

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 05.09.2017

JUDGMENT PRONOUNCED ON : 22.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

A.S.No.109 of 2004 and CMP Nos.372/2009, 522, 523,
1461 , 1462/2010 & 756 of 2012
and CRP PD No.1439 of 2013
and CRP NPD Nos.2564, 2990 & 2991 of 2013
and MP Nos. 1, 1, 1 & 1 of 2013

AS No.109 of 2004

Sakunthala Ammal

... Appellant

Vs.

1. Pattu @ Unnamalai Ammal (Died)
2. Usha @ Unnamalai Ammal
3. K.Dhanasekaran
4. Balarama Gounder
5. Sarathi Gounder
6. Ramapathy Gounder
7. Pavadai Chettiar
8. Chinnadurai Chettiar
9. Balaram Chettiar

10. Natesa Gounder
11. Ramalinga Chettiar
12. V.Dhanusu Mudaliar
13. Babu Sahib
14. Ramaswamy Pillai
15. M.Ganapathy
16. Kannivel
17. Jayagopi Naidu
18. Ganesa Achari
19. Nagaraja Achari
20. V.Subramanyam
21. P.Prabhakaran
22. P.Kannan
23. S.Munuswamy Mudaliar
24. V.K.M.Abdul Hurraq Sahib
25. K.H.Akthar
26. M.A.Vedi Gounder

... Respondents

CRP PD Nos.1439 of 2013
CRP NPD Nos.2990 & 2991 of 2013

T.R.C.Venghatesh

... Petitioner
in all the petitions

Vs.

Usha @ Unnamalai Ammal

... Respondent
in all the petitions

CRP PD No.2564/2013

Sakunthala Ammal (Deceased)

T.R.C.Venghatesh

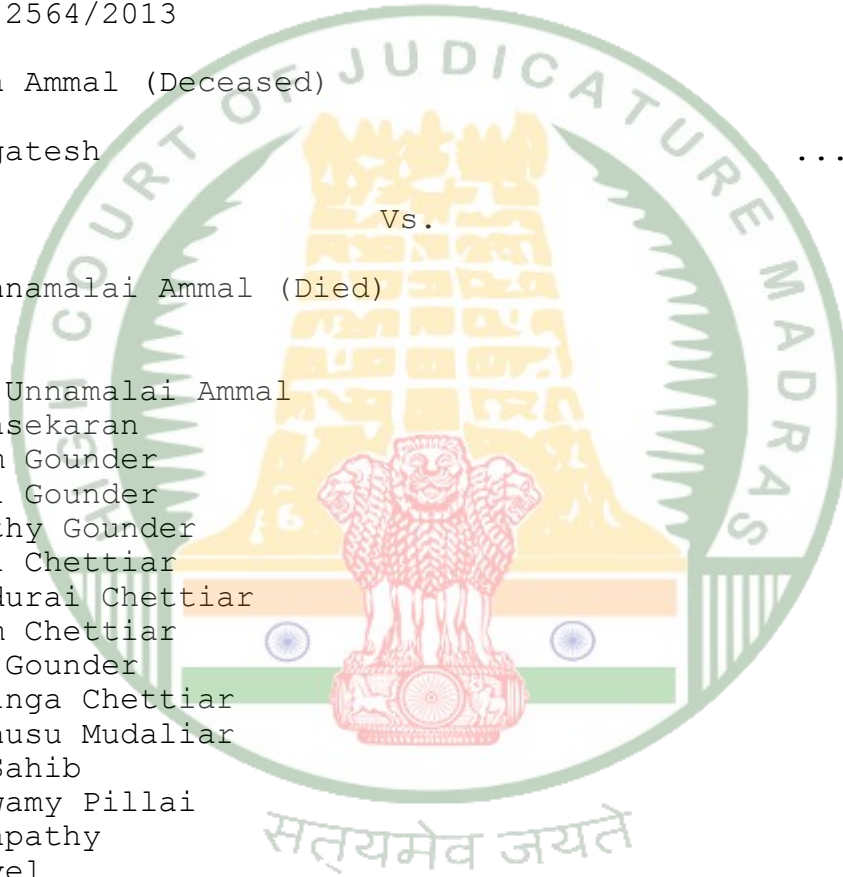
... Petitioner

Vs.

