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A.No.4446 of 2022

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in
O.P.No.793 of 2018

C.V.KARTHIKEYAN,J.,

This application has been filed by a third party to O.P.No.793 of 2018, Karunyam Mission (Trust), represented by its Trustee, Brother C.Doss, having office at Zion Nagar,Pattamandri, N.C.T.P.S Post, Chennai 600 120, under Section 263 of the Indian Succession Act, 1925, seeking to revoke the order of probate, dated 22.10.2019, granted in O.P.No.793 of 2018.

2. O.P.No.793 of 2018 had been filed under Sections 222 and 276 of the Indian Succession Act, 1925, read with the relevant rules of the Original Side of the Madras High Court, seeking probate of a last Will and Testament of S.Ganapathy, who had died on 27.05.2018. The Will was dated 28.01.2018.

3. The petitioner therein was executor. The 1st and 2nd respondents in the Original Petition, S.Parvathy and Viswanathan Mahadevan were the beneficiaries under the Will. However, all the legal heirs who had caveatable interest had been impleaded as other respondents.

4. After following due procedure, and after taking evidence, the



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matter came up before a learned Single Judge of this Court. By an order dated 22.10.2019, after examining the documents produced namely the Original Will dated 28.01.2018, which was marked as Ex.P1, the Death Certificate of the Executor, S.Ganapathy, which was marked as Ex.P4 and the Death Certificate of the 1st respondent therein, S.Parvathy, which was marked as Ex.P5 and also the copies of the Bank Passbook and the Post Office Passbook, which were marked as Exs. P6 and P7 and the consent affidavit given by the 1st respondent therein, namely Viswanathan Mahadevan, and the consent affidavits given by the other respondents, which were all marked as Exs.P9 to P14 and also after considering the evidence of one of the attestors of the Will, T.V.Vedamurthy, whose affidavit was also marked as Ex.P15, probate of the Will was granted to the petitioner.

5. Subsequently, this petition has been filed by a third party and the main ground on which the order of probate is sought to be revoked had been set out in paragraph No.7 of the affidavit filed. The entire paragraph is extracted below:

“7. I further submit that in this respect said S.Ganapathy having in mind to promote the object of the trust had voluntarily executed a registered WILL dated 01.12.2003 in Document No.126 of 2003



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registered at the office of the Sub-Registrar, Periamet, Chennai District, Purasawalkam-Perambur Taluk, No.65, Kolathur Village, Venus Nagar, Plot No.13 and 14, Kolathur, Chennai-600 099 measuring an extent of 4861 sq.ft. Bearing S.Nos.4/3, 13/2, 13, & 14, Block No.2, T.S.No.41 total extent of 4861 sq.ft which was exclusively owned and possessed and enjoyed by him.”

6. It must also be pointed out that the executor and his wife, both died, without leaving any legal heirs which naturally meant that the property if not properly administered by the executor would have fallen to the hands of the third parties.

7. The beneficiary under the Will namely the 2nd respondent in the Original Petition, who was confronted with this particular information, that the executor had executed a registered Will on 01.12.2003 and which had been registered as Document No.126/2003 in the Office of the Sub Registrar, Periamet, had given a complaint before the District Registrar Office seeking examination of the said registration of the said Will.

8. Documents relating to that have been filed before this Court and it is seen that after due enquiry, the Sub Registrar, Periamet had given a



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report that the documents which had been registered in Book-3, Para-1, in the Office of the Sub Registrar, during the relevant period were only from Document Nos.1 to 84 and there was no such document as Document No.126, registered in the said office.

9. After further enquiry, it had been concluded that the petitioner herein had committed an act of forgery by creating a false Death Certificate, by creating a false Legal Heirship Certificate, by creating a false Will, by creating false signatures to the said Will which had been so created by influencing the other people to act as attestors and to file such document and further claimed that the original of the said document namely the original registered Will had been lodged with the Madras High Court.

10. No such document had ever been lodged before the Madras High Court. It could not be lodged because there is no such document bearing registration No.126/2003 in the Office of the Sub Registrar, Periamet. Obviously, the petitioner has come to the Court with a false case.

11. In paragraph No.7, in the affidavit which had been presented before this Court, a specific plea had been taken by the deponent of the affidavit, C.Doss, son of R.Chandran, that there was a Will executed by the deceased S.Ganapathy and such Will was the last Will and was a registered Will.



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12. Such statements is prima facie false.

13. A Counter had been filed indicating the falsity of the said statements made under solemn oath and presented before this Court.

14. Had the Court proceeded further on the assumption that there was a registered Will and had the Court held that the said issue has to be examined only during the course of further enquiry in the application seeking to revoke the Will, there would have been serious prejudice caused to the flow of administration of the justice.

15. I hold that the petitioner herein had deliberately come to the Court with a false statement and necessary process must be issued to initiate criminal proceedings by the High Court against him for presenting an affidavit with false statement before this Court.

16. I therefore direct the Joint Registrar, Original Side of this Court, to lodge necessary criminal complaint against the deponent of the affidavit, C.Doss, son of R.Chandran, Christian, aged about 51 years, having office at No.13, Zion Nagar, Pattamandri, N.C.T.P.S Post, Chennai 600 120, for presenting an affidavit which is evidently false and trying to influence the flow of administration of justice of this Court.



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17. Necessary complaint should be lodged before the jurisdictional Police for necessary action in manner known to law.

18. This petition stands dismissed. No costs.

09.11.2022

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