

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)Nos.2517 and 2518 of 2016
and CMP Nos.12949 and 12950 of 2016

Ramesh ... Petitioner in both the revision petitions

vs

1. Mrs.Mary Stella
2. The Chairman
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai – 600 005

... Respondents in both the revision petitions

Civil Revision Petitions filed under Section 115 of the Civil Procedure Code against the fair and decreetal order in CMP No.817/2015 in A.S.No.343/2013 and CMP No.959/2015 in CMP No.1384/2013 in A.S.No.343/2013 on the file of IV Additional City Civil Court, Chennai.

For Petitioner : Mr.S. Thiruvengadam

COMMON ORDER

Challenging the order passed in CMA No.817 of 2015 in A.S.No.343 of 2013 on the file of IV Additional Judge, City Civil Court, Chennai and CMP No.959 of 2015 in CMP No.1384 of 2013 in A.S.No.343 of 2013, the first defendant in O.S.No.1360 of 2012 on the file of VI Assistant Judge, City Civil Court, Chennai has filed the above Civil Revision Petitions.

2. One Rajammal filed a suit in O.S.No.1360 of 2012 for permanent injunction. After contest, the trial court dismissed the suit. Aggrieved over the same, the plaintiff filed an appeal in A.S.No.343 of 2013. During the pendency of the appeal, the said Rajammal had died. Thereafter, the first respondent filed applications in CMP Nos.817/2015 and 959//2015 to implead herself as legal representative of the deceased Rajammal. The first respondent contended that the deceased Rajammal had executed a Will, bequeathing the suit property in her favour. Therefore, she is representing estate of the deceased Rajammal.

3. The application, filed by the first respondent, was hardly contested by the revisions petitioners, stating that the Will is not true and genuine and the same is a fabricated document.

4. However, the lower appellate court found that the genuineness of the Will can be established at the time of trial and in order to prosecute the appeal, the first respondent can be impleaded as a party in the appeal. Challenging this order, the defendant has filed the above Civil Revision Petitions.

5. The learned counsel for the petitioner submitted that it would be suffice to direct the lower appellate court to dispose of the appeal within a stipulated time, instead of going into the merits of the matter.

6. In view of the submissions made by the learned counsel on the petitioner, I direct IV Additional Judge, City Civil Court, Chennai to dispose of the appeal in A.S.No.343 of 2013, on merits and in accordance with law, within a period of three months from the date of receipt of copy of this order. It is open to the revision

petitioner to

M. DURAISWAMY,J.,

sr

raise all his objections with regard to the due execution of the Will before the lower appellate court. With these observations, both the civil revision petitions are disposed of. No costs. Consequently, connected CMPs are closed.

23-08-2016

sr

Index:no
website:yes

Note: Issue order copy on 26.08.2016

To

1. IV Additional City Civil Court, Chennai.
2. VI Assistant Judge, City Civil Court, Chennai

CRP(NPD)Nos.2517 & 2518/2016