Pattu @ Unnamalai Ammal (Died)

1. Usha @ Unnamalai Ammal
2. K.Dhanasekaran
3. Balaram Gounder
4. Sarathi Gounder
5. Ramapathy Gounder
6. Pavadai Chettiar
7. Chinnadurai Chettiar
8. Balaram Chettiar
9. Natesa Gounder
10. Ramalinga Chettiar
11. V.Dhanusu Mudaliar
12. Babu Sahib
13. Ramaswamy Pillai
14. M.Ganapathy
15. Kannivel
16. Jayagopi Naidu
17. Ganesa Achari
18. Nagaraja Achari
19. V.Subramaniam
20. B.Prabaharan
22. B.Kannan
23. S.Munuswami Mudaliar
24. V.K.M.AbdulHarraq Sahib
25. K.H.Akthar
26. M.A.Vedi Gounder

... Respondents



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Prayer in AS No.109/2004:

This appeal is filed under Section 96 r/w Order 44 Rule 1 of Civil Procedure Code, against the judgment and decree dated 28.1.1993 made in O.S.No.18 of 1988 on the file of the Subordinate Judge's Court, Tiruvannamalai.

Prayer in CRP No.1439/2013:

This petition is filed under Article 227 of the Constitution of India, against the fair and decretal order passed in I.A.No.87 of 2013 in Suo motu I.A No.34 of 2013 on the file of the Principal Sub Judge, Tiruvannamalai on 12.02.2013.

Prayer in CRP No.2990/2013:

This petition is filed under Article 227 of the Constitution of India, against the order passed in I.A.No.198 of 2013 in Suo motu IA No.34 of 2013 in CMP No.756 of 2012 in A.S.No.109 of 2004 on the file of the Principal Sub Judge, Tiruvannamalai on 27.03.2013.

Prayer in CRP No.2991/2013:

This petition is filed under Article 227 of the Constitution of India, against the order passed in I.A.No.199 of 2013 in Suomotto IA No.34 of 2013 in CMP No.756 of 2012 in A.S.No.109 of 2004 on the file of the Principal Sub Judge, Tiruvannamalai on 27.03.2013.

Prayer in CRP No.2564/2013:

This petition is filed under Article 227 of the Constitution of India, against the fair and decretal order passed in Suomotto I.A.No.34 of 2013 in As No.109 of 2004 on the file of the Principal Sub Judge, Tiruvannamalai on 23.04.2013.

For Appellant : Mr.A.R.L.Sunderesan, Sr. Counsel
for Mr.L.Damodharan

For 1st Respondent : Mr.T.R.Rajagopalan, Sr. Counsel
for Mr.K.Govi Ganesan

COMMON JUDGEMENT

The plaintiff in O.S.No.18 of 1988 whose suit for declaration of her title to the suit B Schedule Properties and for permanent injunction restraining the defendants from collecting the rents in the alternative for relief of partition and separate possession of 2/3 share came to be dismissed had filed the above appeal in AS No.109 of 2004.

2. According to the plaintiff, she and the 2nd defendant are the daughters of one Narayanasami Chettiar, who died on 30.01.1986, leaving behind herself and the 2nd defendant Usha @ Unnamalai Ammal, being the daughters and the 1st defendant Pattu @ Unnamalai Ammal being the widow. The other defendants, namely defendants 4 to 26 are the tenants of various properties belonging to the estate. The 1st defendant, namely Pattu @ Unnamalai Ammal, died pending suit on 18.09.2002. According to the plaintiff, the suit properties belonged to one Periyambala Chettiar, who had bequeathed the A Schedule Property in favour of the plaintiff under a Will, dated 22.12.1951. It is also contended that the said Periyambala Chettiar died on 03.04.1956 and upon such death, according to the plaintiff, the properties that were described in the Schedule A to the Will dated 22.12.1951, namely Schedule B properties in the suit, devolved on her.

