

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

A.No.7375 of 2019

in

OP.No.180 of 2018

V. Trinadha Rao

... applicant

Vs.

Vasa Rajagopala Rao

...respondent

Prayer : Application is filed under Order XIV Rule 8 of O.S.Rules read with Section 263 of Indian Succession Act to

- a) revoke the Letters of Administration granted to the petitioner in O.P.No.180 of 2018 dated 09.11.2018 passed by this Hon'ble Court;
- b) stay the operation of the order passed by this Hon'ble Court in O.P.No.180/2018 dated 09.11.2018, pending disposal of the application for revocation;
- c) stay all the proceedings in O.S.No.541/2017 before the Hon'ble Additional Senior Civil Judge at Kakinada, Andhra Pradesh, pending disposal of the Revocation Application.

For Applicant : Mr. T. Sri Krishna Bhagavat Srenik S Jain

For Respondents: M/s. P.C. Harikumar and Associates

ORDER

A memo has been filed by the petitioner wherein he has stated as follows:

"1. The petitioner in O.P.No.180 of 2018 humbly submits that he has filed comprehensive suit in O.S.No.541 of 2017 pending on the file of 3rd Additional Senior Civil Judge, Kakinada for seeking declaration of title and injunction. In the said suit, the petitioner categorically denies the status of the defendants and also the alleged execution of the Will by the deceased V.Suryavathi on 23.11.2004 and the said alleged Will has to be proved in solemn form in the manner known to law. In the above suit, pleadings were completed and ripe for trial.

2. The petitioner humbly states that in the Application No.7375 of 2019, the applicant qua sought for revocation on the ground that he is one of the legal heirs of the deceased V.Suryavathi, which categorically denied by the petitioner. Therefore, all the fact in issues, relevant facts and the question of law arising under the pending suit in O.S.No.541 of 2017 before the 3rd Additional Senior Civil Judge, Kakinada has to be adjudicated in accordance with law.

3. In view of the pending suit and the larger relief claimed therein, the petitioner herein without prejudice to his right has decided to withdraw the OP. No.180 of 2018 pending on the file of this Hon'ble Court on 9.11.2018 with a liberty to raise all the contentions whatever available to him can be raised in pending suit in O.S.No.541 of 2017 on the 3rd Additional Senior Civil Judge, Kakinada and independently prove the case based on the oral and documentary evidence.

In view of the foregoing reasons and circumstances, the petitioner

therefore prays that this Hon'ble Court may be pleased to permit the petitioner, without prejudice to his rights to withdraw the petition in OP.No.180 of 2018 pending on the file of this Hon'ble Court and also hereby given consent to revoke the Letter of Administration granted by this Hon'ble Court on 09.11.2018 with a liberty to raise all the contentions whatever available to him shall be raised in pending suit in OS.No.5441 of 2017 on the file of 3rd Additional Senior Civil Judge, Kakinada and independently prove the case based on the oral and documentary evidence and also direct the office to return all the original documents and refund the court fee."

2. Considering the above memo, the application filed to revoke the Letters of administration granted in O.P.No. 180 of 2018 dated 9.11.2018 is ordered and the OP is restored. Since the petitioner has filed the memo to withdraw the O.P. the same is permitted. Further it is needless to state that both parties can raise their respective pleas in the suit O.S No. 541 of 2017 pending on the file of the 3rd Additional Senior Civil Judge at

Kakinada. In view of the withdrawal of the O.P. the stay which was granted earlier in respect of the proceedings pending before the Court at Kakinada is hereby revoked.

20.08.2020

Index :Yes/No
Speaking / Non-Speaking
mrn

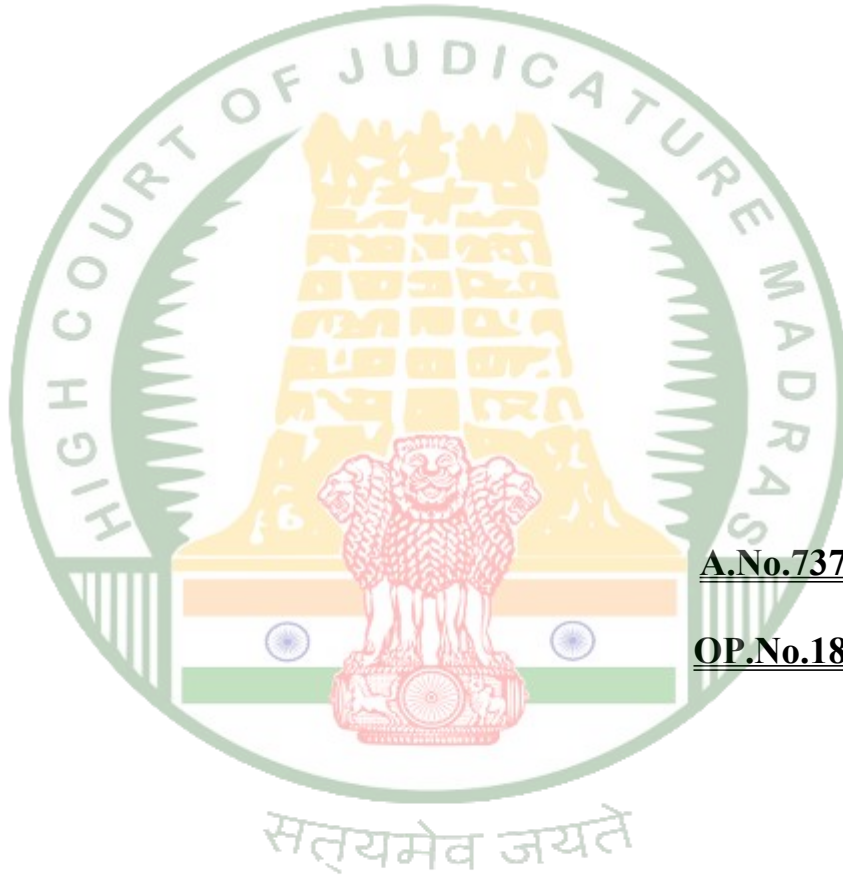


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P.T. ASHA. J.

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