

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.02.2020
CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Civil Miscellaneous Appeal No.4356 of 2019

U.Balasubramaniam :Appellant/Respondent/Plaintiff

vs.

1.N.Venkatesan :Respondent/1st Respondent/Defendant 1
2.N.Kasiviswanathan :Respondent/2nd Respondent/Defendant 2
3.N.Ramesh :Respondent/3rd Respondent/Defendant 3
4.P.Durai Kumar :Respondent/4th Respondent/Third Party

Civil Miscellaneous Appeal filed under Order 43 Rule 1 C.P.C. against the order and decree dated 16.08.2019 made in I.A.No.1 of 2019 in O.S.No.4436 of 2019 on the file of the learned II Additional Judge, City Civil Court, Chennai.

For Appellant : Mr.S.Xaiver Felix
For 1st Respondent: Mr.P.Dinesh Kumar

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the order 16.08.2019 passed by the learned II Additional Judge, City Civil Court, Chennai in I.A.No.1 of 2019 in O.S.No.4436 of 2019.

2. Heard Mr.S.Xavier Felix, learned counsel, who has come on record for the Appellant on change of vakalat, and Mr.P.Dinesh Kumar, learned counsel appearing for the 1st Respondent.

3. In support of his claim, the Appellant, in paragraph 17 of the Grounds of Appeal, has relied on a Legal Heir Certificate dated 18.06.1990 to state that, his mother viz. U.Thirupurammal is one of the legal heirs of Late R.Kandasamy Gramini.

4. Learned counsel appearing for the 1st Respondent herein pointed out that, the Legal Heir Certificate dated 18.06.1990 issued by the Tahsildar, Mylapore-Triplicane Taluk vide D.Dis (C)/6487/90 is a forged one, apart from the fact that, nine legal heirs enlisted in the said Legal Heir Certificate are not the true legal heirs of Late R.Kandasamy Gramini.

5. In the Legal Heir Certificate dated 18.06.1990 vide D.Dis (C)/6487/90 issued by the Tahsildar, Mylapore-Triplicane Taluk, furnished at page 18 of the Typed Set of Papers filed by the 1st Respondent, along with the Settlement Deed dated 10.03.2014, it is stated that, R.Kandasamy Gramini, who was residing at No.2, Virupachi Eswaran Koil Street, Mylapore, Chennai-4, expired on 31.05.1970.

6. The capital of the State of Tamil Nadu was re-christened as 'Chennai' from 'Madras' only in the year 1994. In the said Legal Heir Certificate issued in the year 1990, the residential address of Late R.Kandasamy Gramini is mentioned as 'Chennai', instead of 'Madras'. Also, the seal of the Tahsildar, Mylapore-Triplicane Taluk, indicates 'Chennai', though the Letter Head of the Legal Heir Certificate indicates the Revenue limit as 'Taluk Office, Mylapore-Triplicane, Madras 600 028'. Prima facie, the said Legal Certificate appears to be a forged and fabricated one.

7. In this regard, this Court, on the earlier date of hearing, asked Mr.T.M.Pappiah, learned Special Government Pleader, to enquire on the genuineness of the alleged Legal Heir Certificate. Today, he produced a communication dated 24.02.2020 received from the Tahsildar, Mylapore Taluk, Chennai-600 028, wherein, it is stated that the alleged Legal Heir Certificate is not genuine. The said communication is taken on record. For better understanding, contents of the communication dated 24.02.2020, are reproduced hereunder:

From:

To:

The Tahsildar,
Mylapore Taluk,
Chennai - 28.

The Special Government Pleader,
High Court of Madras,
Chennai - 108.

L.Dis.A4/1178/2020, dated 24.02.2020

Sir,

Sub :Legal Heir Certificate - Chennai District -
Mylapore Taluk - Genuineness Report furnished -
reg.

Ref :Telephone Message from Special Government
Pleader, dated 23.02.2020.

* * * * *

In the reference cited, it is requested the Genuineness of Legal Heir Certificate D.Dis. (C)/ 6487/9064, dated 18.06.1990. In this regard, it is informed that the above Certificate is not genuine.