3. The said suit was resisted by defendants 1 and 2, who filed a common written statement, contending that the plaintiff's interpretation of the terms under the Will dated 22.12.1951 is not correct. According to the defendants 1 and 2, the properties were not bequeathed to the plaintiff alone. All the heirs of Narayanaswamy Chettiar and the 1st defendant, would be entitled to a share in the properties. It is also claimed that in the absence of any Santhathi, to either of the plaintiff or for her sister or brother, the estate under the Will, will revert back to the heirs of the father of the plaintiff. Thus, according to them, a complete and cogent reading of the Will would show that the plaintiff was not a universal legatee under the Will.

4. The Trial Court framed the following issues in the suit

1. Whether the true the 2nd defendant was born after the death of Periyambala Chettiar?
2. Whether the said Periyambala Chettiar, intended that his property should be enjoyed by the Santhathi of the 2nd defendant?
3. Whether the parents of the plaintiff are entitled to a life estate in the B Schedule properties?
4. Whether the plaintiff is estopped from seeking a right over the B Schedule properties as against the 1st defendant?
5. Whether the plaintiff is entitled to income from the B Schedule properties during the lifetime of the 1st defendant?
6. Whether, it is true that the plaintiff begot a male child and the child died?
7. Whether the defendants 3 and 14 are necessary parties in the suit?

8. Whether the Court fee paid on the reliefs prayed for is correct?
9. Whether the plaintiff is entitled to a declaration of title in respect of B Schedule properties?
10. Whether the plaintiff is entitled to reliefs of injunction and possession?
11. To what other relief, the plaintiff is entitled to?

5. During trial, the plaintiff was examined as P.W.1 and the 1st defendant was examined as D.W.1. Exs.A1 to A43 were marked on the side of the plaintiff and Exs. B1 to B59 were marked on the side of the defendants.

6. Upon consideration of the oral and documentary evidence, the learned Subordinate Judge, Tiruvannamalai dismissed the suit, holding that the plaintiff is not entitled to inherit as a legatee, since the conditions imposed by Periambala Chettiar in the Will, were not adhered to by the plaintiff. It was also found that the 2nd defendant having been born to Narayanaswamy Chettiar and the 1st defendant, she would be also entitled to a share in the suit properties. On the above findings, the learned Trial Judge dismissed the suit by judgment and decree dated 28.01.1993. It was also found that the suit itself is premature, since the 1st defendant has a life estate and right to enjoy the properties till her lifetime.

7. Aggrieved by the said judgment and decree, the plaintiff had preferred the above appeal.

8. Pending the above appeal, the appellant, namely the plaintiff died on 09.12.2009. Upon the death of the plaintiff, one T.R.C.Venghatesh filed an application in CMP Nos.522 and 523 of 2010, claiming that the plaintiff had bequeathed the suit properties in his favour under a Will dated 10.10.2009. Therefore, according to him, he is entitled to be brought on record as the legal representative of the deceased plaintiff/appellant. The said application was resisted by the 2nd respondent contending that the Will said to have been executed by the plaintiff is concocted, forged and fabricated. It is also stated that the attesting witnesses to the said Will, namely Kesava Chettiar, who claims that he married the plaintiff/appellant after she deserted her husband Chakaravel Chettiar and his son, through his 1st wife, had filed affidavit in support of the said Will dated 10.10.2009. In view of the contentions raised by the 1st respondent/2nd defendant that the Will is not true and valid, T.R.C.Venghatesh, namely the petitioner in CMP Nos.522 and 523 of 2010 had filed CMP Nos.756 of 2012, with the following prayer:

"Pleaded to determine the question whether the petitioner is the legal representative of the deceased Sakunthala Ammal, who is the sole appellant in the above said appeal."

