

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 13TH DAY OF APRIL 2018

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

A.2441 of 2018
in
A.No. 4 of 2006
in
O.P. No.418 of 2001

In the matter of Indian
Succession Act XXXIX of 1925
And
In the matter of the Last
Will and Testament of
T.Kanakasekaran - deceased

T.Rajasekaran
S/o. Late Thangavelu
(Retd.,) Jt.Secretary to Government,
B.125, Karthikeyan Salai,
Periyar Nagar,
Chennai - 600 082.

: Petitioner

-Vs.-

1. Tmt. Mahalakshmi
W/o. late Kanakasekaran
No.1, Rangappa Maistry Street,
Ayanavaram, Chennai - 600 023.

2. Thiru.T.Selvasekaran
S/o. late Thangavelu
No.10, Kanniah Naidu Street,
Kondithoppu, Sowcarpet,
Chennai - 600 079.

3. Mrs.V.Nirmala
W/o. late P.Viswanathan
No.61/5, Perumal Koil Street,
1st Floor, Saidapet, Chennai - 600 015. : Respondents

A.No. 4 of 2016:

- (*) 1. Mrs.K.Mahalakshmi (Deceased)
: Applicant/1st respondent in
main O.P.No. 418/2001
- (*) 2. G.Shantha (deceased)

(*) 3. K.Govindasamy
: Applicants 2 & 3 (impleaded as applicants 2 & 3 as per
order passed in A.No. 6619/09 Dt.17.6.2011

(*) 4. R.Vasantha
W/o. S.Rajendran
Arasamarapillayar Koil Street,
Salavanpettai, Vellore 632001.

The fourth applicant brought on record
as legal representative deceased second
applicant as per order dated 26.7.2017 in A.No.3634 of 2017.

-Vs.

1. T.Rajasekaran
: Respondent/Petitioner in
main O.P.No.418/2001.
2. T.Selvasekaran
3. Mrs.V.Nirmala
: Respondents 2 and 3 in O.P.No.418/2001
4. Balu
5. Samsuddhin
6. Annamalai
7. Balan
8. Kesavan
9. Venkatesan
10. P.Bakthavatsalu
11. S.I.Syed Bhuari @ S.T.Buhari
: Respondents

A.No.2441 of 2018

1. Tmt.Mahalakshmi (Deceased)
W/o Kansekaran(late)
: Applicant/1st respondent in
main O.P.No. 418/2001
2. G.Shantha (deceased)
W/o K.Govindasamy

3. K.Govindasamy
S/o Krishnan (late)
First Floor NO.1/1 Rangappa Maistry Street,
Ayanavaram
Chennai 600 023

4. R.Vasanth
W/o. S.Rajendran
residing at Arasamarapillayar Koil Street,
Salavanpettai, Vellore 632001.

...Applicants

-Vs.

1. T.Rajasekaran
S/o. Thangavelu (late)
B-125, Karthikeyan Salai,
Periyar Nagar
Chennai 600 082

2. Thiru.T.Selvasekaran
S/o Thangavelu (late)
No.10, Kannaiah Naidu Street
Kondithoppu
Sowcarpet
Chennai 600 079

3. Mrs.V.Nirmala
W/o. P.Viswantahan (late)
No.61/5 Perumal Koil Street,
I floor, Saidpaet
Chennai 600 015

4.. Balu

5. Samsuddhin

6. Annamalai

7. Balan

8. Kesavan

9. Venkatesan

10. P.Bakthavatsalu

11. S.I.Syed Bhuari @ S.T.Buhari

: Respondents/Respondents

Application praying that this Hon'ble Court be pleased to grant an interim stay of the order passed in Appln 4 of 2006 in OP 418 of 2001 dated 04.01.2018 by granting sufficient time to obtain the Certified copies of the decree and order in Appln 4 of 2006 in OP 418 of 2001 as well as in TOS 44 of 2010 for preferring OSA

This Original application coming on this day before this court for hearing the court made the following order:

This application has been filed by the Applicants in A.No.4 of 2006.

2. K.Mahalakshmi had filed A.No.4 of 2006 to revoke the probate granted in OP.No.418 of 2001.

2. This court had passed orders, dismissing A.No.4 of 2006 and confirmed the probate granted in OP.No.418 of 2001. This was by order dated 04.01.2018. It has been stated that the Applicant had been residing in one of the items of the properties covered under the Will in O.P.No.418 of 2001. He had also filed OS.No.11038 of 2009 on the file of the 11th Assistant City Civil Court, Chennai, for permanent injunction. The said suit is pending. It has been further stated that he had filed an Original Side Appeal, against the order passed in A.No.4 of 2006. It has, therefore, been stated that stay of all further proceedings may be granted pursuant to the order in A.No.4 of 2006.

3. A counter has been filed by the contesting Respondent, who was the 1st Respondent in the application. It has been stated that the order copy had already been issued 21.03.2018. It has also been stated that sufficient time had been granted pursuant to the issuance of the order copy. It has been further stated that the averments with

respect to dispossession are false since it has been made absolute, pending disposal of the said suit. It has therefore been stated that the application should be dismissed.

4. This court heard the arguments of the learned counsel on either side.

5. This court had passed final order in A.No.4 of 2001 on 04.01.2018. The order copy had also been issued on 21.03.2018. It is also brought to the notice of this Court that the 1st Respondent cannot dispossess the Applicant except without due process of law. It is further stated that there is an order of interim injunction already granted in favour of the Applicant in IA.No.21001 of 2009 on 20.11.2009 in OS.No.11038 of 2009, which had been filed by the present Applicant in the City Civil Court. The said injunction was made absolute pending, disposal of the said suit. The suit is still pending. In view of the said circumstances, seeking order of stay is only superfluous and this Court is not inclined to grant the same. Accordingly, this application is dismissed. No costs.

Sd/.C.V.K.J

13.04.2018

//Certified to be a true copy//

Dated this the day of 2017.

KY/16.05.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.