

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2017

CORAM:

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN

CRP (PD) No.4277 of 2014
& MP.No.1 of 2014

The Tamil Nadu Industrial Investment
Corporation Limited,
Represented by its Branch Manager,
Salem Branch,
No.4/22, Sri Lakshmi Complex,
Omalur Main Road,
Salem - 636 004.

...

Petitioner

Vs.

1.Sekar @ Lakhmi Narayanan
2.P.Lakshmi
3.Rajakumari
4.P.Jayanthi

...

Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order and decretal order passed in I.A.No.636 of 2013 in O.S.No.66 of 2007 dated 30.10.2013 on the file of the III Additional District Court, Salem.

For Petitioner : Mr.K.Magesh
For Respondents : Mr.Chenghan
for M/s.R.Meenal

ORDER

The respondents filed a suit in O.S.No.66 of 2007 before the District Court, Salem, praying for a decree of declaration of title, and delivery of vacant possession of the property. The suit was contested by the petitioner by filing the written statement.

2. Before the trial Court, the respondents produced two documents, one stated to be a Will executed by Mrs.Alagammal, the certified copy of which was marked as Ex-A1, and another Will executed by Mrs.Ranganayaki Ammal, which was marked as Ex-A3.

3. The petitioner filed an application before the trial Court in I.A.No.636 of 2013, to reject Ex-A1 and Ex-A3 on the ground that the originals were not produced. Before filing the said application, the petitioner called upon the respondents to produce the original Wills. The respondents, in the reply, contended that the original Wills were not available with them and hence they have filed the certified copies.

4. The trial Court dismissed the application with an observation that it is always open to the respondents to produce secondary evidence to prove the Will. The said order is under challenge in this Civil Revision

Petition.

5. The learned counsel for the petitioner contended that in case the originals are not produced, it would not enable the petitioner to verify the signature of the testators. According to the learned counsel, the respondents with a view to obtain a decree created documents to appear as if the property belongs to them.

6. I have also heard the learned counsel for the respondents.

7. The respondents made a claim that they are not in possession of the original Wills, and therefore, they produced the certified copies and the same were marked as Ex.A1 and Ex.A3.

8. Since the claim is on the basis of Will, it is for the respondents to plead and prove that the testators have executed the Will in a sound and disposing state of mind. It is not for the petitioner to plead the negative. It is for the trial Court to decide the matter on the basis of evidence. I do not find any error or illegality in the order passed by the learned trial Judge warranting interference, by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

9. In the upshot, I dismiss the Civil Revision Petition. No costs.
Consequently, connected miscellaneous petition is closed.

20.03.2017

ds

To:

The III Additional District Court,
Salem.

K.K.SASIDHARAN, J.

ds

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