9. The said application was also resisted by the 2nd respondent. Ultimately, by an order dated 04.01.2013, this Court had directed the learned Subordinate Judge, Tiruvannamalai, to conduct an enquiry regarding the truth and validity of the Will dated 10.10.2009 and submit a report along with the evidence recorded and the findings thereon. The relevant portion of the said order is reproduced here under.

"8. Therefore, in the interest of justice, in order to prosecute the above first appeal in a proper manner, I am of the view that a report should be called for from the Subordinate Court, Tiruvannamalai, with regard to the Will dated 10.10.2009. The Subordinate Court, Tiruvannamalai, on receipt of the documents, shall issue notice to the parties and give opportunity to them to adduce oral and documentary evidences to prove the Will as contemplated under the law. The Subordinate Court, Tiruvannamalai, shall send a report as to the Will dated 10.10.2009 and the status of the petitioner as prayed for in CMP No.756 of 2012 along with the evidences recorded by the Court within a period of four weeks from the date of receipt of a copy of this order."

10. Pursuant to the said direction issued by this Court, the learned Subordinate Judge, Tiruvannamalai, took up the enquiry and numbered the same as Suo motu IA No.34 of 2013. In the said proceedings, the 2nd respondent, namely Usha @ Unnamalai Ammal, filed IA Nos.84, 85, 86 and 87 of 2013 seeking to send for the documents, namely the affidavits in the payment out applications made by Sakunthala Ammal in HRCOP's Nos.4 to 9 of 2002 and 3, 4, 8, 9 and 11 of 2003. It was also claimed that those documents were in the custody of the District Court in Probate OP No.1 of 2010. Therefore, the applications were taken out to send for those documents from the District Court and refer them to the Handwriting Expert for comparison of the signatures found in those affidavits with that of the signature found in the disputed Will. The respondent therein, namely T.R.C.Venghatesh, filed a counter objecting to the said applications on the ground that no expert opinion is necessary. It was not contended on behalf of T.R.C.Venghatesh, who claimed under the Will dated 10.10.2009, the signatures of Sanguthala Ammal, found in those affidavits were not her signature.

11. The trial Court, on receipt of the records from the District Court, allowed the application on 20.02.2013 appointing Thiru.K.Elumalai, Advocate to take the documents to the handwriting expert for comparison. Upon comparison by the handwriting expert, the report of the handwriting expert dated 06.03.2013 was received by the Court. The opinion of the handwriting expert was that the signatures in the Will and the affidavits did not tally and that they were not that of the same person. Thereafter, the witnesses were examined on 19.03.2013. P.W.1 was examined and he was also cross examined. Thereafter, on 22.03.2013, the petitioner in CMP No.756 of 2012, namely T.R.C.Venghatesh, filed application in I.A.Nos.198 and 199 of 2013, seeking to produce certain documents, which according to him contained the signatures of Sakunthala Ammal, seeking comparison of the signatures found in those documents with the signatures of Sankunthala Ammal in the disputed Will dated 10.10.2009. For the first time, in the affidavit filed in support of the said applications, it was contended that the signatures in the payment out applications filed by Sanguthala Ammal in the Rent Control Proceedings, were not her signatures. Therefore, the petitioner prayed for comparison of the signatures found in the documents sought to be produced by him and in the Will of Sankunthala Ammal dated 10.10.2009. The said applications were stoutly resisted by the respondent contending that the applications were after-thought, attempting only to drag on the proceedings. By an Order dated 27.03.2013, the learned Subordinate Judge dismissed the said applications and thereafter, the two attesting witnesses of the Will dated 10.10.2009 were examined as P.W.2 and P.W.3. The 1st respondent namely Usha @ Unnamalai was examined as R.W.1. Upon completion of the enquiry and after hearing the arguments of the learned counsel on either side, the learned Subordinate Judge had returned a finding to the effect that the Will dated 10.10.2009 has not been proved in accordance with law. Therefore, the legatee under the said Will, namely the petitioner in CMP No.756 2012, is not the legal representative of the deceased Sakunthala Ammal. As against the said finding, the said T.R.C.Venghatesh, the legatee had filed the CRP No.2564 of 2013. As against the order in IA No.87 of 2013, directing the comparison of the signatures of Sakunthala Ammal found in the affidavits filed in the Rent Control Court with that of her signatures found in the Will dated 10.10.2009, the said T.R.C.Venghatesh had filed CRP No.1439 of 2013. As against the dismissal of his applications in I.A.Nos.198 and 199 of 2013 seeking comparison of the signatures of Sakunthala Ammal, found in the Will with certain other signatures, which according to him are the admitted signatures of the Sakunthala Ammal, the petitioner had filed C.R.P.Nos.2990 and 2991 of 2013. All these Civil Revision Petitions as well as the appeal are directed to be heard together by me, by The Honourable The Chief Justice, by order

