

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.06.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D).No.4278 of 2014 and
M.P.No.1 of 2014

S.Rajasekaran

...Petitioner

Vs

1.Subramania Pathar
2.Premalatha
3.Chitra

...Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair and Final order passed in Memo dated 09.07.2014, in O.S.No.38 of 2013 dated 09.07.2014 on the file of the Sub Court, Mannargudi.

For Petitioner : Mr.P.Pandiyaraj

For Respondents : Mr.K.Vaithilingam

ORDER

The petition filed a Memo before the Trial Court to direct the defendants to produce the Will dated 17 August 1994. The defendants, on appearance before the Trial Court submitted that they are not in possession of the Will. The Trial Court, therefore, failed to issue direction to the respondents herein to produce the Will. The order is under challenge in this Civil Revision Petition.

K.K.SASIDHARAN,J.

2. Heard the learned counsel for the petitioner and also the learned counsel for the respondents.

3. The petitioner wanted to prove the Will and for the said purpose, called upon the respondents herein, to produce the Will dated 17 August 1994. The respondents made it clear before the trial Court that they are not in possession of the Will. Since the Will is stated to be not in the possession of the respondents, it is always open to the petitioner to lead secondary evidence in accordance with the Evidence Act. The Court cannot compel the respondents to produce the Will, in view of their contention that they are not in possession of the Original Will dated 17 August 1994.

4. The Civil Revision Petition is disposed with the observation that this order would not stand in the way of the petitioner proving the Will in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

22.06.2017

dna/gms
To
The Sub Court, Mannargudi.

C.R.P.(P.D.) No.4278 of 2014