Yours faithfully,

Tahsildhar,
Mylapore Taluk,
Chennai - 28.

Enclosure - Fake Certificate xerox

8. Ms.P.Kritika Kamal, learned Government Advocate (Criminal Side) was also asked to enquire on the complaint, if any, lodged by the 1st Respondent against the fraudsters in the case on hand.

9. Today, learned counsel for the Appellant fairly submitted that, he advised his client not to pursue this Appeal any further, as there are no bonafides in this case. On instructions, he sought permission of this Court to withdraw this Appeal with liberty to the Appellant to proceed further.

10. Though, this Court accepts the fairness of the learned counsel for the Appellant, the conduct of the Appellant in relying upon a forged and fabricated Legal Heir Certificate to prove his claim is reprehensible. As the Appellant has approached this Court with unclean hands, this Court is not inclined to permit him to withdraw this Appeal. Moreover, the fabricated Legal Heir Certificate will have a bearing on all the litigations connected to the case on hand, pending before various forums.

11. Hence, this Court is inclined to dismiss this Appeal on the sole ground of fraud play by the Appellant, with costs. However, this Court refrains from imposing costs, only on account of the fairness expressed by Mr.S.Xavier Felix, learned counsel for the Appellant.

12. As the alleged Legal Heir Certificate is furnished along with the Settlement Deed dated 10.03.2014 vide Document No.2774/2014, the Settlement Deed becomes void. The Revenue Department, based on the communication dated 24.02.2020 sent by the Tahsildar, Mylapore Taluk, Chennai, shall make entries in the necessary Index with regard to the Settlement Deed dated 10.03.2014 vide Document No.2774/2014, as 'null and void', within five working days from the date of receipt of a copy of this order.

13. At the end of arguments, Mr.T.M.Pappiah, learned Special Government Pleader ensured that, necessary enquiry will be made as regards issuance of the forged Legal Heir Certificate and disciplinary action will be taken against the staff concerned.

14. Also, Mrs.P.Kritika Kamal, learned Government Advocate (Criminal Side), ensured that, speedy action will be taken by the Police Department against the fraudsters involved in this case.

15. If the legal heirs enlisted in the forged Legal Heir Certificate or the person who sought issuance of such Legal Heir Certificate are alive, criminal action shall be proceeded against them, so that the issue is brought to a logical end. The Criminal Court shall impose imprisonment and not let them go only with payment of fine. This is to signal all the fraudsters that, Law is strict and imprisonment is the only way to punish them for their fraudulent act.

16. This Court makes it clear that, if the person responsible for issuance of the alleged Legal Heir Certificate is still in service, necessary enquiry shall be made against him/her and terminal benefits, if not already granted, shall not be disbursed, till the issue comes to a logical end. This does not mean that, he/she is exonerated from criminal proceedings.

17. Action taken by the Police Department as well as the Departmental action initiated against the staff, who are responsible for fabrication of the Legal Heir Certificate bearing D.Dis.(C)/6487/9064, dated 18.06.1990, shall be reported to this Court. Only on the aspect of criminal action and departmental proceedings, Registry is directed to list this matter 'for compliance' before this Court, in July 2020.

18. In fine, the Civil Miscellaneous Appeal is dismissed with the above directions and observations. No costs. Consequently, connected C.M.P.No.24827 of 2019 is closed.

Sd/-

Assistant Registrar(CS-IV)

// True Copy//

Sub Assistant Registrar

(aeb)

To:

The II Additional Judge,
City Civil Court,
Chennai.

Copy to:

- (1) Mr.T.M.Pappiah, Special Government Pleader,
High Court, Madras.
- (2) Mrs.P.Kritika Kamal, Government Advocate (Crl. Side),
High Court, Madras.
- (3) The Section Officer, Writ Section,
High Court, Madras.

+6CCs to Mr.P.Dinesh Kumar, Advocate, SR.Nos.16889, 17091, 16483,
+2CCs to Mr.S.Xavier Felix, Advocate, SR.No.15943.

AD(CO)
CSR: 10.03.2020

C.M.A.No.4356 of 2019



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