

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE M.M.SUNDRESH

O.S.A.No.200 of 2015

Hukmichand Jain

... Appellant

Vs

M.Premchand Ranka

... Respondent

Appeal filed under Order XXXVI, Rule 9 of Original Side Rules read with Clause 15 of Letters Patent against the order made in Application No.5104 of 2013 in O.P.No.771 of 1995, dated 24.03.2015 on the file of this Court.

A.No.5104 of 2013 : This Original Petition praying that this Court, to revoke the Order dated 07.02.1996 passed in the O.P.No.771 of 1995 granting Letters of Administration to the Respondent in respect of the said will dated 16.06.1970 purported to have been executed by late Misri Bai.

For Appellant : Mr.T.V.Ramanujam
Senior Counsel for
M/s.N.Varadharajan

For Respondent : Mr.S.Sadasharam

JUDGMENT

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

We have heard the learned counsel for parties at length.

2. The learned counsel for the respondent concedes that the impugned order predicated only on the bar of limitation would be difficult to sustain and thus, the impugned order should be set aside and the matter remitted back to the learned Single Judge for decision on merits, specifically in view of the judgment of the Division Bench of this Court in S.Vatsala v. K.S.Mohan and others, reported in 2016 (1) CTC 257.

3. We, accordingly, set aside the impugned order and remit the matter back to the learned Single Judge to consider the application for revocation filed by the appellant herein on merits and in accordance with law.

4. The appeal is, accordingly allowed, leaving the parties to bear their own costs.

5. At this stage, the learned counsel for parties state that before the matter being taken up by the learned Single Judge, they will endeavour to resolve the dispute by going to mediation. The learned counsel for parties agree to appear before the Mediator on 12th April 2016 at 2.00 P.M. and the Mediator will endeavour to conclude the mediation proceedings within a maximum period of two months from the first date fixed by the Mediator. If the mediation proceedings succeed, well and good, otherwise the learned Single Judge would be required to consider the matter.

6. List for report of the Mediator on 24.06.2016.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

bbr

To

1. The Sub Assistant Registrar,
Original Side,
High Court, Madras.
2. The Assistant Registrar,
Mediation and Conciliation Centre,
High Court, Madras.

+1cc to Mr.N.Varadharajan, Advocate, S.R.No.19502
+1cc to Mr.S.Sadasharam, Advocate, S.R.No.19276

O.S.A.No.200 of 2015

EV(CO)
CA(05/04/2016)