



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2016

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(PD)(MD).No.334 of 2016 and
CMP(MD).No.1444 of 2016

Silambayee : Revision Petitioner
Vs.

1. P. Alagumalai.
2. P. Angusami : Respondents

Civil Revision Petition is filed under Article 227 of the constitution of India against the fair and decreetal order passed in I.A.No.417 of 2015 in O.S.No.167 of 2012 on the file of the Additional Sub Court, Vedsanthur, dated 04.12.2015.

For Petitioner : Mr.M.S.Sureshkumar
For Respondent : Mr.T.Lajapathy Roy

O R D E R

This Civil Revision Petition is filed against the fair and decreetal order passed in passed in I.A.No.417 of 2015 in O.S.No.167 of 2012 on the file of the Additional Sub Court, Vedsanthur, dated 04.12.2015.

2. The revision petitioner is the defendant in the suit in O.S.No.167 of 2012. The respondents filed a suit for declaration and injunction. On behalf of the respondent PW1 and PW2 were examined in chief and cross examined. PW.2 is the attesting witness of the un-registered Will. The petitioner filed I.A.No.417 of 2015 to recall PW.2, who is the attesting witness in the Will for further cross examination. According to the petitioner, the Will is forged one and certain questions were not put to PW.2 at the time of cross examination. Therefore, he has filed I.A.No.417 of 2015 to recall PW.2. The respondents resisted the same, on the ground that the petitioner's husband threatened PW.2 with the assistance of Panchayat President. Earlier occasion the petitioner filed I.A.No.304 of 2015 to recall PW.1 and the same was ordered and PW.1 was recalled and cross examined. The learned Trial Judge considering all the materials on record dismissed the application. Against the said order, the present revision is filed.

<https://hcservices.ecourts.gov.in/hcservices/> learned counsel appearing for the petitioner contended that the learned Trial Judge has not given valid reason for dismissing the application. Further, the impugned order is



not a speaking order. If really, PW.2 was threatened by the petitioner, PW.2 or respondent would have given complaint before the concerned Police. Further, the Will in question was not produced before the Trial Court at the earliest and that is fatal to the case of the respondents.

4. I have heard the learned counsels appearing on either side and perused the materials available on record.

5. From the materials available on record it is seen that PW.2 was examined on behalf of the petitioner and the questions were put with regard to execution of the Will to PW.2. The learned Trial Judge has considered these aspects and also took into the fact that the respondents have stated that PW.2 was threatened by the petitioner's husband with the assistance of Panchayat President and he was pressurised to give evidence contrary to the evidence given earlier. For the above reason, the learned Judge dismissed the application filed by the petitioner to recall of PW.2 by giving valid reason. Hence, there is no reason warranting interference by this court.

6. In view of the above, the Civil revision petition is dismissed confirming the impugned order of the learned Subordinate Judge, Veda sandur passed in I.A.No.417 of 2015 in O.S.No.167 of 2012, dated 04.12.2015. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/

Assistant Registrar (Crl.Side)

/True Copy/

Sub Assistant Registrar

To

The Additional Sub Court, Veda santhur,

+1cc to Mr.M.S.Suresh Kumar, Advocate SR.No.7882

+1cc to Mr.T.Lajapathi Roy Advocate SR.No.8065

CN/SKS-RR/14.03.2016/2P-4C

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