was dismissed by the trial court on 30.1.1988. Aggrieved over the judgment and decree, passed in the suit in O.S.No.483 of 1983, the plaintiff preferred an appeal in A.S.No. 631 of 1989 and in the said first appeal, the petitioner filed an application in I.A.No.126 of 2009 to get himself impleaded as the legal representatives of the deceased first defendant viz., Mohanambal, who died on 1.4.1987. The petitioner claimed

right in respect of the suit property by virtue of a Will dated 27.9.1993. The said Will dated 27.9.1993 was alleged to have been executed by the father of the petitioner.

3. The said application was opposed by the defendants. Even in the counter, they have stated that the petitioner has filed an application, even without producing the Will.

4. The trial Court, taking into consideration the case of both the parties, dismissed the application, finding that the petitioner, even without producing the Original Will dated 27.9.1993, seeks to get himself impleaded in the suit.

5. When the petitioner is claiming the right in respect of the suit property as a legatee of the Will, he should have produced the Will to establish that he is having the right in respect of the suit property. In the absence of the Will, the trial Court has rightly dismissed the application. I do not find any error or irregularity in the order passed by II Additional District Court, Puducherry in I.A.No.126 of 2009 in A.S.No.14 of 2006.

6. In these circumstances, the Civil Revision Petition is liable to be dismissed as devoid of merits and accordingly, the civil revision petition is dismissed. No costs. Consequently, connected MP is closed.

7. The learned counsel appearing for the respondent submitted that the respondent is aged more than 84 years and therefore, the lower Appellate Court may be directed to dispose of the appeal within a stipulated time.

8. Having regard to the submission made by the learned counsel for the respondent, I direct the III Additional District Judge, Puducherry to dispose of the appeal in A.S.No. A.S.No.14 of 2006 , on merits and in accordance with law, within a period of three months from the date of receipt of copy of this order.

02-07-2015

sr

Index:no
website:yes

To

The III Additional District Judge, Puducherry

M. DURAISWAMY,J.,

sr

C.R.P.((PD) No.1124 of 2014

2.7.2015