dated 14.12.2016. Hence, all these matters are taken up for disposal by me.

12. The above narration of facts would show that the principal question that has to be decided in these proceedings before going into the merits of the appeal in AS No.109 of 2004, is as to whether the Will dated 10.10.2009, has been proved to be a genuine document, thus, enabling the person claiming as a legatee/legal representative of Sakunthala Ammal, to be brought on record in the appeal as her legal representative in order to enable him to prosecute this appeal.

13. Therefore, I confine myself to the question relating to the validity and the genuineness of the Will dated 10.10.2009. As could be seen from the records, this Court, on 04.01.2013, called for report from the learned Subordinate Judge, Tiruvannamalai, regarding the truth and validity of the Will dated 10.10.2009. At the outset, Mr.AR.L.Sunderasan, learned Senior Counsel appearing for the petitioner in all the Revision Petitions would contend that the trial Court has over-stepped the scope of the enquiry. He would rely upon the order of this Court dated 04.01.2013 and contend that this Court had only directed the trial Court to send a report with regard to the Will dated 10.10.2009. Therefore, according to him, the learned Subordinate Judge was not right in rendering a finding on the validity or otherwise of the Will dated 10.10.2009.

14. Per Contra, Mr.T.R.Rajagopalan, learned Senior Counsel appearing for the respondent would submit that Under Order 22 Rule 5 of the Code of Civil Procedure, it is incumbent upon the trial Court, from which a finding or report is called for on the question as to whether a person is a legal representative of a deceased party or not, to decide the question and return the records together with evidence recorded as such in the trial, its findings and reason therefor. Therefore, according to Mr.T.R.Rajagopalan, learned Senior Counsel appearing for the respondent, the Court has to record a finding and the Appellate Court may take the same into the consideration in determining the question. According to Mr.T.R.Rajagopalan, learned Senior Counsel, the Trial Judge was right in rendering a finding on the question referred to do, namely, the genuineness of the Will dated 10.10.2009.

15. CRP No.1439 of 2013 is directed against the order in IA No.86 of 2013, in and by which, the trial Court had directed certain documents, namely, affidavits filed by Sakunthala Ammal, seeking payment out in Rent Control Proceedings to be sent to the expert for comparison of the signatures found therein along with the disputed signatures found in the Will dated 10.10.2009. The said application came to be allowed by an order dated

12.02.2013. In the affidavit filed in support of said application, it is contended by the respondent in AS No.109 of 2004/Petitioner in IA No.86 of 2013, that the deceased Sakunthala Ammal had filed various applications in HRCOP Nos.4 to 9 of 2002 and HRCOP Nos.3, 4, 8, 9 and 11 of 2003, seeking payment out of the rents that were deposited by the tenants, and those applications have been ordered by the Rent Controller and she also received the payment. Therefore, according to her, these applications are supported by an affidavit which contained the admitted signatures of Sakunthala Ammal.

