

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 19.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

C.R.P. (PD) No. 486 of 2015

and

M.P. No. 1 of 2015

Anni Violet

...Petitioner

Vs

1. The Assistant General Manager,
M/s.The State Bank of India,
PPG Department, Circle Top House,
Chennai LHO, College Road,
Chennai - 600006.

2. The Assistant General Manager,
M/s.The State Bank of India,
Tiruvannamalai Branch,
No.34, Kosamada Street,
Tiruvannamalai - 606601.

3. The Chief General Manager,
M/s.The State Bank of India,
PPG Department, Circle Top House,
Chennai LHO, College Road,
Chennai - 600006.

4. G.Kasturi

5. Parameshwari

6. Sumathi

7. Nisha

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order dated 25.11.2014 passed by the learned VI Assistant City Civil Judge, Chennai dismissing I.A.No.17688 of 2013 in O.S.No.7231 of 2011.

For Petitioner : M/s.N.Nagu Sah

For Respondents : Mr.A.Rajesh Kannan
for R4 to R7

ORDER

The order under challenge in the present revision is the rejection of the amendment petition filed under Order 6 Rule 17 of CPC. The amendment sought for before the trial Court is for changing the date of the Will from 10.12.2010 to 10.12.2007 in Paragraphs 7 and 9 of the plaint.

2. The reason adduced by the petitioner herein is that it was a typographical error and an inadvertent mistake. The petitioner had also assigned the reasons for not filing the application immediately and that since the Will was in the custody of her sister-in-law, she had not noticed the error. The trial Court, by an one line order had dismissed the petition, without assigning any reasons.

3. The Civil Revision Petition requires to be allowed on a simple ground that the rejection order is a non-speaking order. Nevertheless, since the revision has been kept pending from the year 2015 and the suit is also pending from the year 2011, this Court does not intend to remand the matter to the trial Court for a fresh consideration.

4. On a perusal of the affidavit filed along with the amendment application under Order 6 Rule 17 of CPC, I am of the view that the reasons assigned by the petitioner seeking for amendment are acceptable and that the amendment can be allowed. It is further seen that the main relief in the suit is for a declaration regarding the plaintiff's entitlement for the terminal benefits. It is her further plea in the plaint that her alleged late husband had executed a Will in her favour for disbursal of the terminal benefits also. Since the Will seems to be a prime document to the suit, it would be appropriate to allow the amendment on this ground also.

5. The learned counsel for the respondents opposes the Civil Revision Petition stating that the amendment application has been belatedly made and that the petitioner herein is not the legally wedded wife of late Kothandam, and the respondents also dispute the Will. If at all the respondents herein are aggrieved against the execution of the Will and the

marital status of the petitioner herein, it is always open to them to establish the same during the course of trial.

6. In the light of the above observations, the order dated 25.11.2014 in I.A.No.17688 of 2013 in O.S.No.7231 of 2011 is set aside. Consequently, the amendment sought for by the petitioner herein in her application in I.A.No.17688 of 2013 is allowed. The trial Court shall carry out the necessary amendments in the plaint forthwith. The respondents are also at liberty to cross examine the petitioner herein to establish the factum of marital status of the petitioner herein as well as the validity of the Will.

7. Accordingly, the Civil Revision Petition stands ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

19.12.2018

Index:Yes/No

Speaking order: Yes/No

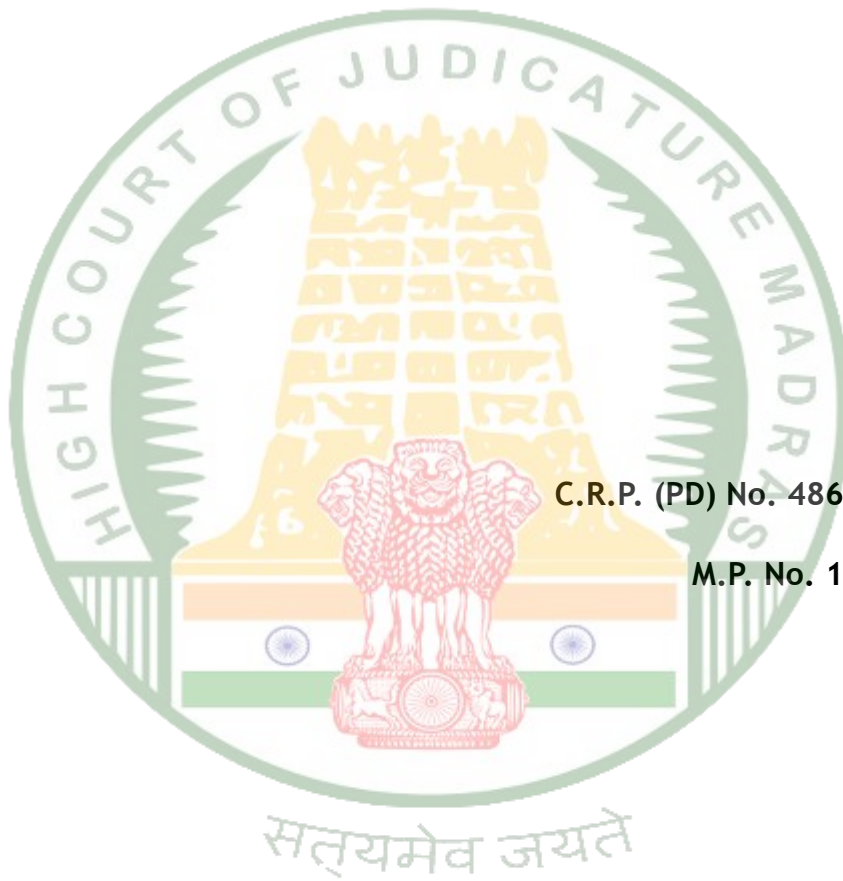
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To

The VI Assistant City Civil Judge,
Chennai.

M.S.RAMESH.,J

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