

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.04.2017**

CORAM:

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

C.R.P.(P.D.) No.2590 of 2013 in
M.P.No.1 of 2013

V.Kumaresan

... Petitioner

versus

M.Saroja

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 18.02.2013 made in I.A.No.1384 of 2012 in O.S.No.429 of 2012 on the file of the Principal District Munsif at Poonamallee.

For Petitioner : Mr.R.Bharath Kumar

ORDER

The respondent filed a suit in O.S.No.429 of 2012 before the District Munsif Court, Poonamallee. The suit is one for permanent injunction. In the said suit, the petitioner filed an application in I.A.No.1384 of 2012 to send the Will for comparison. The application was dismissed by the Trial Court. The order is under challenge in this Civil Revision Petition.

2. Heard the learned counsel for the petitioner.

3. The respondent filed the suit for injunction. The respondent claimed the property on the strength of a Will dated 3 July 2007. The petitioner, on the other hand, claimed right on the strength of a settlement deed dated 11 September 1993. The suit is for injunction. There is no need for sending the Will for expert's opinion. It is for the petitioner, who placed reliance on the same, to prove that the Will was executed by the testator in a sound and disposing state of mind. It is not for the defendant to prove the negative.

4. The learned Trial Judge considered the factual matrix and rightly dismissed the application. I do not find any error or illegality in the said order warranting interference by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

5. In the up shot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

07.04.2017

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Index: Yes/No

To

The Principal District Munsif at Poonamallee.

K.K.SASIDHARAN,J.

Kj

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