



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2016

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.422 of 2016

and

C.M.P(MD) .No.1830 of 2016

A.Arunmozhi

.. Petitioner

Vs.

Elavarasu

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 22.12.2015 made in I.A.No.68 of 2015 in O.S.No.140 of 2009, on the file of the District Court, Virudhunagar at Srivilliputhur District.

For Petitioner : Ms.M.Vijayarathinam

O R D E R

This Civil Revision Petition is filed against the fair and decreetal order dated 22.12.2015 made in I.A.No.68 of 2015 in O.S.No.140 of 2009, on the file of the District Court, Virudhunagar at Srivilliputhur District.

2. The petitioner is the first defendant and the respondent is the plaintiff. The respondent has filed a Suit in O.S.No.140 of 2009 for partition. The petitioner filed an application in I.A.No.68 of 2015 for Stay of the Suit till disposal of the Appeal in A.S.No.684 of 2005, pending on the file of the High Court of Andhrapradesh, Hyderabad, on the ground that the genuineness of the Will being agitated in the first appeal in A.S.No.684 of 2005 before the High Court of Andhrapradesh, Hyderabad.

3. The respondent filed counter and submitted that the property in the proceedings pending before the High Court of Andhrapradesh, Hyderabad is different from the property mentioned in the Suit Schedule property. Both are different cause of action. The learned Judge considered the facts and materials on record, dismissed the application filed by the petitioner. Against the said order, present Civil Revision Petition is filed.

<https://hcservices.ecourts.gov.in/Hcservices/> The learned counsel for the petitioner submitted that the learned Judge erred in holding that the petitioner has not produced any material to show that the issue in proceedings in



High Court of Andhrapradesh, Hyderabad is same as that of the issues involved in the Suit pending in O.S.No.140 of 2009. The respondent himself admitted pendency of the appeal.

5. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. From the materials, it is seen that the petitioner has not produced any document to prove that the issue in the Appeal before the High Court of Andhrapradesh, Hyderabad as well as the Suit in O.S.No.140 of 2009 are one and the same. On the other hand, materials on record show that the District Judge, Chittoor has given a finding that, Will in question is genuine one and sent the report to the High Court of Andhrapradesh, Hyderabad.

7. In view of these facts, the petition filed by the petitioner is not maintainable. The learned Judge considered all these aspects and has dismissed the application by giving cogent and valid reasons. Hence, there is no irregularity or illegality in the said order, warranting interference of this Court. Therefore, the Civil Revision Petition is liable to be dismissed.

8. Accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

The District Judge,
Virudhunagar at Srivilliputhur District.

+One cc to Mr.M.Vijaya Rathinam, Advocate, SR.No.12398

PJL
RL/3C/JGB/DP/22/3/2016

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