

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

O.S.A. No.265 of 2012

and M.P.No.1 of 2012

Shantilal Kothari

.. Appellant

-vs-

S.Sharat Babu

.. Respondent

Appeal filed under Order XXXVI Rule 9 of O.S. Rules read with Clause 15 of the Letters Patent against the order dated 05.06.2012 made in Application No.1186 of 2012 in O.P.No.792 of 1998 on the file of original side of this Court.

Application No.1186/12: Application praying this Hon'ble Court be pleased to revoke the probate granted in OP.No.792/1998 dt.20.4.05.

For Appellant : Mr.R.Thiagarajan

For Respondents : Mr.T.V.Ramanujam, Sr.Counsel
for Mr.V.Chandrakanthan

* * * * *

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

On hearing the learned counsel for parties, it is agreed that since the appellant is not claiming any interest in the property from the testator, but claims that certain rights as a tenant have been conferred on him during the lifetime of the testator (disputed by the respondent), in the present proceedings relating to probate and its revocation by the appellant, really speaking the appellant would not have a caveatable interest and thus, cannot pray for revocation of the probate. Thus, there is no infirmity in the impugned order, but it is always open to the appellant, in the separate proceedings which are still pending qua enjoyment of certain rights claimed

by the appellant ostensibly granted during the lifetime of the testator to be decided subject to the objections raised by the respondent.

2.Original Side Appeal is, accordingly, dismissed in the aforesaid terms. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

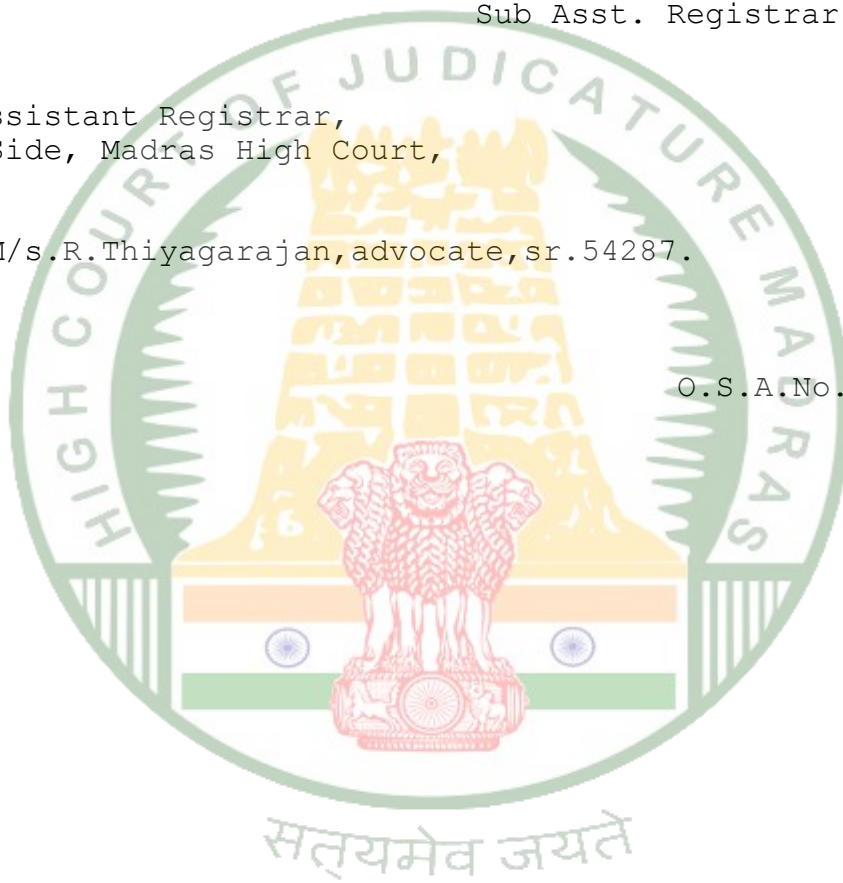
To

The Sub Assistant Registrar,
Original Side, Madras High Court,
Chennai.

+2 cc to M/s.R.Thiyagarajan,advocate,sr.54287.

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krd 30/9

O.S.A.No.265 of 2012



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