

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 17.02.2015

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P (PD)No.1299 of 2004
and CMP No.12470 of 2004

Sivabagiyam

... Petitioner

Vs

1.Kailasanathan
2.Kaliyammal
3.Rani
4.Minor Muthukumaran
5.Minor Vellaiammal
6.Minor Radha
(Minor 4 to 6 are represented
by guardian and mother 3rd
respondent Rani)
7.Saroja
8.Srinivasan
9.Maruthamuthu

... Respondents

Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India against the order of the learned Principal District Munsif, Kallakurichi passed in I.A.No.1223 of 2002 in O.S.No.1045 of 1970 dated 19.12.2003.

For Petitioner : Mr.E.Vijayanand

For Respondents : Mr.R.Doraisamy for R1

Mr.Thyagarajan for R2 to R6

No appearance for R7 to R9

O R D E R

This revision is filed challenging the order passed by the Principal District Munsif, Kallakurichi in I.A.No.1223 of 2002 in O.S.No.1045 of 1970.

2. One Manicka Moopar instituted a suit against one Arunachala Mudali and Ramakrishnan for declaration of title to 'B' Schedule property and alternatively for partition and separate possession of half share in the 'A' Schedule property and for means profit.

3. In the suit, the first respondent filed I.A.No.1223 of

2002 to implead the LR's of the deceased plaintiff Manicka Moopar. The first respondent has averred in the affidavit filed in support of the petition that the plaintiff Manicka Moopar died in the month of January 1996 leaving behind him and the respondents 5 to 9 as his LR's, that he had executed a will dated 06.12.1995 bequeathing the suit property to him. It is further averred that the respondents 5 to 10 are impleaded as parties so that they can raise objections, if any and the application was allowed by the trial court. Challenging the order, the petitioner has preferred the present revision.

4. Mr.Vijayanand, learned counsel for the petitioner submitted that if the application is allowed, the interest of the minors respondents 7 to 9 would be seriously affected, that the trial court ought not to have come to the conclusion that the applicant is the legal representative, based on the unregistered will. It is further submitted that the will is a forged one and created for the purpose of this case.

5. It is seen that the first respondent has filed the application on the basis of an unregistered will. The genuineness of the will cannot be decided in the interim application filed for impleading the respondents. Hence, I do not find any illegality or irregularity in the order impugned in this revision.

6. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. However, it is open to the petitioner and the other respondents to raise their objections, if any, about the genuineness of the will in the final decree proceedings.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rgr

To

The Principal District Munsif,
Kallakurichi.

Copy to: The Section Officer, V.R. Section, High Court, Madras

1 cc to Mr.E.Vijay Anand ,Advocate, SR.No.8542

C.R.P (PD)No.1299 of 2004

scd(co)

pmk.13.3.2015