

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-08-2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P. (PD) No.3276 of 2015

And

M.P.No.1 of 2015

1.M.N.Jegadeeswaran

2.Radhakrishnan

.. Petitioners

Vs.

1.S.Vimala

2.Meenambal

3.Ramnathan

4.Muthukumar

5.Sumathi

6.Ramamani

7.Vasanthi

8.T.M.Palanisamy

9.R.Sivamani

10.Anbarasi

11.S.Vellingiri

12.P.Shanmugam

13.S.Ponusamy

14.C.Subramaniam

15.R.Murugasamy

16.K.N.Venkatachalam

17.P.Ponnusamy

.. Respondents

Civil Revision Petition is preferred under Article 227 of the Constitution of India against the fair and decretal order dated 20.7.2015 and made in O.S.No.797 of

2008 on the file of the I Additional District Court, Tiruppur.

For Petitioner : Mr.C.R.Prasanan

For Respondents : Mr.P.Valliappan

ORDER

The revision petitioners are the first and second defendants in the suit in O.S.No.797 of 2008 on the file of the I Additional District Court at Tiruppur.

2. The revision petitioners are brothers.

3. The plaintiff is their sister. It is a partition suit.

4. The third defendant is also one of the sisters.

5. The seventh defendant (D-7) is the wife of the deceased brother viz., Subbaiyan.

6. Defendants 4 to 6 are the children born to defendant 7 through the deceased brother viz., Subbaiyan.

7. Item No.1 of the suit schedule property

belonged to the mother of the revision petitioners.

8. While the revision petitioners claim the said property through a Registered Will executed by the mother of the revision petitioners dated 7.5.2003, the 14th defendant sought to file Ex.B-65, an unregistered Will said to have been executed by the mother of the revision petitioners in favour of D-7 on 25.12.2005.

9. Defendants 14 to 18 are the purchasers of Item No.1 of the suit schedule property, from D-7.

10. The revision petition is against the marking of Ex.B-65 by the Trial Court.

11. Heard both sides.

12. The learned counsel for D-14 to D-18, who are respondents 13 to 17 in the suit, has submitted that the document Ex.B-65 was filed before the Trial Court at their instance and the same could be eschewed from consideration, if D-14 to D-18 failed to examine any one of the Attestors or in the manner as provided under Section 68/69 of the Indian Evidence Act, 1872 read with Section 63 (c) of the

Indian Succession Act, 1925.

13. In view of the above, recording the aforesaid statement, I am inclined to dispose of the revision petition, as the same would not cause any prejudice to the revision petitioners. Their only apprehension is that Ex.B-65 could not be considered without examination of the attesting witnesses or in the manner known to law as provided under Section 68/69 of the Indian Evidence Act, 1872 read with Section 63 of the Indian Succession Act, 1925.

14. The Civil Revision Petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes.
Internet : Yes.
svn

18-08-2015

To

The I Addl. District Court,
Tiruppur.

D.HARIPARANTHAMAN, J.

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