



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2019

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

C.R.P. (PD) (MD) No.601 of 2019

and

C.M.P (MD) No.3007 of 2019

G.Kaleeswari

... Petitioner/Petitioner/Plaintiff

Vs.

1.Meenakshi Sundaram

2.M.Sathiya

... Respondents/Defendants/Defendants

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed by the Additional District Munsif Court, Srivilliputtur in I.A.No.896 of 2018 in O.S.No.109 of 2014 on 12.02.2019.

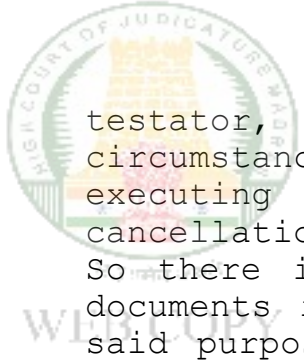
For Petitioner : Mr.M.Jothi Basu

ORDER

This civil revision petition has been filed seeking the relief to set aside the fair and decreetal order dated 12.02.2019 passed in I.A.No.896 of 2018 in O.S.No.109 of 2014 on the file of the Additional District Munsif Court, Srivilliputtur.

2.The petitioner is the plaintiff in O.S.No.109 of 2014 before the trial Court. During the course of trial proceedings, after completing the plaintiff and defendants side evidence, she filed an application under Order 18 Rule 17 of CPC to reopen the case on the side of the petitioner/plaintiff. The learned trial Judge dismissed the application, against which, the petitioner has approached this Court by way of filing this civil revision petition.

3.On go through the entire averments made by the petitioner and the counter affidavit filed by the respondents before the trial Court, which reveals that the petitioner has filed the application only to prove Ex.A.3 and Ex.B.1. In fact, Ex.A.3 is the document in which the testator cancelling the earlier Will and as per the case of the plaintiff, the testator executed another one Will on 05.03.2004, in which, she bequeathed her property in favour of the plaintiff. Further, Ex.B.1 is the power of attorney, which stands in the name of the first defendant. So, proving the power of attorney is only the duty of defendants and not by the plaintiff. It is a well settled principle that only the last Will executed by



testator, is enforceable and legally valid. In the said circumstances, it is admitted by the petitioner herself that before executing the last Will, Ex.A.3, which was the document for cancellation of the earlier Will, is executed by the petitioner. So there is no necessity to the petitioner for proving the said documents is a genuine one. Before the trial Court, only for the said purpose, the petitioner filed the application under Order 18 Rule 17 of CPC and the same was dismissed, against which the petitioner has filed this revision, which does not warrant any interference from this Court.

4. Accordingly, for the reasons stated above, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To
The Additional District Munsif Court,
Srivilliputtur.

Copy to: The Section Officer, VR Section,
Madurai Bench of Madras High Court,
Madurai (2 Copies)

+1 CC to Mr.M.Jothi Basu, Advocate in SR-56476

**C.R.P. (PD) (MD) No.601 of 2019
and**

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**cp
PK/12.04.2019 : 2P/5C**