

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(NPD)No.1681 of 2019

and

C.M.P.NO.10877 of 2019

1.Palanisamy

2.Gurusamy alias Manickam

3.Duraisamy

4.Ayyammal

5.N.Ravikumar

6.N.Nithyanandhan

... Petitioners

Vs.

1.Govindasamy

2.Rukumani

3.Saraswathy

4.Pavayammal

5.Muthulakshmi

6.Ammaniammal

7.Vengatathal

8.Rathinam

9.Lakshmi

10.Ammaniammal

11.Venlatachala Gounder

12.Elayammal

13.Velusamy

14.Rathinasamy

15.Padmavathy

16.Seethalakshmi

17.Easwari

18.A.Rajendran

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C., 1908 praying to set aside the order and decreetal order made in I.A.No.129 of 2018 in A.S.No.23 of 2017 on the file of the Mahila Court at Erode (District level, Additional District Judge, District Court Erode).

For Petitioner

: Mr.V.Girishankar

ORDER

This petition is filed by the petitioners seeking to set aside the order and decreetal order made in I.A.No.129 of 2018 in A.S.No.23 of 2017 on the file of the Mahila Court at Erode (District level, Additional District Judge, District Court Erode).

2. The present Civil Revision Petition is filed against the dismissal of

petitioners are the plaintiffs in a suit for partition. According to the petitioners, who derived title through the Will executed by Nanjayammal, in their favour, could not produce the original Will before the trial Court. Therefore, they produced the certified copy of the Will. Unfortunately, the attesting witnesses were not alive to prove the will and the son of one of the attesting witnesses was examined before the Trial Court. The Trial Court did not believe his evidence and held that the Will was not proved and dismissed the suit. Against which they filed an appeal in A.S.No.23 of 2017. During the pendency of the appeal, the above said interlocutory application for production of additional evidence has been filed. Even before the appellate Court, they filed the very same certified copy of the Will, which was marked as Ex.P.31. They would plead that if an opportunity is given, they could bring additional evidence to prove the same.

3. Even today, the petitioners are not specific as to what is the additional evidence and who are the additional witnesses, going to depose in support of the Will available with them. Hence, it is clear that the petitioners after filing the above application, are attempting to gather evidence. Since they do not come out with specific details of the additional evidence, they are not entitled to the relief sought by them. The lower appellate Court elaborately considered all these aspects and rejected the petition.

M. GOVINDARAJ, J.

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4. In the absence of any specific materials to prove the case of the petitioners, the order of the lower appellate Court need not be interfered with. Accordingly, the civil revision petition merits no consideration and stands dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

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