16. On the above averments, an order was sought for to have the signatures found in the affidavit filed in the payment out application in the Rent Control proceedings, to be compared with the disputed signatures in the Will dated 10.10.2009. The respondent in the said application, namely T.R.C.Venghatesh, had filed the counter claiming that the procedure contemplated under Order 22 Rule 5 CPC is summary procedure and it is for him, as the propounder of the Will, to prove the Will in the manner known to law. Therefore, according to him, the application for sending the documents for comparison to an expert is not necessary at all. It should be pointed at this juncture that in the said counter affidavit filed on 05.02.2013, there was no plea or averment to the effect that the signatures of Sakunthala Ammal found in the affidavits filed in the Rent Control proceedings, were not that of Sakunthala Ammal. Therefore, the Court directed those documents to be summoned from the District Court and sent for comparison.

17. In fact, I find that the Civil Revision Petitions against the said order dated 12.02.2013 was filed on 01.04.2013 after the report was received from the Handwriting Expert stating that the signatures found in the affidavit and the Will dated 10.10.2009 do not tally or were not that of the same person. The only contention that is raised by Mr.AR.L.Sunderasan, learned Senior Counsel appearing for the petitioner, in those Civil Revision Petitions is that, as a propounder of the Will, it is for him to prove the Will and even before he could take steps to examine the attesting witness and establish the Will, the Court had chosen to send the documents for comparison by an expert.

18. Per Contra, Mr.T.R.Rajagopalan, learned Senior Counsel appearing for the respondent would contend that this Court, while calling for a finding from the learned Subordinate Judge, has fixed the time limit and it is in view of the time limit fixed by this Court, as soon as the records were received by the trial Court, the respondent had filed the applications seeking to send the documents for comparison only with a view to avoid any delay on her part in the proceedings, which were time bound.

He would further plead that the very idea of filing a Revision Petition against the order in IA No.86 of 2013 had occurred to the petitioner only after the report went against him.

19. I have considered the rival submissions. I am unable to countenance the contention of Mr.A.R.L.Sunderasan, learned Senior Counsel appearing for the petitioner who would suggest that if a propounder is attempting to establish a Will, the other party has to be mute spectator and wait till the propounder to proves the Will in the manner known to law. May be, the law casts an obligation on the propounder to prove the Will, but, it does not, at the same time, prohibit a person denying the Will from making an attempt to show that it is not a true and genuine document. In fact, from the counter filed by the petitioner in CRP No.1439 of 2013 before the trial Court, it could be seen that he had not doubted the signatures of Sakunthala Ammal in the affidavits filed in the Rent Control proceedings. Therefore, I do not see any error or material irregularity in the order of the trial Court in directing the documents, namely the affidavits filed by Sakunthala Ammal in the Rent Control proceedings to be taken as admitted signatures for the purpose of the comparison with the disputed signatures found in the Will dated 10.10.2009.

20. CRP Nos.2990 and 2991 of 2013: These two Revisions Petitions arise out of interlocutory applications in I.A.Nos.198 and 199 of 2013, filed by the petitioner seeking to send for certain documents, which according to him, contained the admitted signatures of Sakunthala Ammal and to have the signatures found in those documents to be compared with the signatures found in the affidavits filed by the Sakunthala Ammal in the Rent Control proceedings and the Will dated 10.10.2009. For the first time in these affidavits, the petitioner took a new plea that the signatures found in the affidavits filed in support of the interlocutory applications in the Rent Control proceedings, were not that of Sakunthala Ammal. I do not think that such a plea is available to the petitioner. As already pointed out, while dealing with CRP No.1439 of 2013, the petitioner, who was the respondent in IA No.87 of 2013, had not taken such a plea in the counter affidavit. It is only after the receipt of the opinion of the expert which went against him, the petitioner had hatched upon the idea of denying the signatures of Sakunthala Ammal in the affidavits filed in support of the interlocutory applications filed before the Rent Control Court. Some kind of solemnity should be attached to the Court proceedings and P.W.2 as well as P.W.3, the alleged attesting witnesses of the Will dated 10.10.2009, in their evidence, have admitted to the fact that Sakunthala Ammal had filed applications for payment out and had received monies from the Rent Control Courts. Therefore, the petitioner who is a

stranger/a legatee, cannot be heard to contend that those signatures in the affidavits based on which the Court passed Judicial orders, were made by some other person. If such a plea is to be accepted, all the orders passed in the applications would become non-est in the eye of law.

