

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1330 of 2017
& C.M.P.No.6196 of 2017

1.N.Suriyakumar
2.N.Suriya Raj
3.N.Tamilselvi
4.N.Kalaiselvi
5.N.Kavitha

.. Petitioners

Vs.

1.E.Rashiya Devi
2.Tamilarasi
3.R.Sudhakar
4.Mohanambal

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 16.03.2017 in I.A.No.10063 of 2015 in O.S.No.3851 of 2011 on the file of the learned XV Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.David Tyagaraj

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 16.03.2017 in I.A.No.10063 of 2015 in

O.S.No.3851 of 2011 on the file of the learned XV Assistant Judge, City Civil Court, Chennai.

2. The petitioners are the plaintiffs and the respondents are the defendants in O.S.No.3851 of 2011. The suit is one for permanent injunction restraining the first and second defendants from disturbing the plaintiffs' peaceful possession. The respondents filed a written statement and are contesting the suit. The trial commenced and the evidence on behalf of the plaintiffs was examined and the same was closed. The evidence on behalf of the respondents was commenced and the respondents produced and marked Ex.B4 legal heir certificate, wherein the second respondent was shown as adopted daughter of one Indrani.

3. According to the petitioners, the Tahsildar was examined as Court witness/C.W.1 and through him, Legal Issue Register was marked as Ex.C1. From Ex.C1, it is clear that Ex.B4 is a forged document and therefore, the petitioners filed an application in I.A.No.10063 of 2015 to punish the second respondent for referring Ex.B4 to the Registrar, City Civil Court as the said document is fabricated and to take action against her for the offences under

Sections 191, 192, 193, 196, 197, 198 and 199 IPC.

4. The second respondent has filed a counter affidavit denying all the averments and each and every allegations against the second respondent in the affidavit. The first petitioner himself examined as P.W.1 and no documents were marked. The respondents did not let in oral and documentary evidence. The learned trial Judge after considering the averments in the affidavit, counter affidavit, materials available on record, Ex.B4 marked by the respondents and evidence of C.W.1/Tahsildar, dismissed the application holding that the second respondent has produced forged, fabricated document and evidence of C.W.1/Tahsildar is not clear that Ex.B4 is a forged one, against which, the present civil revision petition is preferred by the plaintiffs/petitioners.

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

6. The learned counsel for the petitioners in support of his contention, relied upon the judgments in Kuldeep Kapoor v. Susanta Sengupta in I.A.No.7088 of 2005 in CS(OS)No.821 of

2005, dated 08.12.2005 and Sachidanand singh and another v. State of Bihar and another reported in (1998) 2 SCC 493.

7. From the records, it is seen that the petitioners have filed an application for punishing the second respondent for producing the forged document Ex.B4. According to the petitioners, from the evidence of C.W.1/Tahsildar and Ex.C1, it is clear that Ex.B4/legal heir certificate is a forged document. The above contention putforth by the learned counsel for the petitioners is untenable and unacceptable. C.W.1/Tahsildar has not stated that he is sure about that Ex.B4 is a forged document and it has the signature of Tahsildar. C.W.1 has also not produced the register with regard to the petition received for issuance of legal heir certificate. The petitioners have also not proved that the signature in Ex.B4 is a forged one and it is not the signature of concerned Tahsildar. The learned trial Judge has given his findings that concerned Revenue officials have appeared to have issue legal heir certificate like Ex.B4 stating that the second respondent is the adopted daughter of Indirani and it will not prove that Ex.B4 is a forged document. The learned trial Judge also held that Ex.B4 will be considered at the time of final disposal of the suit.

8. Considering the aforestated facts and circumstances of the case, the judgments relied upon by the learned counsel for the petitioners are not applicable to the facts of the present case. Further, the suit has been posted for arguments and at that time, the petitioners have filed the present application. The learned trial Judge has given valid and cogent reasons for dismissing the application by exercising powers conferred by him. I do not find any illegality or irregularity in the order warranting interference by this Court. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

11.04.2017

Index : Yes

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To

XV Assistant Judge, City Civil Court
Chennai.

V.M.VELUMANI, J.

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