



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (MD)No.1062 of 2020

&CMP(MD)No.6874 of 2020

WEB COPY

Muthuchamy

... Petitioner/
2nd Respondent/
2nd Defendant

Vs.

1.Vaiyapuri @ Seenivasan
2.Mariappan @ Rajarathinam
3.Subburaj

... 1 to 3 Respondents/
1 to 3 Petitioners/
1 to 3 Plaintiffs

4.Sornam

... 4th Respondent/
1st Respondent/
1st Defendant

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the executable and fair order dated 22.06.2020 passed in I.A.No.273 of 2019 in O.S.No.197 of 2014 on the file of the Honourable District Munsif Cum Judicial Magistrate of Peraiyur.

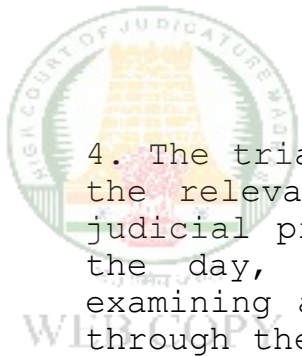
For Petitioner : Mr.P.Sivasubramanian

O R D E R

This petition is preferred by the defendant in O.S.No.197 of 2014 on the file of the District Munsif Cum Judicial Magistrate, Peraiyur.

2.The case of the plaintiff appears to be rooted in a certain Will and to prove the genuineness of the Will, he has filed I.A.No.273 of 2019 for reopening the case to let him examine the attesting witnesses of the Will. However, this has been attempted at a belated stage of the trial. But, taking into consideration the larger interest of justice involved in the cause, the trial Court has allowed it but, without costs. This is now under challenge.

3.Heard the learned counsel for the revision petitioner. He argued that P.W.1 has deposed that none of the attesting witnesses to the Will are alive, and that he has no knowledge about who their heirs are. Now, all of a sudden he wants to examine somebody, either a heir of the deceased attesting witness, or someone allegedly familiar with his signature. This is attempted to fill in the lacuna at the belated stage of the trial.



4. The trial Court needs to have greater elasticity in obtaining all the relevant evidence, provided neither of the parties abuse the judicial process to its advantage of the other side. At the end of the day, genuineness of every Will has to be established by examining at least one of the attesting witnesses to it. On Going through the order of the trial Court, this Court finds that it is in order and does not call for any interference.

5. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar (CS)

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To

1. The District Munsif Cum Judicial Magistrate, Peraiyur.

2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2C)

C.R.P. (MD)No.1062 of 2020

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AP(07/01/2021) 2P 4C