



C.R.P.(PD) No.1509, 1511 & 1512 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2022

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THE HONOURABLE MR. JUSTICE S.S.SUNDAR

C.R.P.(PD) Nos.1509, 1511 & 1512 of 2019
& CMP.Nos.9865 of 2019

1.Krishnaveni

2.Minor Himanesh

...Petitioners in all CRPs

Vs.

1.Ramadevi

2.Radha

3.Vallidevi

4.The Tahsildar,

Taluk Office,

Madurantagam Taluk,

Kanchipuram District.

5.The District Collector,

Collectorate, Kanchipuram

...Respondents in all CRPs

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India praying to set aside the Fair and Decretal Order dated 27.02.2019 passed in I.A.Nos.2120 of 2019, 2122 of 2019 and 2121 of 2019 in O.S.No. 320 of 2015 on the file of the District Munsiff Court, Madurantagam.

For Petitioners

: M/s.K. Govi Ganesan

For Respondents

: Mr.M.S.Subramanian (R1 to R3)

Dr.S.Suriya (R4 & R5)

Additional Government Pleader

COMMON ORDER

Aggrieved by the order passed by the learned District Munsif Court,

Madurantagam Taluk, Kancheepuram District dated 27.02.2019 in I.A.Nos.2120,



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2121 and 2122 of 2018 in O.S.No.320 of 2015, the plaintiffs in the suit in O.S.No.320 of 2015 have preferred the above Civil Revision Petitions.

2. The revision petitioners filed a suit in O.S.No.320 of 2015 before the District Munsif Court, Madurantagam, Taluk Kancheepuram District for a declaration that the plaintiffs and defendants 1 to 3 in the suit are the legal heirs of the deceased Dhananjaya Nadar and for a decree of mandatory injunction directing defendants 4 and 5 to issue legal heir certificate of deceased Dhananjaya Nadar according to Hindu Succession Act, 1956.

3. The suit was contested by the defendants on various grounds. After the evidence of plaintiffs was closed, the revision petitioners filed I.A.No.2120 of 2018 to reopen the evidence on the side of plaintiffs to recall P.W.1 and mark additional documents through P.W.1. The plaintiffs also filed I.A.No.2121 of 2018 under Order 18 Rule 17 of the Code of Civil Procedure (C.P.C.) to recall P.W.1 to mark the additional documents through P.W.1. Again the third application in I.A.No.2122 of 2018 was filed to grant leave to revision petitioners to file a few documents detailed in the petition and to permit them to mark the same as exhibits.

4. The two documents which are mentioned in the petition are certified copy of the registered Will dated 15.12.2000 and another certified copy of subsequent Will dated 04.11.2003. In the affidavit filed in respect of the petition, the revision



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petitioners have stated that the deceased Dhananjeya Nadar had executed a registered Will dated 15.12.2000, registered under Document No.41 of 2000 in Sub-Registrar Office and also a subsequent Will dated 04.11.2003, registered under Document No.31 of 203 in Sub-Registrar Office.

5. It is the specific case of the revision petitioners that in the registered Wills, Dhananjeya Nadar had admitted marriage of the first petitioner with his son Venkatesan and described the second petitioner as his grand son. It is also the specific case of the revision petitioner that the first petitioner obtained the certified copy of the Wills from the Sub-Registrar Office only on 18.04.2018 and on 10.05.2018 after her examination as P.W.1 in the suit. It is further stated that even the copy of the Wills obtained from the Registrar Office was mixed up with some papers for some time and petitioner has filed the same after tracing those documents. The three applications filed by the revision petitioners in I.A.Nos.2120, 2121 and 2122 of 2018 in O.S.No.320 of 2015 were dismissed by the lower Court. Aggrieved by the same, the above Civil Revision Petitions have been filed.

6. The lower Court dismissed the applications mainly on the ground that the petitioners have not pleaded the existence of the Wills stated to have been executed by the deceased Dhananjeya Nadar in the plaint. Referring to the Second Appeals that are pending before this Court in S.A.Nos.527 and 528 of 2011, with regard to the



status of the first petitioner, whether she is the legally wedded wife of late Venkatesh, the son of deceased Dhananjeya Nadar, the respondents contended that the first petitioner cannot claim to be the wife of late Venkatesh. Further, the respondent also contended that the two Wills are inadmissible evidence.

7. This Court is unable to sustain the order of the lower Court as the reasons for dismissing the applications cannot be sustained in view of the facts and specific case pleaded by the petitioner. Pendency of second appeal has nothing to do with the marking of the documents in the present suit. The suit itself is filed to establish the status of the petitioners. Of course any decision in the Second Appeal with regard to the status of the first petitioner, whether she is the legally wedded wife of late Venkatesh or not is binding. Certified copies of the Wills are admissible in evidence. As a matter of fact, the trial Court has accepted that the documents are certified copies of the registered Wills. The existence of the Wills is not disputed and therefore, the marking of these documents is permissible. In those circumstances, the lower Court ought to have allowed the application since the petitioners have specifically pleaded that they came to know about the existence of the Wills later. The explanation offered by the petitioners why they could not file those documents at the earlier point of time is not considered by the lower Court.



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8. For all the aforesaid reasons, dismissal of all these applications is unsustainable in law. Therefore, these Civil Revision Petitions are allowed and the common order passed by the learned District Munsif Court, Madurantakam Taluk, Kancheepuram District in I.A.Nos. 2120, 2121 and 2122 of 2018 in O.S.No.320 of 2015 are set aside. The applications in I.A.Nos. 2120, 2121 and 2122 of 2018 in O.S.No.320 of 2015 stands allowed. Connected miscellaneous petition is closed. No costs.

9. The learned counsels appearing for the respondents have requested this Court for a direction to the lower Court to dispose of the suit as early as possible. The request appears to be fair. Hence, the learned District Munsif Court, Madurantakam Taluk, Kancheepuram District is directed to dispose of the suit on merits, as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order.

05.01.2022

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Index: Yes/No

Speaking order/Non-speaking order



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S.S.SUNDAR, J.,

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To

- 1.The Tahsildar,
Taluk Office,
Madurantagam Taluk,
Kanchipuram District.
- 2.The District Collector,
Collectorate, Kanchipuram
- 3.District Munsif Court,
Madurantagam, Taluk,
Kancheepuram District.

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