



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.2193 of 2016

and

C.M.P. (MD) .No.10170 of 2016

M.S.Arunachalam

.. Petitioner/Petitioner/Plaintiff

/Vs./

1.M.S.Murugesan

2.R.Vijayalakshmi

3.R.Jeyalakshmi

4.B.Meenapushpam

5.R.Dhanalakshmi

6.S.Jeyanthi

.. Respondents/Respondents/ Defendants

PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records relating to the fair and decreetal order, dated 23.09.2016 made in I.A.No.497 of 2016 in O.S.No.138 of 2013 on the file of the V Additional District Judge, Madurai and to set aside the same as illegal and allow the Civil Revision Petition as prayed for.

For Petitioner : Mr.B.A.Muruganantham

For Respondents : Mr.V.S.Karthi for

M/s.VS.Karthi Associates for R1

Mr.K.Jagadeesan for R2 to R6

ORDER

The revision petitioner is the plaintiff in O.S.No.138 of 2013 on the file of the V Additional District Judge, Madurai. It is a suit for partition. The case of the revision petitioner is opposed by the contesting defendants on the ground that the father of the parties herein had executed a registered Will, dated 17.11.2011 in favour of M.S.Murugesan. The plaintiff would question the very genuineness of the said Will. He would characterise it as a forged one. He therefore, wanted the said Will to be sent for forensic opinion. The revision petitioner in fact produced a copy of the Identity Card issued by the Chamber of Commerce in which the signature of the Late K.M.Sermakani is found.

2.The Court below dismissed the said I.A.No.497 of 2016 filed by the revision petitioner herein by order, dated 23.09.2016. The correctness of the said order is questioned in this Civil Revision Petition.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Heard the learned counsel on either side.



4.The learned counsel appearing for the petitioner reiterated the contentions set out in the memorandum of grounds. I am unable to agree with the same. As rightly discussed by the Court below, it is the first defendant who is propounding the Will in question. The revision petitioner in his plaint had characterised the will as a forged one. Therefore, the entire burden lies only on the first defendant who is the propounder of the Will. Therefore, the burden of proof lies on him. It is not for the revision petitioner herein to take out I.A.No.497 of 2016. The court below has rightly dismissed I.A.No.497 of 2016. There is no merit in this Civil Revision Petition.

5.Hence, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1.The V Additional District Judge, Madurai.

2. The Section Officer, (2 copies)
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.B.A.Muruganantham, Advocate Sr.No.80872

+1cc to Mr.V.S.Karthi, Advocate Sr.No.81273

+1cc to Mr.K.Jagadeesan, Advocate Sr.No.80789

TM

VB/SKN/SAR4/27.09.2018/2P/7C

C.R.P. (PD) (MD) No.2193 of 2016
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