21. I am unable to see as to how a person claiming under a party to a proceedings, can be allowed to claim that some of the signatures made by his predecessor-in-interest in the connected proceedings, were not actually made by him/her and I am therefore of the considered opinion that the trial Court was perfectly justified in dismissing these applications, which according to me, is a result of an afterthought and an attempt to subvert the judicial process. Therefore, I do not find any reason to interfere with the dismissal of IA No.198 and 199 of 2013 by the Trial Court. Hence CRP Nos.2190 and 2191 of 2013 will stand dismissed.

22. CRP No.2564 of 2013: This Revision Petition is directed against the order in Suo motu I.A.No.34 of 2013, wherein the trial Court recorded a finding that the Will dated 10.10.2009, has not been proved in accordance with law and hence the petitioner in CMP No.756 of 2012, namely T.R.C Venkatesh, cannot be said to be a legal representative of the deceased Sakunthala Ammal/appellant.

23. Mr.AR.L.Sunderasan, learned Senior Counsel appearing for the petitioner would contend that the trial Court erred in not accepting the evidence of P.Ws.2 and 3, who are the attesting witnesses of the Will. P.W.2 is one Kesava Chettiar, who claims that Sakunthala Ammal, who had married one Chakkaravel Chettiar, has left her and she was living with Kesava Chettiar, he also claims that the said Sagunthala Ammal is his wife. In the course of cross examination, the said witness had deposed the Will was written at Yanathimangalam, however he corrected himself and stated that the Will was written at Thiruvennainallur. He had also stated that Sakunthala Ammal had got it typed at Tiruvannamalai and handed over the Will to him. He would also admit that he had filed an application to bring himself on record as a legal representative of the deceased Sakunthala Ammal. He would admit that there are several mistakes in Ex.A7 Will dated 10.10.2009, and he would further depose that there were no mistakes in the Will that was shown to him. He would also depose that he is conducting the proceedings and the claimed that the properties belong to him. He also states that the petitioner, namely T.R.C.Venghatesh, had been spending for the litigation expenses and he has agreed to reimburse him.

24. In the further course of Cross examination, the said witness would admit that Sakunthala Ammal had signed several affidavits for payment out through her counsel Duraisamy. It is also stated that he had received monies on several occasions by virtue of the payment out applications being ordered by the Court. To a suggestion that himself and Venkata Krishnan (Venkatesh), created a Will, his answer was that somebody else could have created it. The whole of his evidence including his cross examination and the admissions made therein, create a genuine doubt as to the veracity of claims made by the said witness. In other words, the said evidence does not inspire the confidence of the Court. The other attesting witness P.W.3 is one Sathish kumar, who is the son of P.W.2/Kesava Chettiar, through his wife. The evidence of this witness runs counter to that of P.W.2 the other attesting witness in respect of the place of the execution of the Will as well as the mistakes found therein. He also denies the claim made by his father, namely P.W.2 that T.R.C.Venghatesh is conducting the case only on their behalf. It is also claimed that Sakunthala Ammal had executed the Will as per the direction of a god-man, called Jeevanatham. This story is absolutely unbelievable.

