

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No. 2179 of 2018
in
C.M.P.No. 13702 of 2018

1.Manonmani

2.Rajesh

3.Kannika Parameswari

..Petitioners

Vs.

1.Mangalam

2.Thiyagarajan

3.Karthik

4.Karuppusamy

5.Vasantha

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order dated 20.03.2018 in I.A.No. 358 of 2018 in O.S.No. 392 of 2012 on the file of the District Munsif Court, Avinashi.

For Petitioners : Mr.S.Kaithamalai Kumaran

For Respondents: Mr.E.Durai Vaiyapuri

O R D E R

The defendants 1 to 3 in O.S.No. 392 of 2012 have come up with this revision challenging the refusal by the Trial Court to direct the plaintiffs to produce certain documents in the suit.

2. The suit was laid by the plaintiffs for declaration of their title and injunction contending that they are entitled to the suit properties by virtue of the Will executed by the grandfather of the plaintiffs 2 and 3 namely, Palanisamy Asari on 06.09.2001.

3. The defendants are resisting the suit contending that Palanisamy Asari died intestate and there was a partition between the heirs of the Palanisamy Asari, after his death. It is also claimed that the alleged Will dated 06.09.2001 has been created by the plaintiffs in collusion with the 4th defendant,

the father of the plaintiffs 2 and 3. Pending suit, the defendants filed an application in I.A.No. 358 of 2018 seeking production of certain documents like the plaintiffs' family card, voters identity card, Adhar Card, voters list, the Chitta of the suit property, profession tax paid for Kaithamalai Kumaran workshop, electricity receipts for the suit property, water tax receipts for the suit property, transfer certificate of the plaintiffs 2 and 3, identity cards of the plaintiffs 2 and 3 and electricity consumption receipts of Kaithamalai Kumaran workshop.

4. This application was resisted by the plaintiffs contending that those documents are wholly unnecessary for the purposes of the suit. According to the plaintiffs, the fact that the property belonged to Palanisamy Asari is admitted. The fact that the defendants would inherit the same if Palanisamy Achari had died intestate is also admitted. The only dispute in the suit is whether the Will dated 06.09.2001 under which the plaintiffs claim is true and valid or not. This being the very restricted scope of the suit, these documents according to the plaintiffs are wholly unnecessary for determining the dispute between the parties.

5. The learned Trial Judge, on a consideration of the facts and circumstances of the case concluded that these documents which are now sought to be called for are wholly unnecessary and the application has been filed only with the object of dragging on the proceeding. On the said conclusion, the Trial Judge dismissed the application. Aggrieved, the defendants have come up with this revision.

6. I have heard Mr.S.Kaithamalai Kumaran, learned counsel for the petitioners and Mr.E.Durai Vaiyapuri, learned counsel for the respondent.

7. While Mr.S.Kaithamalai Kumaran would vehemently contend that these documents would show that the plaintiffs and the 4th defendant are living under one roof and the suit itself has been engineered by the 4th defendant. Mr.E.Durai Vaiyapuri would submit that the sole basis on which the plaintiffs claim title is the Will dated 06.09.2001. The plaintiffs will have to stand or fall on their own case. If they are able to prove the will they would succeed. Therefore, the fact whether the plaintiffs are residing with the 4th defendant or not is immaterial. I have considered the submissions of the learned counsel on either side.

8. I am inclined to agree with the Trial Court and contention of Mr.Durai Vaiyapuri. As rightly pointed out by the Trial Court, there is no dispute regarding the title of Palanisamy Asari and the fact that the plaintiffs and defendants

are the descendants of Palanisamy Asari. The plaintiffs will have to prove the Will said to have been executed by Palanisamy Achari. As rightly pointed out by the learned counsel for the respondents, the plaintiffs would succeed only if they are able to prove the Will.

9. In these circumstances, I do not think, the documents, which are now sought to be summoned, are necessary to determine the issue taht arises in the suit. In view of the above, the Trial Court was justified in dismissing the application. This Civil Revision Petition fails and it is accordingly dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkn

To:-

The District Munsif Court,
Avinashi.

Copy to :

The Section officer,
V.R. Section, High Court Madras.

+lcc to Mr.N.Mankaran, Advocate, sr no.27207

सत्यमेव जयते

C.R.P(PD.No. 2179 of 2018
in

C.M.P.No. 13702 of 2018

SSV(CO)

RMP(29/10/2020)

WEB COPY