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C.R.P.No.2124 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.2124 of 2008

and

M.P.No.1 of 2008

P. Muthukumaran

....

Petitioner

Vs

1. Apparu (died)

2. Kanagammal

3. Jayaraman

4. Illanchezhian

(R4 brought on record as LR of the deceased R1, viz., Apparu vide Court order dated 29.04.2019 made in

M.P.Nos.1 to 3 of 2014 in

CRP No.2124 of 2008)

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Respondents

Prayer:- Civil Revision Petition is filed under Section 115 of Code of Civil Procedure to set aside the Judgment and Decree dated 01.06.2004 passed in S.O.P.No.17 of 1995 on the file of District Munsif Court, Chidambaram, confirming the Judgment and Decree dated 21.11.2007 passed in C.M.A.No.78 of 2005 on the file of the Principal District Judge, Cuddalore.

For Petitioner	:	Mr. M.Arun Kumar
For R1	:	Died (Steps taken)
For R2 & R3	:	Notice served
For R4	:	Mr.G.Pugazhenth



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ORDER

This Civil Revision Petition has been filed to set aside the Judgment and Decree dated 21.11.2007 passed in C.M.A.No.78 of 2005 on the file of the Principal District Judge, Cuddalore, confirming the Judgment and Decree dated 01.06.2004 passed in S.O.P.No.17 of 1995 on the file of District Munsif Court, Chidambaram, thereby dismissing the petition seeking for succession certificate in respect of the outstandings mentioned in the schedule.

2. The petitioner filed a petition for succession certificate as against the respondents herein. The case of the petitioner is that he is the son of one Thangavel. The said Thangavel's father had two wives. The first wife is Veerammal. His father was born to the first wife. One Perumal was born to the second wife. The said Perumal also had one sister and one brother. The petitioner's father died and at that juncture, the petitioner was aged about 6 years. Therefore, he was adopted by his paternal uncle i.e., the said Perumal, as per the Hindu Sastras and Customs. The petitioner was brought up and educated by the said Perumal and he also died on 18.10.1993. He died intestate and left behind the petitioner as his only legal heir. Except the petitioner, there is



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no other legal heir for the said Perumal. Therefore, the petitioner is entitled to realise all the outstandings due to the estate of the deceased Perumal, more particularly 'A' Schedule fixed deposits. Therefore, he sought for succession certificate.

3. The respondents filed a counter stating that the said Perumal got married to one Avayambal. They had no issues. The said Perumal's brother was one Parasuraman, who died even five years before and his daughter is the second respondent herein. The said Perumal had another sister, who is the son of the third respondent herein. The first respondent is the husband of the said Perumal's brother's daughter. Therefore, the petitioner is making false claim as if he was adopted by the said Perumal and filed a petition for succession certificate.

4. The said Perumal, besides owning 'A' Schedule amounts fixed deposits, also owned landed properties. The said Perumal was very close to the second respondent and the second respondent was treated by her daughter since he had no issues. The second respondent only had taken care of the said Perumal, after demise of his wife. In fact, he had been expressing a desire to execute a Will in favour of the second



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respondent. Unfortunately, he died before execution of the Will. Now, taking advantage of the same, the petitioner made false claim as against the 'A' schedule fixed deposits and filed the present succession certificate. After demise of the said Perumal, the last rites and other rituals were performed only by the son of the second respondent herein.

5. In support of the petitioner's claim, he had examined P.Ws.1 to 3 and marked Exs.P1 to P5. On the side of the respondents, they had examined D.Ws.1 and 2 and marked Exs.D1 to D5.

6. On a perusal of the oral and documentary evidence, the Trial Court dismissed the petition. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed and the order passed by the Trial Court was confirmed. Hence, the present Civil Revision Petition.

7. The learned counsel appearing for the petitioner would submit that in order to prove the claim of the petitioner he had marked Exs.P1 to P5. Ex.A1 is the death certificate of the said Perumal. Ex.A2 is the marriage invitation of the petitioner, in which the father name was



categorically mentioned as Perumal. In fact, one of the sale deed executed in favour of the petitioner's son was marked as Ex.A3, in which the father name of the petitioner is mentioned as Perumal. The Ration Card was marked as Ex.A4. It also revealed that she is the petitioner's daughter. The petitioner's name was not included in the Ration Card that doesn't mean that the said petitioner was not adopted by the said Perumal. Since he was working somewhere and his name was not printed in the Ration Card. He further submitted that P.Ws. 2 and 3 were examined in support of the case of the petition. They categorically deposed that after demise of the father of the petitioner he was adopted by the said Perumal and he had provided all shelter and education to the petitioner herein. Unfortunately, both the Courts below, without considering the above, dismissed the petition.

8. Per contra, the learned counsel for the respondents submitted that admittedly all the documents marked by the petitioner i.e., A1 to A5 did not reveal that the said Perumal adopted the petitioner as his son. Admittedly, his father died and after demise of his father, the name of the said Perumal, who was also being the brother of the father, was printed in the marriage invitation. That by itself would not amount to



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prove the petitioner as adopted son of the said Perumal. In fact, D.Ws.1 and 2 categorically deposed that the son of the second respondent, viz., Elanchezhian, had performed the last rites of the deceased Perumal. The deceased Perumal also had landed properties. The petitioner filed a petition for succession certificate insofar as 'A' schedule fixed deposit alone. The petitioner is also a retired person and he had means properties. Unfortunately he is claiming in respect of the 'A' Schedule fixed deposit amount and as such, the Court below rightly rejected the same.

9. Heard, Mr.M.Arun Kumar, learned counsel appearing for the petitioner and Mr.G.Pugazhenth, learned counsel appearing for the fourth respondent and perused the materials available on record.

10. A perusal of the records reveals that there is no dispute with the relationship of the petitioner and the respondents. However, the petitioner's father and the said Perumal were born to first wife and the second wife respectively. The petitioner's father died and thereafter, the said Perumal had gave education to the petitioner and he had given shelter to his daughter when the petitioner was working out of station at



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Chidambaram. Admittedly, no document was executed by the said Perumal in order to adopt the petitioner as his adopted son in accordance with law. The petitioner claimed to be as adopted son and in support of his contention, he had marked Exs.A1 to A5.

11. A perusal of A1 reveals that it was death certificate of the said Perumal. Ex.A2 was the marriage invitation of the petitioner and it reveals that his father name was printed as Perumal. Another sale deed was executed in favour of his son, in which the father name was mentioned as Perumal. Merely, because the name of the Perumal was mentioned as his father, doesn't amount that he is adopted son of the said Perumal. S.S.L.C. Certificate was marked as Ex.A5, in which the petitioner's father name was mentioned as Thangavel. Therefore, the petitioner failed to establish that he is an adopted son of the said Perumal. Admittedly, the son of the second respondent had performed last rites of the said Perumal on his demise. Therefore, the petitioner is not entitled for succession certificate on the demise of the said Perumal and the Courts below rightly dismissed the petition.



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12. In view of the above, this Court finds no infirmity or illegality in the Judgment and Decree dated 21.11.2007 passed in C.M.A.No.78 of 2005 on the file of the Principal District Judge, Cuddalore. confirming the Judgment and Decree dated 01.06.2004 passed in S.O.P.No.17 of 1995 on the file of District Munsif Court, Chidambaram, Accordingly, this Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

01.02.2023

Index:Yes/No
Internet:Yes/No
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To
1. The Principal District Judge,
Cuddalore.

2. The District Munsif,
Chidambaram.



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G.K.ILANTHIRAIYAN, J.

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