25. Apart from the above conflicting versions of P.Ws.2 and 3, we have a very material evidence in the form of handwriting expert's opinion. In the report of the handwriting expert, it is stated that the signatures in the Will dated 10.10.2009 do not tally with the admitted signatures found in the affidavits filed in the Rent Control Proceedings. The Assistant Director and the Document Expert, who had issued Ex.R21 report and Ex.R22, the reasoning sheet, had been examined as R.W.2. A perusal of her evidence does not show that the effect of the report has been diluted by any manner in the cross examination. In the light of the said concrete evidence in the form of the Expert's Report to the effect that the signatures of Sakunthala Ammal found in the Will, do not tally with her admitted signatures in the affidavit filed before the Rent Control Courts, I do not think that the Trial Court was in error in accepting the said report and holding that the petitioner, namely T.R.C.Venghatesh has not proved the Will to the satisfaction of the Court. I do not find any material irregularity in the order of the Trial Court to enable me to interfere with the same under Section 115 of Code of Civil Procedure. In the result, CRP No.2564 of 2013 is dismissed.

AS No.109 of 2004:

26. In view of the dismissal of the above Civil Revision Petitions and the findings of the Trial Court that the Will deed dated 10.10.2009 has not been proved, with which I concur, the petitioner, namely T.R.C.Venghatesh cannot be brought on record as a legal representative of the deceased appellant/Sakunthala

Ammal. In the absence of the Will, the 2nd respondent Usha @ Unnamalai being the sister of Sakunthala Ammal, would become entitled to the property in question, in view of Section 15(1) (d) of the Hindu Succession Act. Therefore, the appeal abates and the same is dismissed as having abated. However, in the circumstances of the case, there will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Jv

For Being Mentioned

This matter having been listed on 10.11.2017 for Being Mentioned in pursuance of the order of the Court dated 22.09.2017 and made herein in the presence of Mr.A.R.L.Sunderasan, Senior Counsel for Mr.L.Damodharan, Advocate for the Appellant and Mr.T.R.Rajagopalan, Senior Counsel for Mr.K.Govi Ganesan, Advocate for the Respondents the Court made the following order:-

A.S.No.109 of 2004 and CMP Nos.372/2009, 522, 523, 1461, 1462/2010 & 756 of 2012 and CRP PD No.1439 of 2013 and CRP NPD Nos.2564, 2990 & 2991 of 2013 and MP Nos. 1, 1, 1 & 1 of 2013

R.SUBRAMANIAN, J.,

Today, the above matter is posted under the caption "For Being Mentioned" at the instance of the learned counsel appearing for the appellant.

2.The learned counsel appearing for the appellant would submit that the above appeal was dismissed by this Court on 22.09.2017 and on perusal of the said judgment, the following discrepancies were noted:-

[a] in the 2nd line of page 6, it has been mentioned as "22.12.1951" in stead of "03.04.1956".

[b] in the 8th line in para 8 of page 9, it has been mentioned as "1st respondent" in stead of "2nd respondent".

[c] in the 1st line in para 9 of page 10, it has been mentioned as "1st respondent" in stead of "2nd respondent".

[d] in the 4th line in para 10 of page 11, it has been mentioned as "1st respondent" in stead of "2nd respondent".

[e] in the 7th line in para 26 of page 27, it has been mentioned as "1st respondent" in stead of "2nd respondent".

3. In view of the above submission, the Registry is directed to make the following corrections in the said judgment and issue fresh order copy forthwith:-

[a] Replace "22.12.1951" as "03.04.1956"

[b] Replace "1st respondent" as "2nd respondent".

[c] Replace "1st respondent" as "2nd respondent".

[d] Replace "1st respondent" as "2nd respondent".

[e] Replace "1st respondent" as "2nd respondent".

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Jv/bri
To

1. The Principal Sub Judge,
Tiruvannamalai.
2. The Section Officer,
V.R.Section.
High Court, Madras.

+4ccs to Mr.L.Damodharan, Advocate, S.R.No.70756 to 70758, 70755
+1cc to the Government Pleader, S.R.No.70568

A.S.No.109 of 2004 and CMP Nos.372/2009, 522, 523,
1461 , 1462/2010 & 756 of 2012
and CRP PD No.1439 of 2013
and CRP NPD Nos.2564, 2990 & 2991 of 2013
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AD(CO)
CS/05/01/18