

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD) NO.533 OF 2015
AND M.P.NO.1 OF 2015

1.Sundarambal
2.Sarojini
3.Chandra Leela
4.Rukumani

... Petitioners

Vs.

1.T.Udhayakumar
2.T.Dhandabani

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 05.12.2014 made in I.A.No.69 of 2014 in A.S.No.7 of 2013 on the file of the learned Sub Court, Pollachi.

For Petitioners : Mr.N.Manokaran

ORDER

This Civil Revision Petition is directed against the order dated 05.12.2014 passed in I.A.No.69 of 2014 in A.S.No.7 of 2013 by the learned Sub Judge, Pollachi.

2.The first respondent had instituted the suit in O.S.No.135 of 1999 before the District Munsif, Pollachi, for declaration and permanent injunction. The petitioners are defendants 2 to 5 in the suit. After trial, the suit was decreed on 30.03.2001.

3.Aggrieved by the judgment and decree, the petitioners filed an appeal before the Sub Court, Pollachi, in A.S.No.7 of 2013. The petitioners also filed an application in I.A.No.69 of 2014 seeking direction to send for the suit papers relating to O.S.No.441 of 1998 on the file of the District Munsif Court, Pollachi for comparison of the signature.

4.The contention of the petitioners is that the respondents are claiming right on the basis of the will dated 15.05.1998 and the Trial Court, comparing the signature found in a partition deed dated 27.06.1974 held that the will was genuine. The Appellate Court dismissed the application vide order dated 05.12.2014. Aggrieved by the order, the present Civil Revision Petition is filed.

5.Mr.N.Manokaran, learned counsel for the petitioners submitted that the reasonings of the Appellate Court for dismissing the application are not sustainable in law. It is further submitted that the appeal is a continuation of

the suit and seeking records from the Court of District Munsif did not cause any prejudice to the respondents. It is further submitted that the suit in O.S.No.441 of 1998 was filed by the executor of the will, namely Thangamuthu Chettiar and it will be helpful to decide the issues involved in this matter.

6.I am not in agreement with the submissions of the learned counsel for the petitioners. The suit was filed in the year 1999 and it was decreed only on 30.03.2001. After condoning the delay in representation, the appeal was taken up on file only in the year 2013. Though the petitioners had ample opportunity before the Trial Court, they have not taken any steps to prove their case. The plaintiffs have produced Exs.P5 to P8 relating to the years 1985 to 1996 to prove the will. The Appellate Court has rightly dismissed the application. Hence, I do not find any illegality or irregularity in the order impugned in this Civil Revision Petition.

7.In fine, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

25.02.2015

Index : Yes/No
Internet : Yes/No
TK

K.KALYANASUNDARAM, J.
TK

To

The Sub Court
Pollachi.

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