



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD)No.794 of 2020

and

C.M.P. (MD)No.5355 of 2020

A.Gopalan

...Petitioner/Petitioner/Plaintiff

Vs.

1.Chakravarthi
2.N.Ananda Rajam
3.N.Subashini
4.Veena
5.Prakash

...Respondents/R-1 to R-5/D-1 to D-5

PRAYER: Civil Revision Petition under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 24.10.2019 in I.A.No.1 of 2019 in O.S.No.51 of 2014 on the file of the learned Subordinate Judge, Ambasamudram, Tirunelveli District.

For Petitioner :Mr.M.Saravanakumar

For Respondents :Mr.Muthuvel, for
Isaac Chambers

ORDER

This Civil Revision Petition has been filed to set aside the order, dated 24.10.2019 in I.A.No.1 of 2019 in O.S.No.51 of 2014 passed by the learned Subordinate Judge, Ambasamudram, Tirunelveli District.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The petitioner herein/plaintiff has filed a petition in I.A.No.1 of 2019 in O.S.No.51 of 2014 on the file of the learned Subordinate Judge, Ambasamudram, Tirunelveli District, for appointment of Advocate Commissioner to compare the signature of one Annamalai which is found in the Will/Ex.A.1, dated 11.04.2003. The said petition was dismissed by the Court below on 24.10.2019. Aggrieved over the said order, the petitioner is before this Court.



4.Heard on either side and perused the material documents available on record.

5.The petitioner herein/plaintiff has filed a petition in I.A.No.1 of 2019 in O.S.No.51 of 2014 to compare the signature in the Will/Ex.A.1, dated 11.04.2003, with Ex.B.1, dated 13.04.2003. The said petition was dismissed by the Court below on 24.10.2019, on the ground that Ex.A.1 was marked with objection of the respondents/defendants and D.W.1 has also denied the Ex.A.1 was not executed by his father. Since Ex.A.1 is not admitted by the defendants it cannot be send for comparison.

6.Per Contra, it is stated in the written statement filed by the defendants that their father has executed the Will on 11.04.2003 and the Will was also shown by his father to him and he had informed about the Will to his mother, so, on 13.04.2003 his father executed a Joint Will. Therefore, the defendants have admitted that on 11.04.2003 his father had executed the Will and the Will, dated 13.04.2003 is only a Joint Will. The Joint Will, dated 13.04.2003 is not admitted by the petitioner/plaintiff and so, the signature in the Will, dated 13.04.2003 is to be compared with the Will, dated 11.04.2003. If any document executed by the father of the respondents/defendants can produce before the Court. Without considering the admission in the written statement, the trial Court had dismissed the I.A.No.1 of 2019 in O.S.No.51 of 2014. So, this Court is inclined to interfere with the order passed by the Court below.

7.In view of the aforesaid reasons, this Civil Revision Petition is allowed by setting aside the order, dated 24.10.2019 in I.A.No.1 of 2019 in O.S.No.51 of 2014, passed by the learned Subordinate Judge, Ambasamudram. If necessary, the defendants may produce any admitted document to compare the signature with the both Wills, if necessary.

8.With these observations, this Civil Revision Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

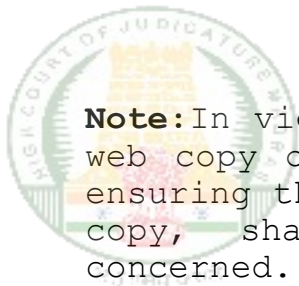
Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

WEB COPY

To

The Subordinate Judge,
Ambasamudram,
Tirunelveli District.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-8426[F] dated 24/02/2022)

+1 CC to M/s.M.SARAVANAKUMAR, Advocate (SR-8244[F] dated 24/02/2022)

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