

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD) No.4145 of 2013andM.P.No.1 of 2013

1.Savithiri Padmanaban

proprietrix of P.M.Enterprises (since deceased)

2.P.Geetha

3.P.Shanthi

4.P.Leela

5.P.Vijayalakshmi

6.P.Gowri

7.P.Chandra

8.P.Janaki

(Respondent 3 to 8 were brought on record

as Lrs as per order in CMP No.15947/2004) ...

Petitioners

Vs.

Dr.Mrs.Latha Rajendran

Executor Trustee of Late Dr.M.G.Ramachandran

as per order in Appln.No.681 & 682/2013

in O.P.No.388 of 1992 dt.13.02.2013. ...

Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code against the order made in E.A.No.930 of 2013 in E.P.No.654 of 2010 in O.S.No.7915 of 1997 on the file of the X Asst. Judge, City Civil Court, Madras.

For Petitioners : Mr.T.R.Rajagopalan
Senior Counsel
for M/s. S.Navaneethakrishnan

For Respondent : Mr.T.V.Krishnamachari
Senior Counsel
For M/s.C.Jagadish

ORDER

This civil revision petition arises out of the order passed by the X Asst. Judge, City Civil Court, Madras in E.A.No.930 of 2013 in E.P.No.654 of 2010 in O.S.No.7915 of 1997

2. The husband of the respondent viz., Late M.Rajendran as an executor of the Will of Late Dr.M.G.Ramachandran and Managing Director of Sathya Studios (Pvt) Ltd., instituted a suit in O.S.No.7915 of 1997 against the petitioners for Permanent injunction and other reliefs.

3. The suit was decreed on 05.10.1999. Based on the decree, the said Rajendran filed an execution petition in E.P.No.654 of 2010 for delivery of possession of the property. Pending the execution petition, the said Rajendran died. This Court in Application Nos.681 & 682 of 2013 in O.P.NO.388 of 1992 in the matter of probate of the Will, this Court appointed the respondent as representative to administer the estate and the trust created under the Will of Late Dr.M.G.Ramachandran. On the basis of the order, the respondent was substituted in the place of M.Rajendran to pursue the execution proceedings in E.A.No.930 of 2013. Challenging the order, the present civil revision petition is filed.

4. Mr.T.R.Rajagopalan, learned Senior Counsel for the petitioners submitted that the respondent has no locus standi to maintain the petition. The Executing Court erred by permitting her to come on record as representative in the place of M.Rajendran, that the respondent cannot be termed as the representative in the place of Late M.Rajendran, the named executor of the Will of Late M.G.Ramachandran and hence, she cannot pursue the execution proceedings. The learned senior counsel further submitted that the execution Court cannot rely upon the order made in the application Nos. 681 & 682 of 2013 in O.P.No.388 of 1992 to substitute the respondent in the place of M.Rajendran and that interim order passed in the applications does not confer any right to deal with the immovable properties of the Will of Late M.G.Ramachandran.

5. Per contra, Mr.T.V.Ramanujam, learned Senior Counsel for the respondent submitted that after the demise of the executor of the Will, the respondent was rightly appointed as Interim administrator by this Court in O.P.388 of 1992, which cannot be questioned by the Judgment debtor. The learned Senior counsel further submitted that the trust has to be administered by a person and there cannot be any vacuum to continue the proceedings and if the respondent is not substituted, the execution petition will be dismissed. The learned counsel further submitted that the respondent is pursuing the execution petition on behalf of the estate and she will hand over possession to the

successor as per the order passed by this Court in the original petition and that the substitution cannot be challenged by the Judgment debtor in the execution petition.

6. It is seen that the suit was filed by M.Rajendran as executor of the Will of Late Dr.M.G.Ramachandran. It was specifically pleaded that the husband of the first defendant and father of the second defendant late Padmanabhan was permitted to occupy 'B' schedule property by Dr.M.G.Ramachandran. The suit was decreed on 05.10.1999 and the appeal filed by the defendants in A.S.21 of 2000 and Second appeal No.1062 of 2000 were dismissed.

7. It is not in dispute that the executor of the Will died during pendency of the execution petition and as per the order passed by this Court in O.P.No.388 of 1992, the respondent was appointed as an interim administrator on 13.02.2013. As rightly contended by the learned Senior counsel for the respondent that the petitioners/judgment debtors cannot question the substitution of the respondent in the place of M.Rajendran to pursue the execution proceedings.

I do not find any merit in the civil revision petition. Hence, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.02.2015

Index : Yes/No
Internet: Yes/No
sms

To

The X Asst. Judge, City Civil Court, Madras.

K.KALYANASUNDARAM, J.

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Pre-delivery order made in

C.R.P.(NPD) No.4145 of 2013
and
M.P.No.1 of 2013

02.02.2015