

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1999 of 2017
& C.M.P.No.9698 of 2017

R.N.Kothandaraman

.. Petitioner

Vs.

1. Anbukkarasu
2. Udhayasuriyan
3. Manimekalai
4. Thaiyalnayagi

5. The Tahsildar
Mannargudi.

6. The District Collector of Thiruvarur District
Thiruvarur.

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 20.01.2017 made in I.A.No.287 of 2016 in O.S.No.39 of 2016 on the file of the District Munsif Court, Mannargudi.

For Petitioner : Mr.S.V.Jayaraman
Senior Counsel for
Mr.T.Dhanasekaran

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 20.01.2017 made in I.A.No.287 of 2016 in O.S.No.39 of 2016 on the file of the District Munsif Court, Mannargudi.

2. The petitioner is the plaintiff and respondents 5 and 6 are the defendants in O.S.No.39 of 2016. Respondents 1 to 4 are the proposed defendants. The petitioner filed the suit against the respondents 5 and 6 for declaration that the petitioner is the legal heir of deceased Santhana Lakshmi and for mandatory injunction directing the respondents 5 and 6 to issue legal heirship certificate to the petitioner. Respondents 5 and 6 filed written statement and are contesting the suit.

3. The respondents 1 to 4 filed I.A.No.287 of 2016 for impleading themselves as defendants 3 to 6 in the suit. According to the respondents 1 to 4, they are sons of brother of Balasundaram, who is the husband of the deceased Santhana Lakshmi. The petitioner is brother of deceased Santhana Lakshmi. The respondents 1 to 4 are the only legal heirs of the

deceased Santhana lakshmi and the petitioner tried to get legal heirship certificate behind the back of the respondents 1 to 4 and they have given objection to the 5th respondent/Tahsildar and the same is pending. In view of the same, the respondents 1 to 4 are necessary and proper parties to the suit to decide the issue.

4. The petitioner filed counter affidavit and opposed the said application.

5. The learned Judge, considering the averments made in the affidavit, counter affidavit and materials available on record, allowed the application holding that there is a dispute between the petitioner and respondents 1 to 4 as to who are the legal heirs of the deceased Santhana Lakshmi. The said issue can be decided only after considering the evidence let in by the parties and cannot be decided in the summary proceedings.

6. Against the order dated 20.01.2017 made in I.A.No.287 of 2016, the present civil revision petition is filed by the petitioner.

7. Heard the learned Senior Counsel appearing for the petitioner and perused the materials available on record.

8. From the materials available on record, it is seen that the petitioner is claiming to be the only legal heir of deceased Santhana Lakshmi and he is the brother of the deceased Santhana Lakshmi. Whereas, the respondents 1 to 4 claimed that they are the legal heirs of Santhana Lakshmi on the ground that they are the brother's sons of husband of Santhana Lakshmi. This dispute cannot be decided in summary proceedings and the same can be decided only by appreciating the evidence let in by the parties, as per the provisions of the Hindu Succession Act.

9. The learned Judge considering all the materials available on record, rightly allowed the application. In these circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 20.01.2017.

10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

28.06.2017

Index : Yes/No

gsa/kj

To

1. The Tahsildar
Mannargudi.
2. The District Collector of Thiruvarur District,
Thiruvarur..
- 3.The District Munsif Court, Mannargudi.

V.M.VELUMANI, J.

gsa/kj

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