

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.R.P.(PD)No.882 of 2012  
& M.P.No.1 of 2012

Senthilkumar

.. Petitioner

Vs.

1.M.R.Elangovan  
2.K.Mahalingam  
3.P.Chinnadurai  
4.P.Bharathi  
5.B.R.Duraisamy  
6.Indirani  
7.Gorantala Vasubabu  
8.Gorantala Masanthanamma  
9.B.Rajendaran  
10.Renugalakshmi  
11.D.Venkudupathi  
12.Sathiyapriya  
13.A.Muthusivasamy  
14.Swapana Devassy Kutti  
15.Saminathan  
16.Govindan

.. Respondents

**PRAYER:** Civil Revision Petition is filed under Article 227 of Constitution of India, against the order dated 23.12.2011 made in I.A.No.293 of 2011 in O.S.No.23 of 2011 on the file of the learned Subordinate Judge, Udumalpet.

For Petitioner : Mr.N.Umapathi

For R1 to R8 and  
R13 to R15 : No Appearance

For R9 to R12 : Mr.Sathish Parasaran  
Senior counsel

For R16 : Mr.P.Valliappan

ORDER

This Civil Revision Petition is filed against the order dated 23.12.2011 made in I.A.No.293 of 2011 in O.S.No.23 of 2011 on the file of the learned Subordinate Judge, Udumalpet.

2. The petitioner is the third party, respondents 1 to 4 are the plaintiffs 1 to 4 and respondents 5 to 16 are the defendants 1 to 12 in O.S.No.23 of 2011 on the file of the Subordinate Judge, Udumalpet. The respondents 1 to 4 filed the said suit against the respondent 1 to 12 for declaration and permanent injunction. The petitioner filed I.A.No.293 of 2011 for impleading him as a party defendant in O.S.No.23 of 2011. According to the petitioner, the property originally belonged to his grandfather Raja Naidu, who by Will dated 07.03.1976, bequeathed the property to the petitioner, his brother and sisters. When his grandfather, Raja Naidu died, the petitioner and his brother and sisters were minors and the

petitioner's father, fifth respondent, B.R.Duraisamy/first defendant was maintaining the property and after petitioner, his brother and sisters become major, the properties were handed over to them and they are in possession and enjoyment of the suit property. In the circumstances, the petitioner sought for impleading him as a party defendant.

3. The respondents 1 to 4 and 12th respondent filed separate counter and disputed the genuineness of the alleged Will executed by the Raja Naidu, grandfather of the petitioner. The learned Judge, considering the fact that the petitioner has not produced the Will executed by his grandfather, Raja Naidu and has not furnished the date of the Will, dismissed the application.

4. Against the said order dated 23.12.2011 made in I.A.No.293 of 2011 in O.S.No.23 of 2011, the petitioner has come out with the present Civil Revision Petition.

5. Heard the learned counsel appearing for the petitioner, respondents 9 to 12 and 16 and perused the materials available on record.

6. The petitioner is seeking to get himself impleaded as a party defendant, based on the alleged Will executed by the grandfather. He has not produced the Will or furnished the date and other details of the Will. Unless the petitioner produces and proves the genuineness of the Will alleged to have been executed by his grand father in a competent Civil Court, he is not entitled to claim any right in the property based on the Will.

7. The learned Judge considered these facts and the fact that the petitioner has failed to furnish the details of the Will, dismissed the application. There is no irregularity or illegality warranting interference with the order passed by the learned Judge dated 23.12.2011.

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

Index : Yes/No  
dm/gsa

To  
The Subordinate Judge,  
Udumalpet.

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**V.M.VELUMANI, J.**

dm



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